



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 331 – FRIDAY 8 MARCH 2019

**BROLGA ROOM
NOVOTEL DARWIN ATRIUM
100 THE ESPLANADE
DARWIN**

MEMBERS PRESENT: Suzanne Philip (Chair), Doug Phillips, John Gleeson, Mick Palmer and Sherry Cullen

APOLOGIES: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary) and Dawn Parkes, Amit Magotra (Items 1 & 2 only) and Adelle Godfrey (Items 3 & 4 only) (Development Assessment Services)

COUNCIL REPRESENTATIVE: Nil

Meeting opened at 10.45 am and closed at 12noon

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 TIMES DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1 **CHANGE OF USE FROM SHOWROOM SALES AND WAREHOUSE TO**
PA2018/0486 **LEISURE AND RECREATION AND RESTAURANT (INDOOR PLAY FACILITY**
 AND CAFE)
 LOT 9585 (356) BAGOT ROAD, TOWN OF NIGHTCLIFF
APPLICANT **JAPE KONG SU NOMINEES PTY LTD**

Mr Terence Jape (Jape King Su Nominees Pty Ltd) attended.

RESOLVED That the Development Consent Authority reduce the car parking requirements
42/19 pursuant to Clause 6.5.2 (Reduction in Parking Requirements), and pursuant to
 section 53(a) of the *Planning Act*, consent to the application to develop Lot 9585
 (356) Bagot Road, Town of Nightcliff for the purpose of change of use from
 showroom sales and warehouse to leisure and recreation (indoor play facility and
 cafe), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawing numbered 2018/0486/01 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 and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
3. The use and development as shown on the endorsed plan 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 (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.
2. The Northern Territory Environment Protection Authority advises that construction work should be conducted by the Agency's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7 am and 7 pm Monday to Saturday and 9 am to 6 pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
3. The Northern Territory Environment Protection Authority has advised that the proponent must comply with their General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act*. More information can be found on the Environment Protection Authority website

at: <https://ntepa.nt.gov.au/waste-pollution>, by calling (08) 8924 4218 or emailing ntepa@nt.gov.au.

REASONS FOR THE DECISION

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

The Northern Territory Planning Scheme (NTPS) applies to the land, and the site is within Zone SD4 (Specific Use Darwin No.4) of the NTPS. Zone SD4 specifies the number of requirements for commercial activities in the 'homemaker' theme including specifying a maximum floor area for a shop on the land (300 m²) and requiring landscaped buffers to adjoining residential land in Brayshaw Crescent and the Millner Primary School. Additionally, relevant standard requirements of the NTPS apply including clauses 6.5.1 (Parking Requirements), 6.5.3 (Parking Layout), and 8.2 (Commercial and Other Developments in Zone C).

The proposed change of use has been assessed against the relevant clauses that apply to Zone SD4 and additional standards under Part 4 of the NTPS. The technical assessment identifies that the proposed change of use of the tenancy is a discretionary use in Zone SD4, and as such does not conflict with the purpose of the zone. Furthermore, matters raised in clause 8.2 do not apply as the application seeks consent for the change of use of an existing tenancy and will see minimal alteration to the external appearance of the building.

The assessment identifies that the main use of the tenancy is leisure and recreation with ancillary uses including café and retail. Given the ancillary uses will be visited by the customers of the main use, the authority determined that the proposed change of use results in a shortfall of 21 car parking spaces.

A variation to the parking required under Clause 6.5.1 (Parking Requirements), pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Scheme is granted based upon the following reasons:

- a. The proposed change of use tenancy is located in Jape Homemaker Village (development) comprising of lots 9585, 8634, 6191 and 4554 (site);
- b. When assessed across the site a total of 833 car parking spaces are provided in the development. Given the most recent approval granted for the development, DP14/0089, noted a requirement of 800 car parking spaces, there is a current surplus of 33 car parking spaces which can accommodate the additional parking requirement from the proposed change of use;
- c. As the site includes a number of different commercial uses, the proposed use is likely to attract a high cross utilisation of available car parking spaces; and
- d. A public bus stop is located adjacent to the site along the Bagot Road frontage which provides access to regular services to Darwin City and Casuarina shopping centre. It is expected that

visitors to the proposed leisure and recreation use would be able to access public transport easily in this location if required.

In response to a question raised by the authority at the hearing in relation to the availability of existing car parking on the site, the applicant confirmed that sufficient parking exists on site and that there is a two-storey undercover carpark located in the eastern part of the site with approximately 165 car spaces which is currently underutilised. The applicant added that lessees of the Homemaker Village are asked that their tenants and workers park away from shop fronts (and are encouraged to utilise the two-storey undercover car park for all day parking) to ensure that convenient car parking is made available to customers.

2. Pursuant to Section 51 (m) of the *Planning Act*, the consent authority must consider the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of relevant conditions and/or notations on the development permit.

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

The authority determined that the proposal will not impact adversely or unreasonably on its surrounding environment as it is located within an existing commercial development. A note advising the applicant of their obligation to comply with the general environmental duty under section 12 of the *Waste Management and Pollution Control Act* is included on the permit.

ACTION: Notice of Consent and Development Permit

**ITEM 2
PA2019/0002
APPLICANT**

**CHANGE OF USE (TENANCY 7A AND 7B) FROM SHOP TO HOTEL
LOTS 2352, 4851 & 4852 (38 42 & 40) THE MALL, TOWN OF DARWIN
BRUNO CARRABS, BRUNO JUNIOR CARRABS AND ELIO CARRABS**

The Authority noted that the applicant, Mr Alex Deutrom, is an employee of Development Assessment Services, Department of Infrastructure, Planning and Logistics. The Authority declared at the meeting that the Department had adopted all required procedures to restrict the applicant's involvement in the assessment, or any matter related to the decision of the application.

Mr Alexander Deutrom attended on behalf of the applicant.

Submitter Ms Carole Askham sent her apologies, and Mr Neil Tones attended on Ms Askham's behalf.

**RESOLVED
43/19**

That the Development Consent Authority reduce the car parking requirements pursuant to Clause 6.5.2 (Reduction in Parking Requirements), and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lots 2352 (38), 4851 (42) and 4852 (40) The Mall, Town of Darwin for the purpose of change of use (Tenancy 7A and 7B) from shop to hotel, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered 2019/0002/01 and 2019/0002/02 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 and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
3. The use and development as shown on the endorsed plan 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 (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.
2. The Northern Territory Environment Protection Authority advises that construction work should be conducted by the Agency's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7 am and 7 pm Monday to Saturday and 9 am to 6 pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
3. The Northern Territory Environment Protection Authority has advised that the proponent must comply with their General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act*. More information can be found on the Environment Protection Authority website at: <https://ntepa.nt.gov.au/waste-pollution>, by calling (08) 8924 4218 or emailing ntepa@nt.gov.au.
4. The Department of Environment and Natural Resources has advised that noise emissions causing environmental nuisance may lead to compliance action under the WMPC Act. It is recommended that the proponent complies with the noise requirements contained in the Northern Territory Environment Protection Authority (NT EPA) *Northern Territory Noise Management Framework Guideline September 2018*.

REASONS FOR THE DECISION

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

land to which the application relates.

The Northern Territory Planning Scheme (NTPS) applies to the land, and the site is within Zone CB (Central Business) of the NTPS. The primary purpose of Zone CB is to provide for a diversity of activities, including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities with a commitment to the separation of incompatible activities. In Zone CB, building form and design is expected to be sensitive to the needs to pedestrian movement and facilitate the creation of safe and active street frontages and public places and a vibrant commercial precinct.

The application proposes a change of use of two shop tenancies in an existing commercial building to a hotel. As such, the proposal aligns with the broader intent of Zone CB as it falls within the range of uses provided for within Zone CB. The existing building currently provides a full-length awning to the Smith Street Mall frontage, and this would be maintained. With the exception of the addition of a glass door along the Austin Lane street frontage, no other changes are proposed to the existing built form and existing pedestrian linkages. The addition of the glass door along Austin Lane increases the active street frontage of the existing building.

The proposal has been assessed against the relevant clauses of the NTPS that apply to Zone CB and a non-compliance was identified against Clause 6.5.1 (Parking Requirements). It is noted that there are other pre-existing non-compliances with the NTPS which remain unchanged and are not considered as part of this application.

The technical assessment identifies that the change of use generates the requirement for an additional 9 car parking spaces due to the increased rate required for a 'hotel' use. The existing building has 4 parking spaces on site located at the rear (off Austin Lane) which are not specifically allocated to the subject tenancies, and there is no capacity on the site for the provision of additional parking spaces. It is understood that a parking levy is paid to the City of Darwin for the current parking shortfall on site and this will remain in place.

A variation to the parking required under Clause 6.5.1 (Parking Requirements), pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Scheme is supported based upon the following reasons:

- The definition of a hotel as per the NTPS is described by the requirement for a licence under the *Liquor Act*. The specific nature of the proposed use is for a small whiskey and jazz bar, much smaller than a typical hotel use which could be expected under this definition. In addition the proposed use does not include a gaming component and has limited hours of operation which contribute to reducing the parking requirement compared to what would ordinarily be required for a typical hotel use.
- Given the subject tenancy is located within the core of the Darwin CBD surrounded by various retail and office uses, a cross utilisation of parking with these uses is expected.

- It is considered that the peak demand for the proposed use differs to a number of other uses in the surrounding area. The majority of visits to the proposed use will be outside of business hours during which demand for both on-street and off-street public car parking is significantly reduced. On weekdays (during business hours) visitors to the proposed use are expected to be predominantly from the surrounding area with limited visitors specifically destined to the proposed use from the broader locality.
 - The analysis of similar uses contained in the Central Darwin Car Parking Generation Utilisation Study prepared by Aurecon in 2010 recommends a reduced generation rate of 3.4 spaces per 100m² of net floor area would be more appropriate for hotel uses that provide a focus on dining and operate more like bars than nightclubs. Considering the findings of the study, the proposed use would generate a shortfall of 0.25 spaces only.
 - There is a large number of on-street parking within walking distance of the proposed use, including along Austin Lane, Knuckey Street, Bennett Street and Cavenagh Street. Nearby off-street carparks, such as West Lane Carpark and the Darwin Post Office Carpark, have an abundance of off-street parking available outside of business hours.
 - The Darwin Bus Interchange on Harry Chan Avenue is less than 200 meters from the site (2-3 minute walk). All buses entering and leaving the CBD run through this facility. Buses run until approximately midnight on Friday and Saturday nights. There is also a Taxi rank on Knuckey Street (out the front of PM restaurant) approximately 140 meters from the site (1-2 minute walk).
2. Pursuant to section 51(e) of the *Planning Act*, 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 public submission was received during the exhibition period under Section 49 of the *Planning Act*. The submission raised concerns regarding competition to other similar businesses, anti-social behaviour, toilet facilities within the proposed building, amenity impacts on nearby areas (children's play area) and car parking.

Mr Neil Tones attended the meeting on behalf of the submitter Ms Carole Askham and spoke further to the submission. Mr Tones restated the concerns raised in the written submission and commented that there is no need for a new bar venue in the CBD as there are already plenty of venues which are struggling for business due to the current economic downturn. Mr Tones believes that the addition of another bar in the CBD will increase anti-social behaviour and that the location of the proposed hotel in particular is inappropriate given the location of the subject tenancy fronting a narrow lane with limited nearby businesses other than a massage parlour directly opposite. Mr Tones raised concerns about the location of the toilet facilities to be utilised by the bar patrons as they are located external to the tenancy area requiring patrons to leave the facility and walk outside. Mr Tones also commented that the loud music played from the proposed use will

create noise nuisance and will impact the surrounding areas.

In response to the submitter's comments Mr Deutrom (representing the applicant) clarified that the concept of the proposed 'Whiskey and Jazz bar' is new to the CBD and is different to other typical bars that you might find in locations such as Mitchell Street. Mr Deutrom advocated that the proposal will add to the activation of Austin Lane and complement other activation initiatives currently being carried out in the area. In relation to anti-social behaviour Mr Deutrom confirmed that as part of his application to the Liquor Commission, a detailed plan had been prepared outlining methods for discouraging anti-social behaviour, surveillance strategies etc. and that these details would be scrutinised as part of the licensing application process which is expected to be exhibited once the appropriate planning approval is in place. Mr Deutrom confirmed that the shared arcade area outside of the subject tenancies is not part of the liquor license application and therefore no liquor will be served in this area. Mr Deutrom added that the proposed venue is small which will naturally restrict the ability to host large bands and instead they are likely to accommodate small performances which is in keeping with the whiskey and jazz bar theme. In addition Mr Deutrom added that there is a substantial foyer and storage area separating the bar area from the nearest street being Austin Lane, and therefore unreasonable noise is not expected to be heard outside of the venue. In relation to the toilet facilities Mr Deutrom confirmed that the toilets will be unlocked during trading hours for the use of patrons and that this area will be monitored from within the bar by surveillance cameras.

The Authority noted both the concerns of the submitter and the comments made by the applicant. The authority considered that many of the behavioural concerns raised by the submitter are matters that fall within the jurisdiction of the Liquor Commission and therefore the submitter is encouraged to lodge a submission under the *Liquor Act* when the liquor license application is exhibited. Matters that fall within the jurisdiction of the *Planning Act* are discussed in reasons 1 and 3. The authority explained to the applicant and the submitter that the approval of a planning application for the proposed hotel does not mean that approval from the Liquor Commission will also be granted as they are two very distinct processes with separate decision making authorities.

3. Pursuant to Section 51 (m) of the *Planning Act*, the consent authority must consider the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The application was circulated to the relevant service authorities and comments received from these authorities are addressed by the inclusion of relevant conditions and/or notations on the development permit.

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

The proposed change of use is consistent with the broader intent of Zone CB (Central Business) as it falls within the range of uses provided for within Zone CB and will contribute to activating the Austin Lane locality as well as providing opportunity for passive surveillance of the area. The authority noted that the proposed use will also require approval from the Liquor Commission and as part of that process the suitability of the proposed use in the subject location will be further examined.

A note advising the applicant of their obligation to comply with the general environmental duty under section 12 of the *Waste Management and Pollution Control Act* is included on the permit.

The authority determined that the proposed hotel is an anticipated and appropriate use within the core of the CBD and would be unlikely to impact on the existing or future amenity of the area given that the operator will need to adhere to relevant legislation such as the *Liquor Act* and the *Waste Management and Pollution Control Act*.

ACTION: Notice of Consent and Development Permit

**ITEM 3
PA2019/0020**

**WAREHOUSE (SINGLE STOREY) AND OFFICE (3 STOREY) EXCEEDING
8.5M IN HEIGHT**

SECTIONS 7686, 7687, 7688, 7689, 7690, 7691, 7692, 7693 & 7694, (2, 4, 6, 8, 10, 12, 14, 16 & 18) PAK STREET HUNDRED OF BAGOT AND SECTIONS 7695, 7696, 7697, 7698, 7699, 7700, 7701, 7702, 7703 & 7704 (19, 17, 15, 13, 11, 9, 7, 5, 3 & 1) LEWFATT STREET, HUNDRED OF BAGOT

APPLICANT

NORTHERN PLANNING CONSULTANTS PTY LTD

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd) and Mr George Savvas (Concept Designs) attended.

**RESOLVED
44/19**

That, the Development Consent Authority vary Clauses 6.1 (General Height Control) and 6.6 (Loading Bays) of the Northern Territory Planning Scheme, and pursuant to section 53(b) of the *Planning Act*, alter the proposed development and consent to the proposed development as altered to develop Sections 7986, 7687, 7688, 7689, 7690, 7691, 7692, 7693, 7694 (2, 4, 6, 8, 10, 12, 14, 16, 18) Pak Street, and Sections 7695, 7696, 7697, 7698, 7699, 7700, 7701, 7702, 7703, 7704 (1, 3, 5, 7, 9, 11, 13, 15, 17, 19) Lewfatt Street, Hundred of Bagot for the purpose of a warehouse and office exceeding 8.5m in height, subject to the following conditions:

CONDITIONS PRECEDENT

- 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) a reduced building height for the office component to comply with Clause 6.1 (General Height Control);
 - (b) the inclusion of a loading bay conveniently located and proximate to the internal areas of the office component;
 - (c) internal access between the warehouse and office components; and
 - (d) a revised car parking layout confirming all spaces comply with Clause 6.5.3 (Parking Layout) including where columns may otherwise encroach in car parking spaces located within the undercroft parking area.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact assessment report is to be prepared by a suitably qualified traffic engineer, identifying any necessary upgrades to the surrounding street network to the requirements of the City of Darwin and Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The traffic impact assessment is to review access to the site, including the width, number and locations of the access points, and is to have regard to vehicular, pedestrian, cyclist and public transport issues. The assessment is to detail access routes, vehicle types and other relevant matters, including a risk assessment.
 3. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin's 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. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system or an alternate approved connection.
 4. Prior to the commencement of works (including site preparation), the applicant is to prepare designs and specifications for landscaping of the road reserve adjacent to the property, to the requirements of City of Darwin, to the satisfaction of the consent authority.
 5. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (ECMP) to the requirements of the City of Darwin and Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage, and the use of City of Darwin land during construction. The ECMP is also to address the protection of existing assets, the protection of public access, and include a risk assessment.
 6. 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 Policy 054, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.

7. Prior to 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.
8. 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 Rangelands, Department of Environment and Natural Resources. The ESCP must be developed by a suitably qualified and experienced professional in erosion and sediment control planning and in accordance with the key principles of erosion and sediment control as specified in the IECA Best Practice Erosion and Sediment Control Guidelines 2008. The ESCP should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase and that all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works. Information regarding erosion and sediment control and ESCP content is available online at www.austieca.com.au and the NT Government website <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be emailed for assessment to developmentassessment.denr@nt.gov.au.

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. Prior to the commencement of the use, Sections 7986, 7687, 7688, 7689, 7690, 7691, 7692, 7693, 7694 (2, 4, 6, 8, 10, 12, 14, 16, 18) Pak Street, and Sections 7695, 7696, 7697, 7698, 7699, 7700, 7701, 7702, 7703, 7704 (1, 3, 5, 7, 9, 11, 13, 15, 17, 19) Lewfatt Street, Hundred of Bagot must be consolidated and a new title issues for the consolidated lot, to the satisfaction of the consent authority.
11. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Darwin, and Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
12. All works relating to this permit are to be undertaken in accordance with the approved ESCP to the requirements of the consent authority on the advice of Rangelands, Department of Environment and Natural Resources.
13. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication network services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
14. 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.
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.

16. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
17. 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.
18. Before the use or occupation of the development starts, the areas 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 spaces, access lanes and driveways must be kept available for these purposes at all times.
19. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
20. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
21. 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.
22. Dust control measures must be employed throughout the construction stage of the development to the requirements of the NT EPA, to the satisfaction of the consent authority.
23. Before the 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.
24. 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.
25. 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.

26. The development must be designed and constructed to comply with AS2021-2015 'Acoustics – Aircraft noise intrusion – Building siting and construction' (AS2021), and a statement from a suitably qualified acoustic engineer confirming compliance with AS2021-2015 must be submitted prior to occupation of the development, to the satisfaction of the consent authority.
27. External lights must be designed, baffled and located to the satisfaction of the consent authority to prevent any adverse effect on adjoining land, roads, and on the operation of the RAAF Base Darwin and Darwin International Airport.

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, all signage is subject to City of Darwin approval, at no cost to Council.
3. City of Darwin advises that designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by the General Manager Infrastructure, City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
4. Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and the 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 servicing requirements and the need for upgrading of infrastructure.
5. The Department of Environment and Natural Resources advises that construction work should be conducted in accordance with the Northern Territory Environment Protection 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 Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
6. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from the Department of Environment and Natural Resources. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at www.austieca.com.au and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.
7. The Northern Territory Environment Protection Authority has advised that the proponent must comply with their General Environmental Duty provided by section 12 of the *Waste Management and Pollution Control Act*. More information can be found on the Environment Protection Authority website at: <http://ntepa.nt.gov.au/waste-pollution>, by calling (08) 8924 4218 or emailing ntepa@nt.gov.au.

8. Darwin International Airport advises that separate requests for assessment and approval must be submitted to Darwin International Airport and the Department of Defence 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. The site is subject to the 'Defence Areas Control Regulations (DACR)'. All structures, including temporary structures, higher than 15m above ground level, including, but not limited to, additional buildings, light poles, cranes used during construction, vegetation etc., require approval from the Department of Defence.
10. The applicant is advised that the provision of lighting at the site is required to be consistent with the CASA Manual of Standards (MOS-139) Aerodromes to minimise the potential for conflict with aircraft operations. The design of lighting is a developer responsibility and if it is later found that lights or glare endangers the safety of aircraft operations, the Department of Defence or the Civil Aviation Safety Authority may require the lighting to be extinguished or suitably modified.
11. Darwin International Airport advises that there must be no site activity which would attract birds and create a hazard for aircraft operations.
12. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.
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/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>.
14. 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 89364070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DECISION

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

The land is located in Zone SD42 of which the purpose is to facilitate the development of the land for light industrial purposes that minimise the impacts from exposure to aircraft noise, and that does not inhibit the operation of the Darwin International Airport. The development of

the land for a warehouse and office is consistent with the purpose of Zone SD42, and the development has addressed the aviation constraints associated with the proximity to the airport. The warehouse and office are suitably located within the policy areas of Zone SD42, to be developed with consent in accordance with the provisions of Zone LI (Light Industry). The warehouse is located across both Areas A and B. Zone SD42 restricts the location and size of offices in Area B, however the office component is entirely located within Area A.

Area B is located within the 25 – 30 ANEF contour and Area A is located within the 20 – 25 ANEF contour. A warehouse is considered “light industry”, which is ‘acceptable’ below 30 ANEF. Also, an office is considered “commercial”, which is ‘acceptable’ below 25 ANEF. A condition is included to ensure compliance with AS2021-2015 is achieved including any required internal noise levels.

Advice has been received that height of the building is within the range accepted by the Department of Defence and Darwin International Airport given the controls in place for the safeguarding of airspace. Notes are included which provide advice to the developer regarding any separate approvals required for cranes, plus lighting controls which will need to be met, with these being a developer responsibility.

2. Clause 9 of Zone SD42 provides that the consent authority may exercise discretion under clause 3a and 4a, relating to the use of Areas A and B with consent in accordance with the provisions of Zone LI (Light Industry), with some exceptions.

The consent authority has the discretion to vary the relevant provisions of Zone LI if special circumstances are found in accordance with Clause 2.5 of the Planning Scheme. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority), the consent authority may consent to a development that does not meet the standard set out in Parts 4 or 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

Clause 6.1 (General Height Control) ensures that the height of buildings in a zone is consistent with development provided for by that zone. The clause provides that the height of any part of a building is not to exceed 8.5m above ground level, unless it is a flag pole, aerial or antenna, or for the housing of equipment relating to the operation of a lift. The building exceeds the 8.5m height limit. The majority of the building is proposed with a height of 11.02m, with the rear of the warehouse 14.42m, and the office a height ranging from 12.4m to 14.253m.

In considering the height of the warehouse component, information was provided by the applicant at the hearing that the building has been purposefully designed to provide for the intended tenant, with the intended tenant having specific design needs. The activities which are planned to occur within the part of the building which is 11.02m include the stacking of shipping containers, and the moving of those containers with a side lifter semi-trailer. Also, the activities which are planned to occur within the part of the building which is 14.42m include the storage of trailerable marine vessels of around 12 – 14m height and for the

movement of those vessels by crane. The height of the building also allows for the provision of big industrial ceiling fans and the engineered roof design to allow for drainage.

The visual impact of the building is, to some extent, offset by the building being setback 3 – 5 times the minimum required by Clause 9.1.1 (Industrial Setbacks). The surrounding industrial land and the future uses the zoning can accommodate is considered to have a low sensitivity to over height buildings, no sensitive uses in the surrounding area have been identified, and the building is also situated within a subdivision which is away from main transport routes. The consolidation of the 19 lots across which the development is proposed also together provide a significant development area of 3.107ha, which suggests the site would by nature, accommodate a larger building compared to others in the subdivision. The portion of the building at its tallest height comprises around 16.2% of the total building length, and whilst the remaining components of the building also exceed the height limit, this is to a lesser degree. The ridge of the roof is situated across the centre of the building away from the street frontages. The two longest elevations to Pak and Lewfatt Streets are also noted as providing feature CFC cladding which may help to reduce the overall building massing. The ability for land further to the south in Zone SD31 to accommodate buildings taller than 8.5m is also noted, and influences the character and scale of development anticipated in the broader area. Overall, the circumstances provided in relation to the warehouse component are considered special and unique to warrant the height variation sought.

In considering the building height of the office component, the assessment noted that the building design intended to capitalise on the increased building height proposed for the warehouse, by designing a similar height for the office component. As no special circumstances have been found to vary the height of the office component, the development is altered to reduce the building height of this component to a complying maximum of 8.5m. Amended plans were provided by the applicant prior to the consent authority hearing which reduce the height of the office component and provide a compliant maximum height of 8.451m.

Clause 6.6 (Loading Bays) ensures developments provide for the loading and unloading of vehicles associated with the use of the land. The development is assessed as requiring 5 loading bays, including 3 for the office component. The requirement for loading bays for the office will be slightly reduced, through the reduced building height of the office also required by condition. The assessment identified that the plans did not clearly allow for suitable loading access for the office, and the design of the development is altered through condition to ensure the provision of loading bays occurs to both the office and warehouse components of the development.

The conditions request amended plans with 1 loading bay for the office component of the development, to be provided in a convenient location and proximate to the internal areas of the office. A variation to provide 1 loading bay rather than the 3 required by Clause 6.6 is accepted

through demonstration of the following special circumstances identified to reduce the office loading bay requirements:

- The loading requirements of Clause 6.6 may not consider an office development of this size.
- The expected delivery needs for offices is lower than other retail uses including shops and restaurants which are provided at the same rate of 1 loading bay per 2,000m².
- Sufficient loading areas are provided overall on the site.

Conditions are included requiring the provision of internal access between the warehouse and office components which may also facilitate the shared use of loading areas provided within the warehouse. Conditions are also included to ensure that all loading and unloading must occur on site including waste collection.

A potential non-compliance was identified with Clause 6.5.3 (Parking Layout), where the amended plans provided by the applicant prior to the consent authority hearing identified the location of columns encroaching within the car parking spaces in the undercroft car parking area. This matter is addressed through a condition requiring the submission of amended plans demonstrating full compliance with this clause.

3. Pursuant to section 51(j) of the *Planning Act*, 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. Also, pursuant to section 51(m) of the *Planning Act*, the consent authority must take into account the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The capability of the land has been previously considered through the introduction of the Berrimah North Planning Principles and Area Plan, and the specific use zoning SD42 which requires for development to respond to the constraints of the Darwin Airport, including with regards to the range of uses anticipated, aircraft noise, building heights and lighting as previously discussed. The aircraft noise in this location was considered at the time the land was rezoned, including through the introduction of the Berrimah North Area Plan and Planning Principles and specific use zone. Zone SD42 limits the range of uses which can be developed to respond to the aviation constraints of the land including noise impacts. Comments were received from the Department of Defence and Darwin International Airport in relation to these impacts and conditions and notes included as required.

The lot is generally flat and cleared. The recently constructed subdivision ensured that all lots are situated above a 1% AEP flood event, and provide for the anticipated access, stormwater and servicing requirements for the land. Service authority requirements have included standard conditions relating to traffic, construction, waste, stormwater, access, and erosion and sediment controls. The 19 lots

are also required to be consolidated at the request of service authorities.

4. Pursuant to section 51(n) of the *Planning Act*, 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 will result in a change in the amenity of the area, as the land is currently undeveloped. The development however is broadly consistent with the zoning and Area Plan, and the anticipated future development of the area. No undue impact on the existing and future amenity of the area is anticipated as a result of the development including as a result of the increased building height.

ACTION: Notice of Consent and Development Permit

**ITEM 4
PA2019/0024**

**WAREHOUSE AND ANCILLARY OFFICE IN A SINGLE STOREY BUILDING
EXCEEDING 8.5M IN HEIGHT
SECTION 7727 (8) VAUGHAN STREET, HUNDRED OF BAGOT
NORTHERN PLANNING CONSULTANTS PTY LTD**

APPLICANT

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd) and Mr George Savvas (Concept Designs) attended.

**RESOLVED
45/19**

That, the Development Consent Authority vary Clause 6.1 (General Height Control) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Section 7727 (8) Vaughan Street, Hundred of Bagot for the purpose of a warehouse and ancillary office in a single storey building exceeding 8.5m in height, subject to the following conditions:

CONDITIONS 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) the provision of shade to the breakout area to increase its functionality.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to review access to the site by providing an engineers assessment addressing the number and location of driveway crossovers, and detailing adequate access sightlines for pedestrians, cyclists and vehicles. The review is to be to the approval of the City of Darwin, to the satisfaction of the consent authority.
3. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin's 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. The plan shall also indicate how

stormwater will be collected on the site and connected underground to Council's system or an alternate approved connection.

4. Prior to the commencement of works (including site preparation), the applicant is to prepare designs and specifications for landscaping of the road reserve adjacent to the property, to the requirements of City of Darwin, to the satisfaction of the consent authority.
5. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (ECMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land during construction.
6. 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 Policy 054, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.
7. Prior to 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.
8. 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 Rangelands, Department of Environment and Natural Resources. The ESCP must be developed by a suitably qualified and experienced professional in erosion and sediment control planning and in accordance with the key principles of erosion and sediment control as specified in the IECA Best Practice Erosion and Sediment Control Guidelines 2008. The ESCP should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase and that all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works. Information regarding erosion and sediment control and ESCP content is available online at www.austieca.com.au and the NT Government website <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be emailed for assessment to developmentassessment.denr@nt.gov.au.

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. All works relating to this permit are to be undertaken in accordance with the approved ESCP to the requirements of the consent authority on the advice of Rangelands, Department of Environment and Natural Resources.
11. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication network services to the development shown on the

endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

12. 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.
13. 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.
14. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
15. 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.
16. Before the use or occupation of the development starts, the areas 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 spaces, access lanes and driveways must be kept available for these purposes at all times.
17. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
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. 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.
20. Dust control measures must be employed throughout the construction stage of the development to the requirements of the NT EPA, to the satisfaction of the consent authority.
21. Before the 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. 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.
24. The development must be designed and constructed to comply with AS2021-2015 'Acoustics – Aircraft noise intrusion – Building siting and construction' (AS2021), and a statement from a suitably qualified acoustic engineer confirming compliance with AS2021-2015 must be submitted prior to occupation of the development, to the satisfaction of the consent authority.
25. External lights must be designed, baffled and located to the satisfaction of the consent authority to prevent any adverse effect on adjoining land, roads, and on the operation of the RAAF Base Darwin and Darwin International Airport.

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, all signage is subject to City of Darwin approval, at no cost to Council.
3. City of Darwin advises that designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by the General Manager Infrastructure, City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
4. Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and the 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 servicing requirements and the need for upgrading of infrastructure.
5. The Department of Environment and Natural Resources advises that construction work should be conducted in accordance with the Northern Territory Environment Protection 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 Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
6. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from the Department of Environment and Natural Resources. Information can be obtained from the IECA Best Practice Erosion

and Sediment Control Guidelines 2008 available at www.austieca.com.au and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.

7. The Northern Territory Environment Protection Authority has advised that any fill material being relocated offsite must undergo waste classification assessment in accordance with NSW EPA's *Waste Classification Guidelines, Part 1: Classifying Waste*. Any contaminated fill must be disposed at a licenced waste facility.
8. The Northern Territory Environment Protection Authority has advised that the proponent must comply with their General Environmental Duty provided by section 12 of the *Waste Management and Pollution Control Act*. More information can be found on the Environment Protection Authority website at: <http://ntepa.nt.gov.au/waste-pollution>, by calling (08) 8924 4218 or emailing ntepa@nt.gov.au.
9. Darwin International Airport advises that separate requests for assessment and approval must be submitted to Darwin International Airport and the Department of Defence 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.
10. The site is subject to the 'Defence Areas Control Regulations (DACR)'. All structures, including temporary structures, higher than 15m above ground level, including, but not limited to, additional buildings, light poles, cranes used during construction, vegetation etc., require approval from the Department of Defence.
11. The applicant is advised that the provision of lighting at the site is required to be consistent with the CASA Manual of Standards (MOS-139) Aerodromes to minimise the potential for conflict with aircraft operations. The design of lighting is a developer responsibility and if it is later found that lights or glare endangers the safety of aircraft operations, the Department of Defence or the Civil Aviation Safety Authority may require the lighting to be extinguished or suitably modified.
12. Darwin International Airport advises that there must be no site activity which would attract birds and create a hazard for aircraft operations.
13. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.
14. 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>

15. 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 89364070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DECISION

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

The land is located in Zone SD42 of which the purpose is to facilitate the development of the land for light industrial purposes that minimise the impacts from exposure to aircraft noise, and that does not inhibit the operation of the Darwin International Airport. The development of the land for a warehouse and an ancillary office is consistent with the purpose of Zone SD42, and the development has addressed the aviation constraints associated with the proximity to the airport. The warehouse and ancillary office use, including the size of the ancillary office is within the range that can be developed with consent in Area B of Zone SD42.

Considered a combination of a 'light industrial', and 'commercial' building components, which are 'acceptable' and 'conditionally acceptable' respectively at 25-30 ANEF, a condition is included to ensure compliance with AS2021-2015 is achieved.

Advice has been received that the height of the building is within the range accepted by the Department of Defence and Darwin International Airport given the controls in place for the safeguarding of airspace. Notes are included which provide advice to the developer regarding any separate approvals required for cranes, plus lighting controls which will need to be met, with these being a developer responsibility.

2. Clause 9 of Zone SD42 provides that the consent authority may exercise discretion under clause 3a and 4a. Clause 4 provides that Area B is to be (a) used with consent in accordance with the provisions of Zone LI (Light Industry), with some exceptions.

The consent authority has the discretion to vary the relevant provisions of Zone LI if special circumstances are found in accordance with Clause 2.5 of the Planning Scheme. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority), the consent authority may consent to a development that does not meet the standard set out in Parts 4 or 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

Clause 6.1 (General Height Control) ensures that the height of buildings in a zone is consistent with development provided for by that zone. The clause provides that the height of any part of a building is not to exceed 8.5m above ground level, unless it is a flag pole, aerial or antenna, or for the housing of equipment relating to the operation of

a lift. The building exceeds the 8.5m height limit. The majority of the building has a height of 11.88m, with one component reaching 14.396m in height.

In considering the height of the warehouse component, information was provided by the applicant at the hearing that the building has been purposefully designed to provide for the intended tenant, with the intended tenant having specific design needs. The activities which are planned to occur within the part of the building which is 11.02m include the stacking of shipping containers, and the moving of those containers with a side lifter semi-trailer. Also, the activities which are planned to occur within the part of the building which is 14.42m include the storage of trailerable marine vessels of around 12 – 14m height and for the movement of those vessels by crane. The height of the building also allows for the provision of big industrial ceiling fans and the engineered roof design to allow for drainage.

The visual impact of the building is, to some extent, offset by the building being setback 3 – 5 times the minimum required by Clause 9.1.1 (Industrial Setbacks). The surrounding industrial land and the future uses the zoning can accommodate is considered to have a low sensitivity to over height buildings, no sensitive uses in the surrounding area have been identified, and the building is also situated within a subdivision which is away from main transport routes. The lot is also the largest in the subdivision which suggests the site would by nature, accommodate a larger building compared to others in the subdivision. The portion of the building at its tallest height comprises around 20.7% of the total building area, and whilst the remaining components of the building also exceed the height limit, this is to a lesser degree. The ridge of the roof is situated across the centre of the building away from the street frontage. The elevation to Vaughan Street is also noted as providing various building design and paint treatments which may help to reduce overall building massing. The ability for land to the south in Zone SD31 to accommodate buildings taller than 8.5m is also noted, and influences the character and scale of development anticipated in the broader area. Overall, the circumstances provided are considered special and unique to warrant the height variation sought.

3. Pursuant to section 51(j) of the *Planning Act*, 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. Also, pursuant to section 51(m) of the *Planning Act*, the consent authority must take into account the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The capability of the land has been previously considered through the introduction of the Berrimah North Planning Principles and Area Plan, and the specific use zoning SD42 which requires for development to respond to the constraints of the Darwin Airport, including with regards to the range of uses anticipated, aircraft noise, building heights and

lighting as previously discussed. The aircraft noise in this location was considered at the time the land was rezoned, including through the introduction of the Berrimah North Area Plan and Planning Principles and specific use zone. Zone SD42 limits the range of uses which can be developed to respond to the aviation constraints of the land including noise impacts. Comments were received from the Department of Defence and Darwin International Airport in relation to these impacts and conditions and notes included as required.

The lot is generally flat and cleared. The recently constructed subdivision ensured that all lots are situated above a 1% AEP flood event, and provide for the anticipated access, stormwater and servicing requirements for the land. Service authority requirements have included standard conditions relating to construction, waste, stormwater, access, and erosion and sediment controls.

4. Pursuant to section 51(n) of the *Planning Act*, 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 will result in a change in the amenity of the area, as the land is currently undeveloped. The development however is broadly consistent with the zoning and Area Plan, and the anticipated future development of the area. No undue impact on the existing and future amenity of the area is anticipated as a result of the development including as a result of the increased building height.

5. Pursuant to section 51(t) of the *Planning Act*, the consent authority must take into consideration any other matters it thinks fit.

The consent authority noted that the breakout area was provided with no shade and amended plans are required to increase the functionality and use of this area.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

13 March 2019