



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 437 – FRIDAY 21 FEBRUARY 2025

**AGORA ROOM
HUDSON BERRIMAH
4 BERRIMAH ROAD
BERRIMAH**

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

APOLOGIES: None

LEAVE OF ABSENCE: None

OFFICERS PRESENT: Margaret Macintyre (Secretary), Amit Magotra, Kaleb Thomas, Madison Harvey and Sam Pallett (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 10.00 am and closed at 11.35 am

THE MINUTES RECORD OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. 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
PA2018/0436
SUBJECT SITE
APPLICANT

VARIATION TO CONDITION 13 OF DEVELOPMENT PERMIT DP19/0050 TO AMEND THE SUBDIVISION LAYOUT AND ASSOCIATED STAGING APPROVED UNDER DP19/0050
LOT 9370 (544) LEE POINT ROAD, LEE POINT, TOWN OF NIGHTCLIFF
CUNNINGTON ROSSE TOWN PLANNING AND CONSULTING

Applicant:- Brad Cunnington (Cunnington Rosse Town Planning and Consulting) attended in person and Peter Gurkin (National Manager Developments DHA) attended via Teams Link.

Mr Cunnington tabled an overall concept plan.

RESOLVED
15/25

That, pursuant to section 57(3) of the *Planning Act 1999*, the Development Consent Authority consent to the application to vary Condition 13 of Development Permit DP19/0050 for the purpose of amending the subdivision plan and associated staging approved under DP19/0050, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the proponent is to prepare a Construction and Environmental Management Plan. The Plan is to address waste management, traffic control, haulage routes, stormwater drainage, and how Council land will be managed during construction, to the requirements of the City of Darwin. The Plan is also to address dust, noise and vibration impacts, and waste management, and include processes for:
 - communicating anticipated impacts of construction to stakeholders;
 - the reporting of, and responding to complaints; and
 - identifying when there are unexpected and unacceptable impacts to stakeholders and amending construction practices as appropriate,on the advice of the Environment Division, of the Department of Lands, Planning and Environment (DLPE). The Plan must demonstrate compliance with Northern Territory Environment and Protection Authority (NT EPA) Noise Guidelines for Development Sites, and the NT EPA Noise Management Framework Guideline, and is also to include scope for regular review and updates and include the schedule for construction stages. The above is to be completed to the satisfaction of the consent authority.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the design and specifications of the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system or another acceptable location shall be submitted to and approved by the City of Darwin, Medical Entomology, of the Department of Health (DoH), and Crown Land, DLPE, to the satisfaction of the consent authority. The stormwater design should be completely free draining to avoid the potential for mosquito breeding during low flow periods. All discharge drains must be fitted with concrete low flow inverts that terminate at a free draining tidal area. Access to, and maintenance of the end of point discharge drains must be clarified and accepted by all relevant parties. The design of the stormwater infrastructure must consider the sub-staging of the development to manage the quality of stormwater.

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the developer is to prepare a water quality monitoring plan for Buffalo Creek, including baseline monitoring and monitoring of any additional pollutant loads from the subdivision, with any mitigation measures identified, on the advice of Water Resources, DLPE, to the satisfaction of the consent authority.
4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the developer is to prepare a weed management plan to address ongoing weed management, on the advice of Weed Management Branch, DLPE, to the satisfaction of the consent authority.
5. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan is to be prepared and must be generally in accordance with the landscape concept submitted, and is to address landscaping details for all proposed road reserves and public areas, to the approval of the City of Darwin, to the satisfaction of the consent authority. The plans are to demonstrate as little clearing as possible.
6. Prior to the commencement of works, an Erosion and Sediment Control Plan (ESCP) is to be submitted to and approved by the consent authority on the advice of Environment Division, DLPE. The ESCP must be developed by a Certified Professional in Erosion and Sediment Control (CPESC) and should detail methods and treatments for minimising erosion and sediment loss from the site during both the clearing and establishment phases of the development. The ESCP should also:
 - be cross-referenced with other relevant environmental management plans to ensure consistency;
 - include details of both temporary and permanent erosion and sediment control measures including for all stages of the development (pre, during and post works);
 - comprise an over-arching strategic document outlining the principals, practices and methods to be implemented, as well as site-specific dimensional plans identifying the location of works and prescribed controls, and be accompanied by standard drawings and construction notes;
 - include information regarding the proposed timing and stage of works, site manager contact details, maintenance and monitoring requirements, and reporting procedures; and
 - have the implementation regularly monitored by a suitably qualified third party auditor.

Information regarding erosion and sediment control and ESCP content is available at www.austieca.com.au and the NTG website: <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be emailed for assessment to developmentassessment.depws@nt.gov.au.

7. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a site earthworks plan indicating finished levels of all proposed lots is to be submitted to and approved by the City of Darwin to the satisfaction of the consent authority. All cut and fill works are to be designed to eliminate the need for excessive cut/fill/retaining wall works for the proposed lots.
8. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the traffic impact assessment report submitted with the application is to be revised to address intersection priority and minimum collector street carriageway

widths, to the requirements of the City of Darwin, to the satisfaction of the consent authority.

9. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), public transport details including bus stop locations and designs, and a route that considers the staging of the development are to be provided to the requirements of Transport and Civil Services Division (TCSD), Department of Logistics and Infrastructure (DLI), to the satisfaction of the consent authority.
10. Prior to the commencement of works (including site preparation), the developer is to submit an updated water and sewer infrastructure master plan to Water Services, Power and Water Corporation (PWC), to the satisfaction of the consent authority. The master plan is to address the development together with the related subdivision of Lot 4873, Town of Nightcliff to the west of Lee Point Road.
11. Prior to the commencement of works (including site preparation), a proposed zoning plan must be submitted to and approved by the consent authority. The zoning plan must be consistent with the description given in the application and is to address the whole of the subdivision including the proposed zoning for the end of point discharge drains.

GENERAL CONDITIONS

12. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
13. The development must proceed in the order of stages as shown on the endorsed plan unless otherwise agreed in writing by the consent authority.
14. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage facilities, electricity services and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
15. 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.
16. 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.
17. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the relevant Northern Territory or local government authority.
18. The Construction and Environmental Management Plan is to be implemented on the advice of the City of Darwin, and Environment Division, DLPE, to the satisfaction of the consent authority. The Plan is also to remain publicly available for the duration of construction.
19. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, site earthworks, vehicular access, pedestrian/ cycle

corridors and streetscaping are to be to the technical requirements of City of Darwin, to the satisfaction of the consent authority and all approved works constructed at the owner's expense.

20. Before the use commences the owner must, in accordance with Part 6 of the *Planning Act 1999*, pay a monetary contribution to the City of Darwin for the upgrade of local infrastructure, in accordance with its Lee Point Road Roadwork Contribution Plan, to the satisfaction of the consent authority.
21. Stormwater is to be collected and discharged into the drainage network to the technical standards of the City of Darwin, Medical Entomology, DoH, and Crown Land, DLPE, to the satisfaction of the consent authority.
22. The applicant is to demonstrate all discharge drains, including the end of point of the drains, include suitable access to allow for maintenance on the advice of Medical Entomology, DoH, to the satisfaction of the consent authority.
23. The landscaping works shown on the endorsed plans must be carried out and completed to the requirements of the City of Darwin, and Medical Entomology, DoH, to the satisfaction of the consent authority.
24. All works relating to this permit are to be undertaken in accordance with the approved Erosion and Sediment Control Plan to the requirements of the consent authority on the advice of Environment Division, DLPE, to the satisfaction of the consent authority.
25. The water quality monitoring plan for Buffalo Creek is to be implemented on the advice of Water Resources, DLPE, to the satisfaction of the consent authority.
26. The weed management plan is to be implemented on the advice of Weed Management Branch, DLPE, to the satisfaction of the consent authority.
27. Any offset or offset management plan required by the Australian Government with respect to the significant residual impact to the black-footed tree-rat (*Mesembriomys gouldii gouldii*) is to be completed, on the advice of Flora and Fauna Division, DLPE, to the satisfaction of the consent authority.
28. A qualified person, under section 68 of the *Waste Management and Pollution Control Act 1998*, must provide certification that the site is suitable for the intended use on the advice of the Environment Division, DLPE, to the satisfaction of the consent authority.
29. The proponent must ensure that only clean fill (virgin excavated natural material) is accepted and that the fill has been adequately assessed as being suitable for its intended use, on the advice of Environment Division, DLPE, to the satisfaction of the consent authority.
30. Before the issue of titles, the developer is to provide written confirmation from a suitably qualified person that the rural residential lots are entirely unconstrained and free draining, and suitable for their intended purpose, to the satisfaction of the consent authority.
31. Before the issue of titles, the developer is to provide written confirmation (in the form of plans or drawings) demonstrating that all lots less than 600m² for single dwellings

allow for future vehicle access via a single driveway unrestricted by street infrastructure (including any power, water, sewer, or stormwater infrastructure) which demonstrates that a 3.5m driveway can be located on each lot whilst ensuring that each lot's street frontage has a minimum continuous length of 6.5m, to the satisfaction of the consent authority.

32. Pursuant to section 34 of the *Land Title Act 2000*, a Caution Notice shall be lodged with the Registrar General on the parent parcel to include the following advice on all proposed lots indicated on the endorsed drawings to be located within the 1.7km odour buffer from the Leanyer Sanderson Wastewater Treatment Plant. The Caution Notice is to state "This lot:

- occurs within the identified odour buffer for the Leanyer Sanderson Wastewater Treatment Plant; and
- may be subject to occasional odours associated with the operation of the Leanyer Sanderson Wastewater Treatment Plant."

Evidence of lodgement on the parent parcel shall be provided to the satisfaction of the consent authority.

33. Pursuant to section 34 of the *Land Title Act 2000*, a Caution Notice shall be lodged with the Registrar General on the parent parcel to include the following advice on all proposed lots indicated on the endorsed drawings to be located within the biting insect buffer. The Caution Notice is to state: "This lot:

- occurs within the biting insect buffer; and
- that the lot is subject to seasonal mosquito and biting midge pest problems arising from the adjacent mangroves of Buffalo Creek and tidal marshes and mangroves in Leanyer Swamp."

Evidence of lodgement on the parent parcel shall be provided to the satisfaction of the consent authority.

NOTES

1. 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 one month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. 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/new-developments.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/new-developments/builders-designers.html>.
3. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and

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Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

4. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* 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.
5. As part of any subdivision, the parcel numbers for addressing should comply with the Australian Standard (AS/NZS 4819:2011). For more information contact Survey and Land Records surveylandrecords@nt.gov.au 08 8995 5354. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
6. All new roads, including alterations and extensions to existing roads, are required to be named under the *Place Names Act 1967*. You should immediately make an application to the Place Names Committee to commence the road naming process. Contact the Place Names Unit on 08 8995 5333 or place.names@nt.gov.au.
7. The NT EPA has advised that the proponent must comply with their General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act 1998*.
8. There are statutory obligations under the *Weeds Management Act 2001* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Weed Management Branch, DLPE.
9. The City of Darwin provides advice regarding the provision of street trees to be planted within Council's proposed road reserve, including the provision of a planting schedule, specification for quality tree stock, species selection, and the maintenance and establishment periods. Please contact the City of Darwin for advice on street trees.
10. Passenger Transport, DLI request that the developer remain in regular contact with the division and to confirm details of the location and design of bus stops as the development progresses.
11. The applicant may be required to make a separate application for a planning scheme amendment to include a building setback plan in Schedule 9 of the Northern Territory Planning Scheme 2020. Please contact Lands Planning on 8999 8963 for more information.

REASONS FOR THE DECISION

1. Development Permit DP19/0050 was issued on 27 February 2019 for the purpose of subdivision to create 282 lots in five stages. The base period of DP19/0050 has been extended on two occasions: once under DP19/005A, which extended the base period to 27 February 2021, and the second by automatic extension under the *Planning Act 1999* to 27 February 2025 due to works associated with Stage 1A commencing. The Authority notes that the application is accompanied by a second application for an extension of time, which is included as item 2 of these minutes.

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Under section 57(3) of the Act, *the consent authority may, in writing, vary a condition of a development permit if:*

- (a) the proposed variation will not alter a measurable aspect of the development by a margin greater than 5% and, in the opinion of the consent authority, will not materially affect the amenity of adjoining or nearby land or premises; or*
- (b) in the opinion of the consent authority, the alteration resulting from the proposed variation is not conveniently measurable, and the proposed variation will not materially affect the amenity of adjoining or nearby land or premises.*

The power to vary granted to the Authority by Section 57(3) is discretionary, provided that either of the conditions (a) or (b) are met. The only restriction placed upon the exercise of that discretion is a requirement in subsection (4) that states *Despite subsection (3)(a), a permit must not be varied if it will allow an increase in the number of dwellings capable of separate occupancy.*

The variation application has been submitted in response to the amendments to the *Environment Protection Biodiversity Conservation Act 1999* (EPBC) approval (EPBC2015/7591), which varied the originally considered subdivision approval to provide a 20 m wide conservation buffer along the north-eastern property boundary, to account for the siting of threatened species in the vicinity of the subject lot.

Mr Brad Cunnington from Cunnington Rosse Town Planning and Consulting (the applicant) attended the meeting, and Peter Gurkin (National Manager Developments at Defence Housing Australia) attended online. Mr Cunnington spoke to the application and discussed the various changes proposed in more detail. Mr Cunnington told the Authority that the primary purpose of the proposed variation is to incorporate 0.693ha and 3.012ha conservation areas adjacent to the northern and eastern boundaries of lot 9370, immediately adjacent to the western and southern boundaries of lot 9461 to provide a buffer to account for the siting of threatened species in the vicinity of the subject lot required by the amended EPBC approval. As a result of the additional conservation areas, the rural residential lots adjacent to the lot 9461 boundaries have been reoriented so that the long sides are parallel to the boundary/road, resulting in a net loss of 7 rural residential lots. Mr Cunnington further told the Authority that to offset the reduction to the residential area as a result of the additional conservation area, urban residential lots have been reconfigured by including a higher proportion of smaller lot typologies.

Mr Cunnington explained that while the proposed variation results in a minor increase in dwelling density (12.05 dw/ha compared to 11.86 dw/ha in original approval), there is a net loss of 3 residential lots (269 proposed, where 272 were originally approved).

Mr. Cunnington also spoke about the revised staging of the development. Mr Cunnington explained that the amended staging plan proposed to recognise the completed stage as Stage 1A, which includes 97 residential lots. Stage 1B of the amended staging consists of 9 urban residential lots, the primary drainage infrastructure, and the majority of the conservation areas. Stage 1C encompasses the central residential lots, the school site, the community centre site, and the active recreation reserve. Finally, the remaining residential lots and the new conservation area are classified as Stage 2. This arrangement is consistent with the development plan for the site and the subdivision approval granted for the 2CRU site (DP18/0409), located on the western side of Lee Point Road, which is being developed consecutively by the DHA alongside this site.

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The Authority carefully considered the applicant's submission and considered all factors in making its decision. The Authority noted the advice contained within the Development Assessment Services (DAS) report regarding test to a measurable aspect of the development, as a result of the proposed variation.

The Authority noted the changes to the residential density and number of lots are less than 5% and, therefore, meet the threshold test of the variation under Section 57 of the Planning Act 1999. The Authority further notes that the proposed changes to the subdivision layout result in a net loss of three residential lots.

The second threshold requirement provided by Section 57(3)(a), is that the Consent Authority must consider that the proposed variation "will not materially affect the amenity of adjoining or nearby land or premises. The Authority noted that the proposal will result in the reduction of areas to be used for residential land uses and will increase the area used for conservation purposes in response to the identification of natural values in this area.

The Authority further noted that the proposed changes to staging are not measurable and do not have any amenity impacts provided the conditions of the DP19/0050 are met for each stage.

The Authority is satisfied that the variation application meets the tests prescribed under section 57(3) of the *Planning Act 1999*.

Separately, an additional matter was considered by DAS in regard to the permit conditions originally applied to DP19/0050. Condition precedent (1) states *Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans are to be submitted showing: (a) A full set of amended detailed subdivision plans and other supporting reports and plans, reflecting the design changes made during assessment of the application, including the demonstration of compliant building envelopes where a variation to Clause 11.2.3 (Lot Size and Configuration in Residential Subdivisions) has not been granted. The above is to be completed to the satisfaction of the consent authority.*

This condition related to building envelopes which were included as part of the original application. In line with current practice, DAS report recommended that this condition precedent be removed, and a permit note stating the following be included on any future permit – *The applicant will be required to make a separate application for a planning scheme amendment to include a building setback plan in Schedule 9 of the Northern Territory Planning Scheme 2020. Please contact Lands Planning on 8999 8963 for more information.*

Mr Cunnington, at the hearing, told the Authority that the purpose of the original condition precedent was not about formulating building setback plans but about providing plans showing compliance. In addition, Mr Cunnington identified that the phrasing of the permit note, which proposed 'The applicant is to make a separate application....' was not appropriate, as it concerns a permit note, which is not a condition to be complied with.

The Authority accepted the revision to the permit note as raised by Mr Cunnington.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Variation to Development Permit

ITEM 2
PA2018/0436
SUBJECT SITE
APPLICANT

EXTENSION OF TIME TO DP19/0050 FOR A PERIOD OF FOUR YEARS
LOT 9370 (544) LEE POINT ROAD, LEE POINT, TOWN OF NIGHTCLIFF
CUNNINGTON ROSSE TOWN PLANNING AND CONSULTING

Applicant:- Brad Cunnington (Cunnington Rosse Town Planning and Consulting) attended in person and Peter Gurkin (National Manager Developments DHA) attended via Teams Link.

RESOLVED
16/25

That, pursuant to Section 59(3)(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to extend the base period of DP19/0050 for the purpose of subdivision to create 282 lots in five stages at Lot 9370 (544) Lee Point Road, Lee Point, Town of Nightcliff for a period of four years.

Development Permit DP19/0050 was issued on 27 February 2019 for the purpose of subdivision to create 282 lots in five stages. The base period of DP19/0050 has been extended on two occasions: once under DP19/005A, which extended the base period to 27 February 2021 and by automatic extension under the *Planning Act 1999* to 27 February 2025 due to works associated with Stage 1A commencing. The Authority notes that the application is accompanied by a second application for an extension of time, which is included as item 1 of these minutes.

Mr Brad Cunnington from Cunnington Rosse Town Planning and Consulting (the applicant) attended the meeting, with Peter Gurkin (National Manager Developments at Defence Housing Australia (DHA)) attending online. Mr Cunnington spoke to the application, and discussed the various circumstances that have led to project delays, as DHA stopped works while all these events took place. These included delays regarding:

- Changes to the *Environment Protection Biodiversity Conservation Act 1999* (EPBC) approval (EPBC2015/7591), in response to the sighting of Gouldian Finches.
- An application for protection of Aboriginal heritage made under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.
- Investigations made in response to complaints made under the *Planning Act 1999*.

Mr Cunnington also advised the Authority that based on the scale of the subdivision, and as shown in the development program, it is unlikely that works approved under this permit will be able to be completed within the extended base period, and that future extensions of time may be applied for.

The Authority noted the reasons provided by Mr Cunnington as justifying this extension of time application and advised that based on recent directions where 10-year base periods have been applied to master planned subdivisions, a four-year extension is appropriate in this case, as DP19/0050 was originally issued in 2019.

The Authority determined to grant a four year extension, which will extend the base period of the permit to 27 February 2029.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Extension of Time

ITEM 3
PA2024/0391
SUBJECT SITE
APPLICANT

PART CHANGE OF USE FROM WAREHOUSE AND SHOWROOM SALES TO LEISURE
AND RECREATION (BOULDERING AND CLIMBING GYM)
LOT 6844 (2) SNELL STREET, WOOLNER, TOWN OF DARWIN
CUNNINGTON ROSSE TOWN PLANNING AND CONSULTING

Applicant: Brad Cunnington (Cunnington Rosse Town Planning and Consulting) and the bouldering and climbing gym owners Jackson Bursill, Susan Bursill and Graeme Bursill attended.

RESOLVED
17/25

That, the Development Consent Authority vary the requirements of Clause 5.2.4.1 Car Parking Spaces of the Northern Territory Planning Scheme 2020 (NTPS2020), and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 6844 (2) Snell Street, Woolner, Town of Darwin for the purpose of part change of use from warehouse and showroom sales to leisure and recreation (bouldering and climbing gym), subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to 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 with dimensions and must be generally in accordance with the plans submitted with the application but modified to show the provision of space for on-site collection, storage and disposal of waste.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, and electricity to the development 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.

4. 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.
5. The use and/or development as shown on the endorsed plans must not be altered without the further consent of the consent authority.

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

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determine the Corporation's servicing requirements, and the need for upgrading of on site and/or surrounding infrastructure.

2. All proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin's Policy 6310.100.E.R – Outdoor Advertising Signs Code.
3. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.
4. The applicant is advised to engage a Northern Territory registered building certifier to ensure that the intended use of any existing buildings or structures is permitted by occupancy certification in accordance with the *Building Act 1993*.

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 application proposes a change of use in part of the existing warehouse and showroom sales building to leisure and recreation use. The proposal involves reducing the size of the existing showroom sales area within an existing building (Fantastic Furniture) and providing a new tenancy within the northern portion of the building for use as a bouldering and climbing gym (Gecko Climb). The gym proposes to provide traditional indoor climbing walls, including rope and harness, and bouldering facilities similar to indoor rock climbing. The proposed use also provides an ancillary café at the rear for use by patrons of the gym, an ancillary function room, amenities, a storage room, an office, and service rooms.

The NT Planning Scheme 2020 (NTPS 2020) applies to the land and leisure and recreation requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(1)(c)(v), therefore Part 2: Strategic Framework (Darwin Inner Suburbs Area Plan June 2016), Part 4: Zone Purpose and Outcomes of Clause 4.15 – Zone GI (General Industry) and Part 5: Development Requirements, including Clauses 5.2.1 General Height Control, 5.2.4 Car Parking, 5.2.5 Loading Bays, 5.2.6 Landscaping, 5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR, 5.5.11 Food Premises, 5.6.1 Setbacks and Building Design in Zones LI, GI and DV, 5.6.2 Expansion of existing Developments in Zones LI and GI and 5.8.5 Leisure and Recreation, need to be considered.

The Authority noted the assessment of Development Assessment Services (DAS) which considered these clauses and found that the proposal complies with the relevant requirements of the NTPS 2020 as follows:

Part 2 – Strategic Framework (Darwin Inner Suburbs Area Plan, June 2016)

The site is identified as a 'Potential area for change' and as a 'Service Commercial Area' with the Darwin Inner Suburbs Area Plan June 2016. A key objective identified for the 'Service Commercial Area' is to facilitate a continued transition to service commercial uses serving the growing population in the inner suburbs of Darwin. The Authority noted that the proposal will increase the diversity of commercial land-uses at the site, and the

proposed use will not create inconsistencies with the expected development of the 'Service Commercial Area'.

Part 3 – Overlays and Part 4 – 4.15 Zone GI (General Industry)

No overlay listed under Part 3 applies to the site. The site is located in Zone GI (General Industry). The purpose of this zone is to *provide for industrial developments that require separation from more sensitive uses as the nature of activities may detrimentally impact on the amenity of the locality, in locations with access to services and transport networks capable of supporting heavy industry.* The Outcomes relevant to the proposed development are:

2. *Non-industrial activities, including bar-public, food premises-cafe/takeaway, primarily servicing local employees, and office, shop, and showroom sales, may be established where they serve the needs of the industrial uses on the site and are compatible with the ongoing industrial use of the zone.*
3. *Other non-industrial activities such as education establishments, indoor leisure and recreation, and hotel/motel, may also be established where they do not jeopardise the ongoing operation and viability of industrial activities.*

In regard to the above relevant zone outcome, the Authority notes that the proposed leisure and recreation (bouldering and climbing gym) is consistent with existing commercial / non-industrial use on-site and within in the locality. In addition, the proposed use is fully within the existing building on-site and will not unreasonably impact the ongoing operation and viability of industrial activities.

Part 5- Development Requirements

Relevant clauses from the Part 5 of the NTPS 2020 have been considered and it is found that the proposal complies with the relevant requirements, except for Clause 5.2.4.1 (Car Parking Spaces).

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NTPS 2020, *the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:*
 - (a) *The purpose and administration clauses of the requirement; and*
 - (b) *The considerations listed under Clause 1.10(3) or 1.10(4).*

The proposal has been assessed against the NTPS 2020 and does not comply with Clause 5.2.4.1 (Car Parking Spaces).

5.2.4.1 Car Parking Spaces

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

The DAS technical assessment identified that the proposed part change of use generates a parking requirement of 104.975 (rounded up to 105) car parking spaces, and the existing showroom sales and warehouse, which are proposed to be retained, generate a parking requirement of 121.49 (rounded up to 122) car parking spaces. A total of 226.46 (~227 car parking spaces) for the existing and proposed uses on-site.

As no new car parking is provided on-site, the proposal relies on the existing 130 car parking spaces available on-site, which will be shared with the other tenancy (the existing showroom sales and warehouse) on the site. As such the proposed use generates a shortfall of 97 car spaces.

Administratively, under sub-clause 2 of 52.41 (Car Parking Spaces):

1. *The consent authority may consent to a use or development that is not in accordance with sub-clause 4 if it is satisfied a reduction of the number of car parking spaces is appropriate with regard to:*
 - a) *the zoning of the land, the use or development or proposed use or development of the land, and the possible future use or development of the land;*
 - b) *the provision of car parking spaces in the vicinity of the land;*
 - c) *the availability of public transport in the vicinity of the land; and*
 - d) *the potential impact on the surrounding road network and the amenity of the locality and adjoining property;**or if the use or development relates to a heritage place and the Minister responsible for the administration of the Heritage Act 2011 supports the reduced provision of car parking spaces in the interest of preserving the significance of the heritage place*

The applicant, Mr Brad Cunnington (Cunnington Rosse Town Planning and Consulting), attended the hearing and provided an overview of the application. Mr Cunnington told the Authority that the proposal is for the part change of use from showroom sales and warehouse to leisure and recreation (bouldering and climbing gym) within an existing commercial/warehouse development. Mr Cunnington stressed that the specific nature of a bouldering and climbing gym is such that the application of an alternative approach to car parking rather than a broad leisure and recreation car parking rate is appropriate. Mr Brad Cunnington explained to the Authority that the proposed use is inherently a vertical use and that approximately there would be a maximum of 58 patrons climbing at any one time. In addition, Mr Cunnington confirmed that in addition to those patrons climbing, there would be other patrons, including spectators and those entering and exiting, highlighting that there is a high turnover.

Mr Cunnington highlighted that the peak demands for the application are:

- The existing showroom sales and warehouse (Fantastic Furniture) are open during business hours on weekdays and peak in demand on Saturdays between the mid-morning and early afternoon.
- Based on the data of a similar bouldering and climbing gym in Townsville (Urban Climb), the peak demand periods for the proposed gym are expected to be between 6-9pm on weekdays, and 2-3pm on Fridays with stable patronage and no peak over the weekends.

Mr Cunnington emphasised that the peak demand based on the business operation would occur after-work hours on weekdays and between 2 -3pm on Fridays. The expected peak demand contrasts with the peak demand of the existing showroom sales and warehouse (currently Fantastic Furniture) therefore ensuring adequate availability of car parking spaces for all tenancies. Mr Cunnington told the Authority that there are 130 car parking spaces located on the site and these are shared with the existing showroom sales and warehouse tenancy (currently Fantastic Furniture).

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The Authority determined to grant a reduction in parking by Clause 5.2.4.1 (Parking Requirements), in the context of the Administration under subclause (2) for the following reasons:

- The proposed design of the bouldering and climbing gym inherently includes a limit on the number of patrons at any one time.
- The peak demand of the proposed and existing tenancies do not coincide, therefore ensuring adequate availability of car parking spaces for all tenancies.
- The Shiers Street Bus Stop No.299, located on the southern side of Stuart Highway, is approx. 400 metres west of the site and is serviced by regular bus routes number 5 (running between Casuarina and Darwin City) and number 8 (running between Palmerston and Darwin City).

The applicant at the hearing requested the Authority to remove the general condition recommended in the DAS report relating to limiting the number of patrons. Mr Cunnington emphasised that due to the high turnover of patrons and the physical design of the space, the proposal is inherently limited in regards to number of patrons. Consequently, a general condition that enforces the maximum number of patrons on the site would be overly onerous and not pragmatic. The Authority noted the applicant's comments and determined not to impose any condition to limit the maximum number of patrons.

For the reasons discussed above, including through recommended permit conditions, the proposed variation to Clause 5.2.4.1 (Car Parking Spaces) is acceptable, as it is reasonably considered that the site will provide sufficient off-street car parking for patrons of this leisure and recreation use, and other existing uses on-site.

To ensure compliance with Clause 5.5.1 Food Premises a condition precedent is applied to the permit to require the plans be updated to show adequate provision is made for the on-site collection, storage and disposal of waste.

The Authority questioned the applicant on the possibility of providing bicycle parking facilities for the patrons, considering that the existing building lacks such facilities. The applicant agreed that the provision of bicycle parking facilities could be taken into account to service the proposed development.

3. 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.

No land capability issues have been identified. The proposal is for a change of use within an existing commercial/warehouse building. The land is in Zone G1 and is capable of supporting the proposed development. Additionally, the Environment Division of the Department of Lands, Planning and Environment did not identify or raise any issues of concern in relation to land capability.

4. 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.

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It is considered unlikely that the proposal will have a significant impact on the amenity of the area particularly as it is for a part change of use within an existing commercial/warehouse building. Additionally, it is considered consistent with the purpose of the zone and complies with the NT Planning Scheme 2020, except in relation to a few parking related matters, but these may be varied without any major impacts to the amenity of the area as discussed above in reason 2.

The conditions and notes applied to the permit also assist in preventing any adverse impacts on amenity.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 4
PA2024/0395
SUBJECT SITE
APPLICANT

87 HOTEL/MOTEL SUITES IN AN EXISTING FIVE STOREY BUILDING
LOT 626 (87) MITCHELL STREET, DARWIN CITY, TOWN OF DARWIN
ONE PLANNING CONSULT

Applicant:- Israel-Tshepo Kgosiemang (One Planning Consult) and George Savvas (Concept Design) attended.

Submitter Steven Dugan sent his apologies.

RESOLVED
18/25

That, the Development Consent Authority vary the requirements of Clauses 5.2.4.4 (Layout of car parking areas), 5.5.11 (Food Premises) and 5.9.2.5 (Development along Priority Activated Frontages) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 626 (87) Mitchell Street, Darwin, Town of Darwin for the purpose of 87 hotel/motel suites in an existing 5 storey building, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to 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 with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - a 6m access easement over Lots 626 and 627
 - a ground floor food premises-restaurant rather than a food premises-cafe.
2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), written confirmation from a qualified engineer that the parking layout associated with the development complies with the relevant Australian Standards for car parking must be provided in instances where the car parking layout does not comply with the minimum requirements of the Northern Territory Planning Scheme 2020, to the satisfaction of the consent authority.

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3. Prior to the endorsement of plans and prior to the commencement of works, approval is required for the provision of awnings to the street frontages to the requirements of the City of Darwin, to the satisfaction of the consent authority.
4. Prior to the commencement of works (including site preparation), a traffic impact assessment report is to be prepared by a suitably qualified traffic engineer with attention to vehicular, pedestrian, cyclist and public transport issues, intersection/road network performance and opportunities and identify any necessary upgrades to the surrounding street network to the requirements of the City of Darwin to the satisfaction of the consent authority. The TIA should also include swept paths for waste collection vehicles entering and exiting the site and consider bus parking and drop-off arrangements and the existing shared access easement between Lot 626 and 627.
5. Prior to the commencement of works, 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 commencement of works (including site preparation), a waste management plan addressing the City of Darwin's Waste Management Guidelines must be prepared to the requirements of the City of Darwin, to the satisfaction of the consent authority.
7. 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.
8. 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 the land will be managed during the construction phase.

GENERAL CONDITIONS

9. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
10. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notations 1 and 2 for further information.

11. 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.

12. 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.
13. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
13. 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.
14. 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.
15. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street to the requirements of the City of Darwin, to the satisfaction of the consent authority.
16. 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.
17. If Council approval is obtained for in association with Condition 8 and other encroachments into the City of Darwin Road Reserve building elements over City of Darwin road reserve, the applicant will be required to enter into appropriate agreements with the City of Darwin and the design specifications are to be to the satisfaction of General Manager, Infrastructure of the City of Darwin.
18. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
19. 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,

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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.

20. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.
21. 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.
22. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
22. 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.
23. The development must be constructed to comply with acoustic treatments as shown in the endorsed drawings, and a statement from a suitably qualified acoustic engineer confirming that the treatments were applied must be submitted prior to occupation of the development, to the satisfaction of the consent authority.

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. Power and Water Corporation advise that prior to initial reviews and assessments being undertaken to determine Power and Water Corporations servicing requirements, the developer should submit an Expression of Interest (EoI) form via email to remotedevelopment@powerwater.com.au
3. All proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin's Policy 6310.100.E.R – Outdoor Advertising Signs Code.
4. 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.
5. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the satisfaction and at no cost to City of Darwin.

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6. 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*.
7. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* 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.
8. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.
9. The loading and unloading of goods from vehicles must only be carried out on the land and within the designated loading bays, to the satisfaction of the consent authority.
10. A Compliance Certificate under the *Swimming Pool Safety Act 2004* issued by the Swimming Pool Safety Authority is required for the swimming pool/s prior to the commencement of the development.

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 (NTPS2020) applies to the land. Lot 626 is centrally located in Zone CB (Central Business) and is surrounded by a mix of land uses accommodating a range of retail, commercial and high-rise residential and tourist accommodation land uses.

The application seeks approval to reconfigure and repurpose the floor levels to accommodate 87 hotel/motel suites and ground level food premises-restaurant with an alfresco dining area adjacent to the street frontage. As such the proposed development aligns with the broader intent of Zone CB as it provides accommodation facilities for tourists in CBD and activates an existing vacant building.

The proposed hotel/motel use requires consent under Clause 1.8 (When development consent is required) of the NTPS2020. It is identified as Merit Assessable under Clause 1.8(1)(b)(i), therefore, the zone purpose and outcomes of Clause 4.10 (Zone CB - Central Business) and Clauses 5.2.1 (General Height Control), 5.2.4 (Car Parking), 5.2.4.4 (Layout of car parking areas), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.5.4 (Expansion of Existing Development in Zones CB, C, SC and TC), 5.5.11 (Food Premises), 5.5.15 (Design in Commercial and Mixed Use Areas), 5.9.2 (Darwin City Centre), need to be considered.

The assessment carried out by the Development Assessment Services (DAS) has found that the development complies with the relevant requirements of the NTPS2020 except

for Clauses 5.2.4.4 (Layout of car parking areas), 5.5.11 (Food Premises) and 5.9.2.5 (Development along Priority Activated Frontages).

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

5.2.4.4 (Layout of car parking areas):

The purpose of the clause is to *ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose.*

Subclause 8(d) of Clause 5.2.4.4 requires the layout of car parking areas to *ensure parking spaces at the end of and perpendicular to a driveway are 3.5m wide or so that the driveway projects 1m beyond the last parking space.*

The development has been found not to be in accordance with Clause 5.2.4.4 as the basement and ground level driveways adjacent to the last car parking bays (bay 16, 27 at basement level and bay 54 at ground level) projects 0.8m and 0.5m, respectively, where a minimum projection of 1m is required.

Administratively, the consent authority may consent to a car parking area that is not in accordance with sub-clauses 7 and 8 if it is satisfied that the design and construction is safe and functional with regard to the location of the development.

The Authority noted the assessment of DAS which concludes that the requirement for the driveways to extend 1m beyond the end of a driveway is to allow cars to have adequate space to exit and manoeuvre. The assessment also concludes that the functionality of non-compliant parking bays can be enhanced by designating them as 'small' parking bays, complete with appropriate signage to ensure that only suitable vehicles attempt to use these spaces.

A variation is considered warranted under *Administration subclause 4* as the basement and ground-level car parking layout generally accord with the layout approved in the historical permit for the existing building.

Subclause 9(a and d) require car parking areas to *have driveways with a minimum width of 6m for two-way traffic flow or 3.5m for one-way traffic flow (a) and maximise sight lines for drivers entering or exiting the car parking area (b).*

The proposal has been found not to be in accordance with Clause 5.2.4.4 as it will result in basement access driveway width of 5.59m and a ground level driveway along the southwest side of the existing building to the parking at the rear of the site with a width 2.9m, where a minimum 6m driveway width is required for two-way traffic flow.

Administratively, the consent authority may consent to a car parking area that is not in accordance with sub-clause 9 if it is satisfied that the non-com

The applicant provided the following reasons for variation:

- *A variation to the requirements of the clause is sought due to existing layout scenario which has previously served an office type land use which generated more parking requirement than the proposed use. City of Darwin has requested Traffic Impact Assessment Report (TIA) through a Condition Precedent for any permit issued.*

The Authority notes the reduced width of the basement driveway of 5.59m and the existing car parking layout was approved via DV1720.

At the hearing, the Authority queried if the access arrangements might impact the safe and convenient movement of vehicles and pedestrians due to delivery vehicles being required to access the loading bay at the rear of the site via a 2.9m wide driveway and reverse through the car parking area to exit.

The applicant advised a reversing bay has been provided at the end of the driveway to assist delivery vehicles to turn around after accessing the loading bay and to provide room for vehicles to wait for oncoming traffic to enter the car parking area.

At the hearing, the architect (Concept Designs) advised there is a 6m wide shared access easement along the southwest boundary of the existing building between Lot 626 and 627 whereas the dimension plans only show a 2.9m driveway.

The Authority notes the existing shared access easement will significantly improve access to the car parking area at the rear of the site and address some of the concerns raised by the City of Darwin who requested a Traffic Impact Assessment (TIA) as a conditions precedent.

The Authority considers that to facilitate two-way traffic flow in accordance with subclause 9(a), a conditions precedent is necessary requiring the applicant provide updated plans showing the shared access easement and the removal of the bollards and shade structure on Lot 626

The Authority also questioned the parking and drop-off arrangements for airport buses outside the proposed hotel/motel on Mitchell Street and if discussions had taken place with the City of Darwin regarding any arrangements. The applicant stated that discussions had not taken place with the City of Darwin at this stage. The Authority considers that the TIA should address, amongst other matters, bus parking and drop-off arrangements.

5.5.11 (Food Premises):

The purpose of Clause 5.5.11 is to ensure a food premises provides an active interface to the public domain and contributes to the interest and diversity of the locality (a), minimises adverse impacts on the amenity of the locality (b) and is designed for the safety of patrons (c).

Subclause 9 of Clause 5.2.4.4 states *the maximum net floor area of a café/take away should be 80m².*

The proposal has been found to not be in accordance with Clause 5.5.11 as the proposal will result in a café with a net floor area of 158m² (café 130m² & kitchen 28m²) where a maximum net floor area of 80m² is required.

Administratively, the consent authority may consent to a food premises that is not in accordance with sub-clauses 3-10, only if it is satisfied it is consistent with the purpose of

this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on surrounding amenity.

The applicant provided the following information below during the deferral period regarding subclause 9:

- *The proposed development is food premises-café exceeding the 80m² as the proponent is likely to operate a food premises-restaurant in the future. The site located in the CB area and therefore an increased floor area is unlikely to have adverse impacts on the amenity of the locality characterised by a mixture of commercial activities encouraged at ground level in a Central Business District.*

The Authority queried that, considering the proponent's future plans to operate a food-premises restaurant rather than a café, dimension plans be amended accordingly, as there is no limit on net floor area for food premises-restaurant in Zone CB and therefore, sub-clause 9 would not apply. The applicant agreed that the food premises is like to function as a restaurant and was amenable to the inclusion of a condition to show it as food premises-restaurant on plans.

The Authority noted that the proposed food premises-restaurant meets the purpose of Clause 5.5.11 as it located on the ground floor of the development (hotel/motel). The proposed alfresco dining area will activate the street frontage and the landscaping, vertical features screens and stone cladding on the building facade provide visual interest.

Adverse impacts on the amenity of the locality are minimised as the proposed café is located internally with the alfresco dining area setback from the street frontage. Furthermore, safety of patrons has been considered through the provision of an accessible lift from the street to the alfresco dining area and entrance.

5.9.2.5 (Development along Priority Activated Frontages)

The purpose of Clause 5.9.2.5 is to *prioritise active frontage along key streets in the Darwin city centre to encourage pedestrian activity and strengthen the relationship between buildings and the public domain.*

Subclause 6 states *where a site boundary is located on a street identified as 'priority activated frontage', buildings are to provide a minimum of 75% of the length of that site boundary as active street frontage.*

The proposal has been found not to be in accordance with Clause 5.4.7 as the proposal will result in an active street frontage of 74.5% (24m) of the 30.5m building frontage to Mitchell Street, where a minimum 75% active street frontage is required under subclause 6.

Administratively, the consent authority may consent to a development that is not in accordance with sub- clauses 5-6 if it is satisfied that compliance would be impractical due to servicing requirements, and all reasonable effort has been made to maximise the active street frontage on 'priority activated frontages' and minimise the visual impact of services.

Note 3 to Clause 5.9.2.5 references *Design Guidance: Active Street Frontage*, which states the objectives of active street frontages are *to facilitate transactions between buildings and the street, encourage passive surveillance at street level and ensure that commercial buildings contribute positively to the public domain*

Design Guidance: Active Street Frontage states the components of active street frontage as operable and legible entrances that are directly accessible from a public space, areas within the site that allow for alfresco dining and well-designed spaces that allow for pedestrian and/or seating.

A variation to subclause 6 under Administration subclause 2 is granted as the proposal will result in very small variation (0.5%) to the 75% active street frontage requirement.

The proposal also meets the objectives and components for active street frontages in *Design Guidance: Active Street Frontage* as it will open the building façade to Michell Street and the alfresco dining area increases passive surveillance at street level. The proposed will also significantly improve the existing façade by replacing a wheelchair accessible ramp with a lift and internal office space with an alfresco dining area, landscaping and vertical feature screens.

- (a) The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clauses 5.2.4.4 (Layout of car parking areas), 5.5.11 (Food Premises) and 5.9.2.5 (Development along Priority Activated Frontages), as identified above.
3. Pursuant to section 51(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.

Two public submissions were received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal.

The submissions raised concerns regarding reverse amenity issues, including noise and foot traffic impacts generated by surrounding entertainment uses, and, the lack of design measures to mitigate reverse amenity impacts. In that regard, the submissions also noted concerns that entertainment uses in the vicinity could be in breach of the *Liquor Act 2019* and that the application does not a reference surrounding entertainment.

Apart from the variations sought to Clauses 5.2.4.4 (Layout of car parking areas), 5.5.11 (Food Premises) and 5.9.2.5 (Development along Priority Activated Frontages), the proposed development is compliant with the requirements of the NTPS 2020. The level of compliance achieved with the NTPS 2020 is considered to demonstrate that any unreasonable amenity impacts on the surrounding area are unlikely as a result.

Regarding reverse amenity impacts it is noted that during the deferral period, in response to submissions, the applicant provided updated dimension plans showing the glazing on external windows and sliding doors having high acoustic properties with soundproofed external and internal walls. that these noise attenuation measures are likely to mitigate any potential reverse amenity impacts from surrounding uses. A condition is included on the permit to provide attenuation measures prior to the occupation of the proposed use.

Regarding reverse amenity impacts from foot traffic generated by surrounding entertainment uses, is it noted that a hotel/motel is one of the forms of residential development expected in Zone CB. A hotel/motel catering for tourists on a short-term basis will complement surrounding food premises and entertainment uses and that

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potential reverse amenity impacts of the proposed food premises-restaurant on adjacent entertainment uses is minimised due to its day time hours of operation.

4. 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 proposal will utilise the existing building on the site and includes reconfigured internal floors and a refurbished building façade and side and rear walls. The proposed hotel/motel with a ground floor food premises-restaurant and alfresco is compatible with surrounding uses and is unlikely to result in adverse impacts on the surrounding area. The comments received from service authorities did not raise any land capability issues except for the City of Darwin who requested a Traffic Impact Assessment (TIA) as a condition precedent to ensure waste collection vehicles can enter and exit the site safely.

To ensure the basement and ground level car parking areas are appropriately designed and constructed for their intended purpose, it is recommended that as a condition precedent, the applicant provide written evidence from a suitably qualified person confirming the parking layout complies with the Australian Standards for off-street parking.

5. 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 development is consistent with the purpose and outcomes of Zone CB (Central Business). The development is in an existing 5 storey building with reconfigured internal levels and refurbished exteriors. The alfresco dining area and façade treatments activate the street frontage, provide visual interest and increase opportunities for passive surveillance at street level. The proposed noise attenuation measures will minimise potential reverse amenity impacts from surrounding uses.

Where the development does not comply with the relevant clauses of the NTPS 2020, the impact on existing and future amenity has been considered and a variation has only been supported in cases where this amenity will not unduly be impacted upon.

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

25 February 2025

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