



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 413-FRIDAY 8 DECEMBER 2023 AT 9.45 AM

**BROLGA ROOM
NOVOTEL DARWIN CBD
100 THE ESPLANADE
DARWIN CITY**

MEMBERS PRESENT: Suzanne Philip (Chair), Marion Guppy, Mark Blackburn, Peter Pangquee and Jimmy Bouhoris

APOLOGIES: Mick Palmer

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Sally Graetz, Monica Pham, Ben Wollinski and Eponine Richardson (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 9.45 am and closed at 11.40 am

THE MINUTES RECORD OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1
PA2023/0146
RECONSIDERATION - CHANGES TO DP22/0123 TO ALTER THE GROUND FLOOR LAYOUT AND BUILDING FAÇADE AND CONVERT FOOD PREMISES-RESTAURANT AND OUTDOOR AREA AT LEVEL 3 TO AN OFFICE LOT 2377 (8) CAVENAGH STREET, DARWIN CITY, TOWN OF DARWIN
APPLICANT MasterPlan SA Pty Ltd

Applicant Stewart Hocking (MasterPlan SA Pty Ltd), Nathan Trajcevski and Sebastian McEwan (Podia) all attended remotely via Microsoft Teams.

RESOLVED
52/23
That, the Development Consent Authority reduce the car parking requirements pursuant to Clause 5.9.2.12 (Reduction in car parking spaces in Darwin City Centre) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 2377 (8) Cavenagh Street, Darwin City, Town of Darwin for the purpose of changes to DP22/0123 to alter the ground floor layout and building façade and convert food premises-restaurant and outdoor area at level 3 to an office, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior the commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale and dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - a. a wider loading bay/dock to accommodate an additional delivery truck.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval is required for the awnings to the three street frontages to the requirements of the City of Darwin and Power and Water Corporation (Water Services Division), to the satisfaction of the consent authority. The awnings shall not reduce the achievement of active frontages below 75% of the total length of the site boundary to the street.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principal approval is required for any element of the building design (separate to awnings) that is designed to be constructed or installed over the City of Darwin road reserve, to the satisfaction of the consent authority.
4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a comprehensive Traffic Impact Assessment report is to be prepared by a suitably qualified traffic engineer in accordance

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with the Austroads Document Guide to Traffic Management Part 12: Traffic Impacts of Developments, in the report structure provided as Appendix C of that document, with particular attention to vehicular, pedestrian, cyclist and public transport issues and opportunities to the requirement of the City of Darwin, to the satisfaction of the consent authority. The Traffic Impact Assessment report is to include swept paths for waste collection vehicles entering and exiting the site from Litchfield Street and identify any necessary upgrades to the surrounding street network as a result of the implications of the development.

5. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels, and Council's stormwater drain connection point/s and connection details.
6. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin, to the satisfaction of the consent authority.
7. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the landscaping works within the City of Darwin road reserve, to the satisfaction of the consent authority.
8. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's Waste Management Guidelines, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of:
 - a. waste collection vehicle turning circles from Litchfield Street
 - b. bin enclosure design and size, which must demonstrate the storage of a sufficient number and type of bins; and
 - c. access to a fresh water supply and effluent resulting from cleaning the bins and enclosures must be discharged into the sewer system.
9. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase. The plan shall also include community consultation for all businesses/residents which will be affected by the development during construction and traffic assessment using the CBD traffic model.

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10. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

11. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
12. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity facilities and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
13. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
14. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
15. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Darwin, to the satisfaction of the consent authority.
16. The owner shall:
 - a. remove disused vehicle and/ or pedestrian crossovers;
 - b. provide footpaths/ cycleways;
 - c. collect stormwater and discharge it to the drainage network; and
 - d. undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
17. Before the use or occupation of the development starts, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a. constructed;
 - b. properly formed to such levels that they can be used in accordance with the plans;
 - c. surfaced with an all-weather-seal coat;
 - d. drained;
 - e. line marked to indicate each car space and all access lanes; and
 - f. clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.

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18. All substation, fire booster and water meter arrangements are to be appropriately screened to soften the visual impact of such infrastructure on the streetscape, to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority in consultation with the Power and Water Corporation, and NT Fire and Emergency Services.
19. Storage for waste disposal bins is to be provided to the requirements of City of Darwin, to the satisfaction of the consent authority.
20. All works recommended by the traffic impact assessment report are to be completed to the requirements of the City of Darwin, to the satisfaction of the consent authority.
21. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin.
22. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report.
23. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the meters within the development in accordance with the allocation. An Occupancy Permit will not be able to be granted until such time as addressing is obtained.
24. Before the use commences the owner must, in accordance with Part 6 of the *Planning Act 1999*, provide 134 car parking bays. Of those spaces, 79 parking spaces are to be provided within three basement levels, motorbike/bicycle parking spaces that equates to four (4) parking spaces, and 25 spaces are to be provided in the Litchfield Street Car Park. In accordance with section 70(5) of the *Planning Act 1999*, twenty six (26) of the required parking bays may be provided through a monetary contribution to the City of Darwin. The contribution is to be calculated in accordance with the requirements of section 70(6) of the *Planning Act 1999*.
25. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.

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26. All roof top plant equipment, equipment relating to the operation of the lift and any other equipment (such as any vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).
27. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
28. Any security boom, barrier or similar device controlling vehicular access to the premises must be located a minimum of six metres inside the property to allow vehicles to stand clear of the Litchfield Street pavement and footpath.
29. General building lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.
30. The loading and unloading of goods from vehicles, including the loading of waste must only be carried out on the land within the designated loading bay and must not disrupt the circulation and parking of vehicles on the land.
31. The use and development must be managed so that the amenity of the area is not unduly affected, through the:
 - a. transport of materials, goods or commodities to or from the land;
 - b. loading of waste from the land;
 - c. appearance of the building; or
 - d. emission of noise or smells from the land
32. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
33. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES

1. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
2. Notwithstanding the approved plans, the demonstrated awning in the City of Darwin road reserve is subject to Council approval at no cost to Council.
3. Notwithstanding the approved plans, any proposed works (including landscaping and awnings) within the City of Darwin's road reserve is subject to approval and shall meet all requirements to the satisfaction of the City of Darwin.

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Darwin, at no cost to Council.

4. Notwithstanding the approved plans, any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin Policy Number 42 – Outdoor Advertising Signs Code.
5. The City of Darwin advises that a monetary contribution is paid to City of Darwin in line with Council's Car Parking Contribution Plan - Central Business Zone, in lieu of the removal of the three on-street car parking bays in Litchfield Street.
6. The City of Darwin advises that the applicant shall ensure that a building number is displayed in position clearly visible from the street in accordance with Council's by- laws.
7. City of Darwin advises that the developer must protect and support adjacent properties and pedestrians during the basement excavation, and where necessary, underpin the adjoining premises to prevent any damage.
8. The Department of Defence advises that separate requests for assessment and approval must be submitted for any cranes used during construction that will infringe on either the Obstacle Limitation Surfaces (OLS) or Procedures for Air Navigation Services – Operations (PANS-OPS) surfaces for Darwin Airport.
9. Water Services advise that essential infrastructure is located in the road reserve adjacent to the property and that a separate approval for the use of cranes during construction should be submitted.
10. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
11. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5354 (surveylandrecords@nt.gov.au). The Power and Water Corporation should also be contacted to discuss multi-metering if unit tiling is intended.
12. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 8936 4070 to determine if the proposed works are subject to the Act.

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13. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/newdevelopments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/newdevelopments/builders-designers.html>.
14. The development and use hereby permitted must be in accordance with Northern Territory legislation including (but not limited to) the *Building Act 1993*, the *Public and Environmental Health Act 2011* and the *Food Act 2004*.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and "office/shop/food premises-restaurant" and "dwelling-group" require consent under Clause 1.8 (When development consent is required). An "office/shop/food premises-restaurant" is merit assessable under Clause (1)(b)(i) and "dwelling-group" is impact assessable under Clause 1.8(1)(c)(i), therefore, zone purpose and outcomes of Clause 4.10 (Zone CB – Central Business) and Clauses 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.5.3 (General Building and Site Design), 5.5.11 (Food Premises) and 5.9.2 (Darwin City Centre), need to be considered.

Clause 1.10(1)(a) states that in considering an application for consent for a use or development, the consent authority must consider the use or development in its entirety except in relation to an application to alter, change or vary a development permit under sections 43A, 46 or 57 of the *Planning Act 1999* (the Act). The application seeks changes to Development Permit DP22/0123 under section 46 of the Act; therefore, the consent authority should consider only the proposed changes (i.e. changes to the floor layout) to the approved development.

The assessment carried out against Clauses 5.2.6.2 (Landscaping in Zone CB), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.9.2.11 (Car parking spaces in Darwin City Centre) and 5.9.2.13 (Design of Car Parking Areas and Vehicle Access), found that the proposal does not comply with Clause 5.9.2.11 (Car parking spaces in Darwin City Centre).

Deferral

This application was first considered by the Authority at its meeting on 22 September 2023, where the application was deferred to enable the applicant to provide additional information that the Authority considered

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necessary in order to enable proper consideration of the application, including:

- Further information in relation to the determination of the related planning application, PA2023/0247, for a re-assessment of the car parking requirements for 38 Cavenagh St; or
- Revised plans or an alternative arrangement to accommodate additional car parks (21 car spaces) resulting from proposed changes to the development.

The changes proposed generate an additional parking requirement of 21 parking spaces, which were originally proposed to be accommodated within the Litchfield Street multi-level car park.

The DAS assessment concluded that the Litchfield Street multi-level car park currently provides 324 car parking spaces approved through DP18/0298. This carpark is a car parking alternative for the Manunda Place development (approved through DP18/0297) in lieu of providing a monetary contribution to the City of Darwin and currently provides 302 car parking spaces linked to the Manunda Place development. The provision of 302 spaces in the Litchfield Street multi-level car park is controlled through Condition 23 of DP18/0297. Furthermore, 88 car spaces are reserved for the Energy House and is controlled through condition 22 of DP18/0298. Additionally, 4 car parking spaces are allocated to the proposed child care centre (ground floor of Energy House building) approved through DP21/0159 and for commercial tenancies within the multi-level car park.

The car parking allocation in Litchfield multi-level car park, as assessed by DAS, is as follows:

Parking spaces provided (A)	324 car spaces plus 2 additional bays accounting for the motorcycle parking spaces provided
Parking allocation – (B)	423 car spaces (as below)
Spaces required for commercial tenancies (111m ²)	4 car spaces
Parking allocation – DP18/0297 (Manunda Place)	302 car spaces
Parking allocation – DP18/0298 (Energy House)	88 car spaces
Parking allocation – DP21/0159 (Child care centre)	4 car spaces
Parking allocation – DP22/0123 (original proposal)	25 car spaces
Net Position (A-B)	97 car spaces (over allocation)

A parking contribution of 68 spaces is provided to Council through DP18/0297 (Manunda Place) and DP18/0298 (Litchfield multi-level car park).

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Consideration of the assessed car parking allocations and contributions paid to the Council within the Litchfield multi-level car park revealed that the car park is over-subscribed by 29 car spaces, which was of concern to the Authority.

Response to Deferral

On 13 November 2023, in response to the Notice of Deferral, the applicant confirmed that its clients were supportive of a permit condition to the effect that payment be made into the City of Darwin Car Parking Contribution Plan for the 21 space shortfall identified. On this basis, the application was taken off deferral and brought before the Authority for further consideration with the following matters considered.

5.9.2.11 Car parking spaces in Darwin City Centre

The purpose of Clause 5.9.2.11 is to *ensure that sufficient off-street car parking spaces, constructed to a standard and conveniently located, are provided to service the proposed use of a site.*

Table to Clause 5.9.2.11: Minimum number of required parking spaces in Central Darwin requires the following car parking spaces:

- *Dwelling-group* - 1 per one bedroom dwelling, 1.5 per two bedroom dwelling, 1.7 per three bedroom dwelling, per dwelling with four or more bedrooms.
- *Food premises (all)* - 2 for every 100m² of net floor area or only 1 car parking space where a building has a net floor area of up to 500m².
- *Office (not elsewhere referred to in this table)* - 2 for every 100m² of net floor area or only 1 car parking space where a building has a net floor area of up to 500m².
- *Shop* - 2 for every 100m² of net floor area.

The proposed changes to the ground floor and level one and generates an additional parking requirement of 15 car spaces.

In addition to the above, the application also proposes a reduction in vertical landscaping, which impacts the car parking demand calculations. Sub-clause 2 of Clause 5.9.2.12 (Reduction in car parking spaces in Darwin City Centre) allows the Authority to determine that fewer car parking spaces are required for development than those otherwise prescribed by the Scheme. The table to the Clause provides a variety of considerations and associated percentages which may be taken into account by the Authority in determining whether to reduce the parking requirement. Category 3 of the table allows the Authority to determine and reduce the parking requirements based on the vertical landscaping.

The Authority previously granted a reduction of 20% under this category through DP22/0123 on the basis that the vertical landscaping provided in the development covers an area of 52% of the site area. The application proposes to remove some landscaping from the building façade fronting Litchfield Street, resulting in vertical landscape extent reduced from 52% of the site area to 26%.

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Having regard to the reduced landscaping under category 3 (c) applying other reductions under categories 1(a) and 4(a) of the table, a total of 50% reduction can be applied as below:

- Category 1(a) – The proposal is within 200m walking distance of the Darwin Bus Interchange (15% reduction).
- Category 3(c) – Vertical landscaping covers an area of 25% - 50% (15%).
- Category 4(a) – All car parking provided in the development is in the basement (20% reduction.)

Under Development permit DP22/0123, a reduction was previously granted and the total car parking requirement for the development was 113 spaces. Of those spaces, 79 parking spaces to be provided within the three level basement car parking, motorbike/bicycle parking spaces which equates to four (4) parking spaces, and 25 spaces are to be provided in the Litchfield Street Car Park totalling 108 spaces. The shortfall was to be provided by way of a monetary payment to the City of Darwin for 5 car parking spaces.

The Authority has applied similar consideration in granting a car parking reduction to this application as the intent of the proposal remains the same to the original approval, aside from the minor changes to the floor layout and reduction of vertical landscaping.

In its submission, the City of Darwin commented that if the Authority determined the proposed number of parking bays are insufficient, a monetary contribution be required to be paid in accordance with the City of Darwin Car Parking Contribution Plan. In acknowledgement of this request, together with written acceptance by the applicant of this approach, a condition of approval requiring a monetary contribution to the City of Darwin in line with its contribution plan is considered acceptable.

The wording of condition 24 of DP22/0123 is therefore amended to reflect the car parking changes as follows:

“Before the use commences the owner must, in accordance with Part 6 of the Planning Act 1999, provide 134 car parking bays. Of those spaces, 79 parking spaces are to be provided within three basement levels, motorbike/bicycle parking spaces that equates to four (4) parking spaces, and 25 spaces are to be provided in the Litchfield Street Car Park. In accordance with section 70(5) of the Planning Act 1999, twenty six (26) of the required parking bays may be provided through a monetary contribution to the City of Darwin. The contribution is to be calculated in accordance with the requirements of section 70(6) of the Planning Act 1999.”

At the hearing, the Authority also queried the applicant regarding the 25 car parking spaces approved under DP22/0123 to be provided in the Litchfield Street Car Park, noting that the Litchfield Street Car Park is currently over-subscribed and to date, the matter still remains unresolved.

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The applicant noted the Authority's concerns and that the matter raised should not impact on the current application.

The Authority stressed to the applicant that the matter of the remaining 25 car parking spaces will need to be resolved prior to the issue of a Certificate of Compliance for this development to ensure that sufficient car parking is available to support the development.

2. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The capability of the land has previously been considered under DP22/0123. The current application proposes changes to the floor layout of the ground floor, level one and the removal of vertical landscaping from the north-western boundary of levels two to ten, which raise no concerns in relation to the capability of the land.

3. Pursuant to Section 51(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

Potential amenity impacts were considered in detail as part of previously approved DP22/0123. As this application proposes only changes to the approved floor layouts of the ground level and level 1 and removal of vertical landscaping assess as acceptable, potential amenity impacts beyond those already considered are considered unlikely.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2023/0246

SUBDIVISION TO CREATE THIRTY SIX LOTS AND BUILDING SETBACK PLAN

APPLICANT

SECTION 7349 MAKAGON ROAD, BERRIMAH, HUNDRED OF BAGOT
Cunnington Rosse Town Planning and Consulting Pty Ltd

DAS tabled a Technical Assessment for the application that had been inadvertently omitted from documents previously provided.

Applicant Gerard Rosse (Cunnington Rosse Town Planning and Consulting Pty Ltd) attended.

RESOLVED
53/23

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, The Development Consent Authority defer consideration of the application to develop Section 7349 Makagon Road, Berrimah, Hundred of Bagot, for the purpose of subdivision to create 36 lots and building setback plan, to enable clarification of the specific requirements of Transport and Civil Services Division and Land Development

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Unit of the Department of Infrastructure, Planning and Logistics in relation to the subdivision and conditions of approval for Stage 4b

RESOLVED 54/23

That, pursuant to section 86(1) of the *Planning Act 1999*, the Development Consent Authority delegate to the Chair or in the Chair's absence or inability to act any one of the members of the Division, the power under section 53 of the *Planning Act 1999*, to determine the application to develop Section 7349 Makagon Road, Berrimah, Hundred of Bagot, for the purpose of subdivision to create 36 lots and building setback plan, provided that

- (a) Further advice from Transport and Civil Services Division is received regarding its requirements in relation to the proposal, including confirmation that the amendments required can be addressed via conditions precedent (if necessary)
- (b) Sufficiently amended plans and/or further information is provided that demonstrate that the amendments required by Transport and Civil Services Division can be achieved without a significant departure from the proposed subdivision layout or a change to the number of lots proposed.

REASONS FOR THE DECISION

Pursuant to section 46(4)(b) of the *NT Planning Act 1999*, the consent authority may request provision of further information if it considers the information is necessary to enable proper consideration of the application.

The Authority noted that the application had previously been deferred (under delegation) in September 2023 to enable resolution of matters raised by Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics in relation to the proposed road design, bus stop location and traffic impact assessment.

At the meeting, the applicant Mr Gerard Rosse (Cunnington Rosse Town Planning and Consulting Pty Ltd), provided an overview of the stage design and an explanation of how his clients proposed to overcome the matters identified by Transport and Civil Services Division. Mr Rosse also expressed his frustrations at not being able to resolve the matters despite considerable effort, suggesting that given the nature of the required changes and further refinement of the design to date, that a condition precedent would be appropriate to resolve remaining matters.

At the meeting the Authority sought confirmation from the applicant regarding necessary changes and whether they could be achieved without significant alteration to the proposal, including the number of lots proposed. The Authority acknowledged the information provided by the applicant including that the road amendments could be achieved, would be designed to comply with the necessary road standards and that despite the necessary amendments, the changes would not alter the number of lots proposed.

The Authority acknowledged the considerable efforts that had been made to resolve the abovementioned matters prior to the meeting, but was of the opinion that the identified further information was necessary for it to consider the

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application properly. Deferral of the application will enable further information to be provided to the Authority and in addition, should the identified additional materials also be provided (including further advice from Transport and Civil Services Division and sufficiently amended plans that demonstrate no material change to the proposal or number of lots), the Authority was also willing to delegate its powers to the Chair to further consider and determine the application.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Deferral

**ITEM 3
PA2023/0361**

**SUBDIVISION OF TWO LOTS TO CREATE TWO LOTS (BOUNDARY REALIGNMENT)
LOT 9928 (98) EAST POINT ROAD AND LOT 9929 (3) ELIZABETH STREET,
FANNIE BAY, TOWN OF DARWIN**

APPLICANT

Earl James and Associates

Applicant Kevin Dodd (Earl James and Associates) and Terrance Jape (landowners son) attended.

Submitter John (Foxy) Robinson and his son John Robinson attended remotely via Teams.

**RESOLVED
55/23**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 9928 (98) East Point Road and Lot 9929 (3) Elizabeth Street, Fannie Bay, Town of Darwin, for the purpose of subdivision of two lots to create two lots (boundary realignment), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawing numbered 2023/0361/01 endorsed as forming part of this permit.
2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notation 1 for further information.

3. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for approval by the Surveyor General.

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NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and subdivision requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8 (1) (c), therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan 2015 and Darwin Inner Suburbs Area Plan, which are relevant to this application), zone purpose and outcomes of Clause 4.3 Low-Medium Density Residential, and Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR), 6.2.3 (Site Characteristics for Subdivision in Zones LR, LMR, MR and HR), and 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme.

2. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The land is capable of supporting the proposed development as it is already developed and has existing connections to reticulated services.

At the hearing, the Authority acknowledged the relevant planning history of Lots 9928 and 9929 including Development Permit DP21/0292 issued over

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Lot 9929 for the purpose of '4 x 4 bedroom and 1 x 3 bedroom dwelling-group in 2 x 2 storey buildings in two stages'. The Authority sought clarification from the applicant regarding their client's future intentions to redevelop the lot, noting that DP21/0292 expired on 5 November 2023. Mr Kevin Dodd acknowledged the permit's expiry and Mr Terrance Jape confirmed no current plans to develop Lot 9929. Based on this advice, the Authority was satisfied that DP21/0292 presented no concerns regarding the land's capability to support the subdivision as proposed.

3. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated

The proposed subdivision is unlikely to have a material impact on the amenity of the locality as the only boundary to change is the shared common boundary at the rear of Lot 9928 and 9929. This boundary will be repositioned so that the sewerage easement, with a depth of 3m, is incorporated into Lot 9928 (proposed Lot A).

4. Pursuant to section 51 (1) (e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

One submission was received during the public submission timeframe from the owner of adjoining Lot 10748. The submission included a request to discuss the right of way easement within Lot 9928 adjacent the common boundary between Lot 9928 and Lot 10748, water run off issues with the retaining wall between Lot 9929 and 8034 and a potential non-compliance with the building setback requirement of an existing building on Lot 8034 due to the position of fencing.

At the hearing, Mr Robinson (adjoining landowner) acknowledged that while the matters raised were not directly relevant to the subdivision application and that he had no in principle objection to realign the common boundary between Lot 9928 and Lot 9929, he however had remaining concerns with the sewerage easement (and capacity of infrastructure within it), and the accuracy of a historical subdivision impacting the boundary between Lot 10748 and Lot 9929. Mr Robinson sought assurances that the boundaries of the subdivision are correct and will be re-surveyed through this subdivision process.

In response to the submitter, the applicant, Mr Kevin Dodd, advised that no other boundaries will be surveyed as part of this application as there is no obligation to do so under the *Licensed Surveyors Act 1983*, but that the boundaries directly relevant to the realignment would be.

At the meeting, the Authority acknowledged that a separate development application had been lodged over Lots 9928 and 9928 for a new dwelling-single and that it was likely that as part of that process, if approved, standard conditions of approval would deal with the matter of sewerage

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infrastructure (including its capacity), which may aid in resolving any remaining matters that the submitted may have in this respect.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

RATIFIED AS A RECORD OF ATTENDANCE AND DETERMINATIONS MADE AT THE MEETING

SUZANNE PHILIP
Chair

15 December 2023