



# **DEVELOPMENT CONSENT AUTHORITY**

## **DARWIN DIVISION**

### **MINUTES**

**MEETING No. 359 – FRIDAY 17 JULY 2020**

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

**MEMBERS PRESENT:** Suzanne Philip (Chair), Mark Blackburn, Marion Guppy, Peter Pangquee and Robin Knox

**APOLOGIES:** Simon Niblock

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Dawn Parkes, Amit Magotra and Emmet Blackwell (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Brian Sellers

**Meeting opened at 10.15 am and closed at 11.15 am**

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

**ITEM 1**

**PA2015/0446 EXTENSION OF TIME TO DP15/0490 FOR A PERIOD OF FIVE YEARS  
SECTION 5602 (55) BOULTER ROAD, BERRIMAH, HUNDRED OF BAGOT  
APPLICANT/S Elton Consulting**

Mr Martin Klopper (Elton Consulting) attended via teleconference.

**RESOLVED** That, pursuant to Section 59(3)(a) of the *Planning Act 1999*, the Development  
**123/20** Consent Authority consent to extend the base period of DP15/0490 for a period of two years.

**REASONS FOR DECISION**

1. Development Permit DP15/0490 was issued on 17 August 2015 for the purpose of 42 x 2 and 8 x 3 bedroom multiple dwellings in 12 x 1 and 13 x 2 storey buildings. On 22 May 2017, Extension of Period of Permit DP15/0490A was issued which extended the base period of the permit by a further three years, expiring on 17 August 2020.

On 1 June 2020 Elton Consulting, on behalf of the landowner, lodged an application to extend the base period of DP15/0490 for an additional five year period.

The Authority noted that the conditions precedent of DP15/0490 have yet to be cleared and endorsed plans have not yet been issued.

2. In support of the application for an extension of time the applicant has stated that the application is due to the current economic and market conditions in the Darwin region, noting that approval of the current design coincided with the start of an economic downturn in Darwin in 2015. Furthermore, the exact impact of COVID-19 on the property sector is not yet known, although it is likely to significantly impact both values, as well as in-migration to the NT which is required to support demand for new residences. The application also states that at present, pre-sales have been insufficient to enable finance and construction of the project. The applicant anticipates that the growth in the real estate market would take approximately 12-24 months from now before sufficient interest would be generated to meet the required number of pre-sales, and has requested an extension of time of five years to provide sufficient time to meet pre-sales and gear up the development for delivery.
3. The Authority noted the advice contained within the Development Assessment Services (DAS) report that stated there have not been any substantial changes to the Northern Territory Planning Scheme (NTPS) since the time of issue of the original permit that would impact the compliance of the development.

4. Mr Martin Klopper explained various circumstances that have occurred in the past resulting in the delay of the development. Mr Klopper expressed that the economic downturn of the Darwin property market since 2015 in combination with COVID-19 has impacted the economic viability of the development. Mr Klopper also conveyed that the development was large scale and would therefore require sufficient pre-sales to proceed. Mr Klopper advised that the landowner was committed to Darwin and to delivering the development. Mr Klopper noted that in response to Covid-19, the base period on new development permits issued in New South Wales had been extended from two to five years as standard practice.
5. The Authority noted that the current application is the second extension of the period of the permit and that five years has already passed since the permit was issued in 2015, without the development having been substantially commenced. The Authority considered that a two year extension was appropriate given the current state of change around the NT planning framework, which is now within a period of planning reform that will continue for a number of years and could potentially affect the proposals compliance with requirements under the NTPS. The Authority also considered that should the two year extension to the period of the permit granted be insufficient for the proponent to substantially commence works, a further extension application can be submitted.
6. The Authority questioned the applicant in relation to the maintenance of the site, noting that it currently appeared unkempt with the presence of Gamba and Mission grass which poses a fire safety risk. The applicant responded that they would convey this issue to their client. While there is no notation included on the original development permit, the Authority reminds the landowner that 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 Department of Environment and Natural Resources.

**ACTION:** Extension of Time Permit

**ITEM 2**

**PA2018/0159 VARIATION TO DP18/0298 - SEVEN STOREY CAR PARK (324 SPACES)  
LOT 2396 & 2397 (14 & 12) LITCHFIELD STREET, DARWIN CITY, TOWN OF  
DARWIN**

**APPLICANT/S** MasterPlan NT Pty Ltd

DAS tabled the following documents:

- Applicant's response to submissions and amended plans.
- Additional comments received from Mr Glen and Mrs Georgina Tatam on the DAS report and the applicant's response to submissions and amended plans.

Mr Joseph Sheridan (MasterPlan NT Pty Ltd) attended and tabled the same amended plans that were included with the response to submissions.

Submitter who attended:- Mr Ben Wollinski.

Submitters who sent their apology:- Mr Glen and Mrs Georgina Tatam

**RESOLVED  
124/20**

That, pursuant to section 57(3) of the *Planning Act 1999*, the Development Consent Authority consent to the application to vary condition 10 of DP18/0298 to replace the shade sails on the car park roof with solid colorbond shade structures, subject to the following conditions:

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must generally be in accordance with the plans submitted with the application but modified to show:
  - (a) an alternative colour selection that:
    - i. reduces the potential to radiate heat to the vehicles parked underneath, as well as to the surrounding residences;
    - ii. reduces the potential for glare on the surrounding residences; and
    - iii. improves the amenity for the occupants in the surrounding residences overlooking the carpark.  
The colour selection should be of a matt finish.

2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval is required for the awnings to the street frontage to the requirements of the City of Darwin and Power and Water Corporation, to the satisfaction of the consent authority. The awnings shall not reduce the achievement of active frontages below 54% of the total length of the site boundary to the street.

**[THIS CONDITION HAS BEEN CLEARED]**

3. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the underground 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 connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected to the underground or an alternate approved connection.

**[THIS CONDITION HAS BEEN CLEARED]**

4. 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 person, identifying any necessary upgrades to the surrounding street network to the requirements of the City of Darwin, to the satisfaction of the consent authority.

**[THIS CONDITION HAS BEEN CLEARED]**

5. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.

**[THIS CONDITION HAS BEEN CLEARED]**

6. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the landscaping works within the City of Darwin road reserve, to the satisfaction of the consent authority.

**[THIS CONDITION HAS BEEN CLEARED]**

7. Prior to the commencement of works (including site preparation), the applicant is to prepare an environmental and construction management plan to the requirements of the City of Darwin, to the satisfaction of the consent authority. The plan is to address construction access, haulage routes, public access, waste management and the use of Council land during construction.

**[THIS CONDITION HAS BEEN CLEARED]**

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

**[THIS CONDITION HAS BEEN CLEARED]**

9. Prior to the commencement of works (including site preparation), a waste management plan shall be submitted and approved by the City of Darwin to the satisfaction of the consent authority.

**[THIS CONDITION HAS BEEN CLEARED]**

#### **GENERAL CONDITIONS**

10. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
11. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, and electricity facilities 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 the City of Darwin, to the satisfaction of the consent authority. 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. 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.
16. Car spaces, access lanes and driveways must be kept available for these purposes at all times.
17. All substation, fire booster and water meter arrangements are to be appropriately screened to soften the visual impact of such infrastructure on the streetscape, to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority in consultation with the Power and Water Corporation, and NT Fire and Emergency Services.
18. Storage for waste disposal bins is to be provided to the requirements of City of Darwin, to the satisfaction of the consent authority.
19. All works recommended by the traffic impact assessment report are to be completed to the requirements of the City of Darwin, to the satisfaction of the consent authority.

**NOTE:**

  1. The carpark at 12 & 14 Litchfield Street cannot operate until Barneson Boulevard is 100% complete and operational.

OR

  2. In the absence of Barneson Boulevard not being 100% complete and operational that the portion of Litchfield Street (from Knuckey Street to the proposed access of the carpark) be made two-way to cater for the additional vehicles. All costs associated with the road upgrades are to be at the cost of the developer.
20. Before the use commences, the owner must, in accordance with Part 6 of the *Planning Act*, pay a monetary contribution to the City of Darwin for the upgrade of local infrastructure, in accordance with its Development Contribution Plan.
21. The use must not commence until Lots 2396 & 2397 Town of Darwin have been consolidated and a new title issued for the consolidated lot, to the satisfaction of the consent authority.
22. 88 car parking spaces are to be made available on Lots 2396 & 2397 Town of Darwin (and the subsequently consolidated allotment) for the development approved through DV418, DV898 and its subsequent variations, located at Lot 5396 Town of Darwin.

23. Written confirmation from a qualified traffic engineer that the car parking spaces and access lanes associated with the development comply with the relevant Australian Standards for car parking must be provided in instances where the car parking does not comply with the minimum requirements of Clause 6.5.3 (Parking Layout) of the Northern Territory Planning Scheme, to the satisfaction of the consent authority.
24. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitably qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both [landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au) and [powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)
25. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from the view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.
26. All roof-top plant equipment, equipment relating to the operation of the lift and any other equipment (such as any vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the roof-top of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).
27. All 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.
28. Any security boom, barrier or similar device controlling vehicular access to the premises must be located a minimum of six metres inside the property to allow vehicles to stand clear of the Litchfield Street pavement and footpath.
29. General building lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.
30. Appropriate soil erosion, sediment and dust control measures must be effectively implemented throughout the construction stage of the development and all disturbed soil surfaces must be suitably stabilised against erosion at the completion of works, to the satisfaction of the consent authority.



## NOTES:

1. Notwithstanding the approved plans, the demonstrated awning in the City of Darwin road reserve is subject to Council approval at no cost to Council.
2. Notwithstanding the approved plans, any proposed works (including landscaping and awnings) within the City of Darwin's road reserve is subject to approval and shall meet all requirements to the satisfaction of the City of Darwin, at no cost to Council.
3. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost of Council.
4. The City of Darwin advises that all street trees shall be protected at all times during construction. Any tree on a footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of the General Manager Infrastructure, City of Darwin. A Tree Protection Zone (TPZ) shall be constructed for all existing trees to be retained within the development, in accordance with Australian Standards – AS 4970-2009 "Protection of Trees on Development Sites".
5. A "Permit to Work Within a Road Reserve" will be required from the City of Darwin before commencement of any work within the road reserve.
6. The City of Darwin advises that the applicant shall ensure that a building number is displayed in a position clearly visible from the street in accordance with Council's by- laws.
7. The City of Darwin advises that the developer must protect and support adjacent properties and pedestrians during the basement excavation, and where necessary, underpin the adjoining premises to prevent any damage.
8. If the car park at Lots 2396 & 2397 Town of Darwin ceases to be available, then it is a condition of Development Permit DP18/0297 that the owner of Lot 2365 Town of Darwin must supply 302 car parking bays off-site for the duration and benefit of Lot 2365 at a place or places proximate to the site to the satisfaction of the consent authority. The condition states that the owner of Lot 2365 may instead, in accordance with Part 6 of the *Planning Act*, provide 302 parking bays through a monetary contribution to the City of Darwin. The contribution is to be calculated in accordance with the requirements of section 70(6) of the *Planning Act*.
9. If the car park at Lots 2396 & 2397 Town of Darwin ceases to be available, then it is a condition of Development Permit DP18/0299 that the owner of Lot 5396 Town of Darwin must supply 88 car parking bays off-site for the duration and benefit of Lot 5396 at a place or places proximate to the site to the satisfaction of the consent authority. The condition states that the owner of Lot 5396 may instead, in accordance with Part 6 of the *Planning Act*, provide 88 car parking bays through a monetary contribution to the City of Darwin. The contribution is to be calculated in accordance with the requirements of section 70(6) of the *Planning Act*.



10. The City of Darwin advises that Lot 5396 (18) Cavenagh Street requires 255 car parking spaces for which 94 bays are located at Lots 2396 & 2397 (14 & 12) Litchfield Street. The remaining shortfall attracts a levy which is currently charged by the City of Darwin under the *Local Government (Darwin Parking Local Rates) Regulations*, and that the City of Darwin will adjust the levy amount for Energy House as a result of any permit issued.
11. The City of Darwin has requested that the proponent of the 7 storey car park approved over Lots 2396 & 2397 Town of Darwin contact Council to confirm the location of the temporary parking spaces during construction of the development.
12. 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.
13. Water Services advice that essential infrastructure is located in the road reserve adjacent to the property and that a separate approval for the use of cranes during construction should be submitted.
14. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto: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.
15. The Environment division of the Department of Environment and Natural Resources advises that during the excavation, the basement may fill with turbid sediment laden stormwater. The proponent should ensure that any pitwater discharged from the development is in accordance with their document Guidelines to prevent pollution from building sites.
16. The Environment division of the Department of Environment and Natural Resources 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 Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
17. 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](mailto:info@ntbuild.com.au)) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

18. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/newdevelopments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/newdevelopments/builders-designers.html>
19. The permit holder is advised that the proposal may have assessment implications under the Waste Management and Pollution Control Act. More information can be found on the Northern Territory Environment Protection Authority website at: <https://ntepa.nt.gov.au/waste-pollution> The applicant is encouraged to contact the NT EPA on (08) 89244218 or ntepa@nt.gov.au.  
  
Also, construction noise has the potential to generate noise nuisance and impact the amenity of the surrounding commercial properties. Consideration should be given to the Noise guidelines for development sites in the Northern Territory. Noise emissions causing environmental nuisance may lead to compliance action under the Waste Management and Pollution Control Act.
20. The environment division of the Department of Environment and Natural Resources advises that for fill material being relocated off-site, waste classification assessment in accordance with NSW Environment Protection Authority's Waste Classification Guidelines, Part 1: Classifying Waste. The fill material must only be disposed of at a location legally able to accept it. Development Assessment Services should be contacted with regards to whether planning consent is required for any stockpiling of fill proposed off-site.
21. The Transport and Civil Services division of the Department of Infrastructure, Planning and Logistics advise that 'U' rail bicycle racks are preferred in preference to other styles. Also, that consideration be given to charging points to support electric vehicles in the basement car park. The applicant has confirmed to the consent authority that the cabling infrastructure will be incorporated as part of the development.

## REASONS FOR DECISION

1. Development Permit DP18/0298 was issued on 24 August 2018 for the purpose of a 7 storey car park (324 spaces). Condition 10 of DP18/0298 requires that 'the works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit'.

*Pursuant to section 57(3) of the Planning Act 1999 (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 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 (5) that, if refused, reasons must be provided.

The application proposed to replace the shade sails on the carpark roof with powder-coated steel batten shade structures.

While a variation application does not require public exhibition under the requirements of the Act, Development Assessment Services (DAS) circulated the application to the submitters who had identified an interest in the original application. Two submissions were received opposing the proposed variation.

Following the receipt of two submissions, the applicant amended the design from powder-coated steel batten structures to solid colorbond roof structures.

#### Variation to a measurable aspect of the development

The Authority notes that the DAS assessment on the powder-coated steel batten structures concludes that the proposed variation is generally consistent with the performance criteria of the NT Planning Scheme (NTPS) due to the following:

- No change to the use of the building, car parking layout or building design previously approved under DP18/0298 is proposed.
- No change to the height of the building is proposed. The height of the steel batten shade structures is similar to the height of the shade sails approved under DP18/0298.
- No change to the number of car spaces approved under DP18/0298 is proposed.

In considering the further design change to the roof-top structures to consist of a solid colorbond roof, the Authority considers that the amended design is consistent with the performance criteria of the NTPS including Clause 8.2(m) of the NTPS which requires that *the design of buildings in Zone CB should provide landscaping to reduce the visual impact and provide shade and screening of open expanses of pavement and car parking.* It is noted that the proposed powder-coated steel batten structures could not meet this requirement as they did not provide shade.

The DAS assessment further notes that the 5% measurable aspect of a development, as stated in section 57(3) of the Act, to the performance criteria of the NTPS relates to aspects such as building heights, setbacks, parking requirements etc. In this particular case, the impact of the proposed variation relates to Clause 8.2(m) which requires that *the design of buildings in Zone CB should provide landscaping to reduce the visual impact and provide shade and screening of open expanses of pavement and car parking* is not conveniently measurable.

The threshold question therefore is, in the opinion of the consent authority, whether or not the variation will materially affect the amenity of adjoining or nearby land or premises..

In this instance, the impact on the amenity of adjoining or nearby land or premises particularly relates to the multi-storey mixed-use buildings to the north and east, including multiple dwellings at upper levels.

#### Impact on the amenity of adjoining or nearby land premises

The definition of 'amenity' in relation to a locality or building as provided by the *Planning Act 1999* and NTPS means *any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable*.

The Authority considers that the impact on the amenity of adjoining or nearby land or premises particularly relates in this instance to the multistorey mixed-use buildings to the north and east of the subject site.

At the hearing, Mr Joseph Sheridan (applicant) gave an overview of the background of the proposed variation and the reasoning for replacing the shade sails on the carpark roof with solid shade structures. Mr Sheridan explained to the Authority that during the construction stage issues have been raised by the building certifier regarding compliance with the National Construction Code (NCC) requirements with regards to the overall safety of the shade sails.

Mr Sheridan stressed that as per the advice of the certifier, the shade sails have to be removed for a number of months each year during severe weather conditions and due to the fabric of the shade sail there is a concern with combustibility and compliance with fire rating. Mr Sheridan added that the proposed solid shade structures provide a better outcome in terms of meeting the requirements of Clause 8.2(m) and compliance with the requirements of the NCC.

The Authority, taking into account the design of the solid shade structures, questioned the applicant regarding the colour of the roof structure (colorbond Monument). The Authority noted that the dark colour of the shade structure would absorb more heat from the sun having the potential to radiate heat to the cars parked underneath. The applicant clarified that the colour of the shade structure is chosen to compliment the façade treatment proposed for the carpark and the colour on the plans provided likely appeared darker than it would be in reality. The Authority, while acknowledging the applicant's comments, considered that the dark colour of the shade structure is not suitable considering Darwin's hot climatic conditions.

Mr Ben Wollinski (submitter) attended the hearing and spoke further to his submission. Mr Wollinski advised the Authority that his property is located in the mixed-use building which adjoins the north-east side of the car park and has two windows that look directly out onto the carpark roof-top. Mr Wollinski further advised that his submission and preparation for the meeting related to the powder-coated steel batten structures proposed in the original design and that he had had little time

to review the amended proposal provided by the applicant. When questioned by the DCA if he required more time to review the amended design Mr Wollinski stated he did not.

Mr Wollinski acknowledges that the proposed solid shade structure will provide visual screening to the carpark from his property, however the dark colour finish of the shade structure is not visually appealing. Mr Wollinski further added that the solid roof of the proposed shade structures could provide potential access to assist unlawful entry to the podium levels of the adjoining building. Furthermore, the issue was raised that rain falling on these solid shade structures could create unwanted noise. Mr Wollinski concluded that he does not object to the shade structures, but consideration should be given to amending the design to minimise the concerns raised.

As Mr Glen and Mrs Georgina Tatam were unable to attend the meeting, the Authority considered their written submissions. The Authority took into account the comments provided on both the original and amended proposals.

The Authority noted that Mr and Mrs Tatum do not agree to the interpretation of Hendry Group (building certifier) regarding the shade sails not meeting the requirements of the NCC, and viewed the weblink that was provided showing the use of shade sails in cyclonic weather in Queensland.

Mr and Mrs Tatum raised concerns regarding the dark colour of the roof structure and it acting as a heat collector, suggesting that occupants on nearby balconies would get sunburn from the radiant heat, as well as sharing the same concerns as Mr Wollinski in relation to the potential noise from rainfall on the solid colorbond roof structures.

The Authority noted the concerns raised by the submitters and the comments made in both written and verbal submissions.

Taking into account all of the information before it, the Authority considered that the amended design (solid colorbond roof structures) presents a better outcome than the originally proposed steel batten structures in terms of meeting the requirements of Clause 8.2(m) to provide shade to the carpark.

When compared to the approved provision of shade sails, the Authority found that the solid shade structures offered the same level of amenity and compliance, noting that the very reason the shade sails were originally required was in response to the requirements of Clause 8.2(m), specifically the requirement to provide shade.

The Authority concurs with the submitters that the dark colour of the roof structure currently proposed (Colorbond Monument) has the potential to generate heat and therefore determined to include a condition precedent requiring amended plans to show an alternative colour. The Authority determined that the colour selected should be in a matt finish to reduce reflection; should minimise the potential for heat

generation; and should not cause glare when viewed from the adjacent mixed-use buildings to the north and east, including the multiple dwellings at upper levels.

The Authority noted the discussion that took place with the applicant regarding consideration of the Community Safety Design Guide in relation to the shade structures providing opportunity for unlawful entry to the adjacent units above. The applicant contended that the structures were of such a height that would make them difficult to access, and were set back from the adjacent units making it difficult for someone to easily access the units. While acknowledging the applicant's comments the Authority encourages the applicant to keep these guidelines in mind when considering the final treatment and design of the shade structures.

The Authority noted that the amended plans included changes to the façade and questioned the applicant on whether or not they were seeking approval for these changes. The applicant confirmed that this element of the development was not subject to requirements of the NTPS and therefore did not require consent, but was included to provide a holistic view to support the overall design intent. The Authority confirmed that approval for the façade changes was not required.

**ACTION:** Variation Permit

**ITEM 3**

**PA2020/0132**

**RESTAURANT (INCLUDING DRIVE-THROUGH)**

**LOT 9309 (58) BRADSHAW TERRACE, CASUARINA, TOWN OF NIGHTCLIFF**

**APPLICANT/S**

One Planning Consult

Mr Israel Kgoisemang (One Planning Consult) attended.

Submitters in attendance:- Mrs Kristina Oberhardt, Mr Rick Oberhardt and Mr Peter Brown.

**RESOLVED  
125/20**

That, the Development Consent Authority vary the requirements of Clause 6.5.3 (Parking Layout) and Clause 6.19 (End of Trip Facilities in Zones HR, CB, C SC and TC) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 9309 (58) Bradshaw Terrace, Town of Nightcliff, for the purpose of a restaurant (including drive-through), 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 generally be in accordance with the plans submitted with the application but modified to show:



- a. One secure bicycle parking facility within the development for the use of staff members;
  - b. Provision of shade over the bicycle parking area at the front of the restaurant building;
  - c. Provision of lighting and garbage bins in the car park area.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must generally be in accordance with the landscape concept plan and must include:
    - (a) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant. Mature planting species must be provided to the landscaped setback to Bradshaw Terrace; and
    - (b) provision of an in-ground irrigation system to all landscaped areas. All species selected must be to the satisfaction of the consent authority
  3. Prior to the endorsement of plans and 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 the Council's system or an alternate approved connection.
  4. Prior to the endorsement of plans and 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 endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.
  6. Prior to the commencement of works (including site preparation), a comprehensive Traffic Impact Assessment report is to be prepared by a suitably qualified traffic engineer in accordance with the Austroads Document Guide to Traffic Management Part 12: Traffic Impacts of Developments, in the report structure provided as Appendix C of that document. The Traffic Impact Assessment shall include:
    - (a) full traffic generation in the peak hour, that is, 180 vehicles per hour. The traffic volume should provide representative traffic volumes of the pre-COVID-19 conditions;
    - (b) 12-hour video intersection traffic counts at the locations listed below, and use the actual peak hours of each location as the worst-case scenario.



- Trower Road / Driveway Entrance
  - Trower Road / Bradshaw Terrace
  - Bradshaw Terrace / Driveway Entrance
- (c) SIDRA assessments as a network SIDRA model. The SIDRA model shall also take into account the on-street parking that occurs on Bradshaw Terrace.
  - (d) RSA which includes, but is not limited to, the need for a pedestrian crossing point on Bradshaw Terrace.
  - (e) Swept path analysis for all movements
  - (f) from Trower Road and Bradshaw Terrace into the driveway entries for a 19 metre articulated vehicle.
  - (g) Any necessary upgrades to the surrounding street network as a result of the proposed development.
7. 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.
  8. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.
  9. 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 is to include details of waste management, traffic control and haulage routes, stormwater drainage, and the use of City of Darwin land during construction.

## **GENERAL CONDITIONS**

10. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
11. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Darwin, to the satisfaction of the consent authority.
12. 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.
13. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
14. 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.

15. 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.
16. The owner shall:
  - (a) remove disused vehicle and/ or pedestrian crossovers;
  - (b) provide footpaths/cycleways;
  - (c) collect stormwater and discharge it to the drainage network; and
  - (d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
17. Before the use or occupation of the development starts, the 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.
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. 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.
20. 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, 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.
21. 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.
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.
23. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

## NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto: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. Water Services of Power and Water Corporation has advised that the developer must contact Power and Water regarding temporary installation of cranes in the road reserve prior to building construction. The developer must propose structural protection of existing PWC assets affected by cranes and crane foundations, then obtain approval from PWC (and other service providers) prior to tower installation of the cranes.
3. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/wastepollution/guidelines/guidelines>

### **The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS.**

The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

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. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to Council.
6. 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.

7. 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>.
8. 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](mailto:info@ntbuild.com.au)) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
9. 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*.
10. 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.

#### **REASONS FOR THE DECISION**

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

The land is located in Zone C (Commercial) of the Northern Territory Planning Scheme (NTPS) of which the purpose is to provide for a range of business and community uses. The zone applies to shopping areas ranging from neighbourhood convenience shopping to regional centres. The zone also provides that development should be of a scale and character appropriate to the service function of a particular centre; respect the amenity of adjacent and nearby uses; and promote community safety in building design, having regard to adjacent and nearby uses.

The proposed development is located within the Casuarina Village Precinct, which is identified as a "Primary Activity Centre" in the Darwin Regional Land Use Plan. The scale of the development is considered appropriate to the service function of the existing commercial precinct as a primary centre and is sufficiently separated from sensitive land uses, including residential uses to the north of Bradshaw Terrace.

The technical assessment against the relevant clauses of the NTPS indicates that the proposed development complies with a number of clauses including Clauses 6.4 (Plot Ratio), 6.5.1 (Parking Requirements) and 6.6 (Loading bays). Non-compliances have been

identified against Clause 6.5.3 (Parking Layout) and Clause 6.19 (End of Trip facilities in Zones HR, CB, C SC and TC).

In accordance with Clause 2.5 of the NTPS, the consent authority may grant a variation to this clause provided it is satisfied that special circumstances can be identified to justify the variation sought. The consent authority will need to be satisfied that despite the variation proposed, the proposal is consistent with development provided in Zone CB.

*The meaning of special circumstances for the purposes of Clause 2.5 are circumstances that are 'unusual, exceptional, out of the ordinary and not to be expected' (as per Phelps v Development Consent Authority [2009] NTSC 54 Kelly J). In considering whether there are special circumstances the Authority must take a holistic approach, with each case to be considered on its merits. Circumstances which by themselves might not be 'special' can, in combination with other circumstances, create a situation which overall gives rise to 'special circumstances'. Equally a holistic approach to the application of clause 2.5 also applies to the respects in which a proposed development does not comply with the NTPS.*

#### Clause 6.5.3 (Parking Layout)

The purpose of this clause is to ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose. The clause requires that the car park design is considered of a suitable gradient, providing separate access to every car parking space, allowing for vehicles to enter and exit the site in a forwards gear, and including the required landscaping along the front boundary of the site. The diagram to Clause 6.5.3 includes notations that each car parking bay will have dimensions of 2.5m x 5.5m and an aisle width of 6m.

The car park appears to be functional and appropriately designed, however, a variation to the design of the car park is proposed as car parking bays measure 5.4m x 2.6m when 5.5m x 2.5m is required. The aisle width is nominated at 6.6m – 8.1m which exceeds the NTPS requirement.

The applicant has outlined that the increased width of driveway aisles and the car parks would allow easy manoeuvring of cars in and out of the car parking bays in accordance with Australian Standards (AS2890.1) which gives the various combination of bay width and manoeuvring aisle for parking at 90° to the aisle. The response is considered to demonstrate that functional access is provided to each parking space.

The Authority noted that it has previously granted a variation to the dimensional requirements of this clause for similar developments on the basis of written confirmation from a qualified traffic engineer that all car parking and accesses are compliant with the relevant Australian Standards. The application includes a traffic assessment report which confirms that the car parking spaces are designed in accordance with the Australian / New Zealand Standard – AS/NZS 2890.1 and AS/NZS

2890.6) Furthermore, the reduced parking space length (from 5.5 metres to 5.4) is offset by a greater width of individual parking spaces (2.6m) and the driveways (6.6m – 8.1m).

Clause 6.19 (End of Trip Facilities in Zones HR, CB, C SC and TC)

The purpose of this clause is to ensure that new commercial and high-density residential buildings provide sufficient, safe, quality and convenient end of trip facilities to enable active travel choices by residents, visitors, workers and customers for the proposed use of the site. The clause requires that all new non-residential buildings in Zone C should provide 1 bicycle parking space per 300m<sup>2</sup> of net floor area. Sub-clause 3 of the clause provides design criteria for bicycle parking facilities, and sub-clause 4 requires that a locker should accompany every secure bicycle parking space provided.

The net floor area of the proposed development is 420m<sup>2</sup> and requires two bicycle parking spaces. The development provides 12 floor-mounted bicycle parking facility adjacent to the entry of the restaurant building. The proposed parking spaces do not require access via steps and is located outside the pedestrian movement path. These spaces are located away from the car parking area to avoid accidental damage from opening car doors and will be continually illuminated by building lights during operation hours of the restaurant. The area will have adequate space for each bicycle to be parked in accordance with Australian Standard AS2890.3.

The clause requires that the bicycle area should be protected from weather. The applicant states that roof-cover for weather protection to the bicycle parking area will be provided. A condition is included on the Development Permit to provide amended plans showing the extent of the shade cover to the bicycle parking area as these details were not confirmed on the submitted plans.

The clause also requires an appropriate mix of long and short term parking spaces for the use of staff and customers. The applicant states that the proposed parking will have a mix of long and short term parking. While the proposed parking is adequate for the visitors, The Authority considered that a separate secure long term bicycle parking facility should be provided in the proposed development for staff. A condition is included on the Development Permit to provide amended plans showing one secure bicycle parking facility for staff. It is noted that the restaurant design includes lockers in the staff training area, which satisfy the requirement of the clause.

The clause requires 1 shower for up to 50 staff, plus 1 additional shower for up to every 50 staff thereafter for non-residential buildings. The applicant did not provide any details regarding staff numbers and there are no shower facilities provided in the proposed development.

The Authority noted that the applicant had provided an email from McDonalds stating that their policy does not allow the provision of shower facilities for staff in their restaurants. The email further says that none of their existing restaurants provides a shower facility for staff.



The Authority supported a variation to this requirement, taking into account the email from McDonalds, and noting that provision is made within the building for changing rooms and a wash area which would offer some level of amenity to staff. The Authority noted that the development provides locker facilities within the development.

#### Other matters

A condition to provide details of landscape species is included on the Development Permit as these details were not confirmed on the submitted plans.

The Authority questioned the applicant (Mr Israel Kgoisemang) on the possibility of providing lighting and garbage bins within the car parking of the restaurant to address the issues of submitters regarding security and littering. The applicant agreed that the provision of lighting and garbage bins could be taken into account to service the proposed development, and was amenable to the inclusion of a condition to this effect. A condition has been included on the Development Permit to provide amended plans showing the provision of lighting and garbage bins within the carpark area. Consideration should be given to using motion sensor lighting.

The Authority also questioned the applicant in relation to loading bay access and what measures can be proposed to minimise the conflict of delivery vehicles with vehicles using the car park. The applicant explained to the Authority that the deliveries to McDonald's occur through a centralised depot in Darwin by light rigid vehicles which will not have any issues in accessing the loading bays. In response to the question raised by the Authority that the plans show a turning path assessment for a 19m semi-trailer, the applicant explained to the Authority that this is done for the purpose of the traffic assessment report to demonstrate that the loading bay is adequate to access the largest vehicle. The Authority was satisfied with the applicant's response on this matter.

2. 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.

Six (6) public submissions were received in relation to the application. The submissions raise concerns regarding the increase in traffic problems, parking along Bradshaw Terrace, and competition with the other similar fast food outlets in the area public littering and increased anti-social activities.

The Authority explained to the submitters that the application is lodged and considered only under the requirements of the *Planning Act 1999*. Therefore, the concerns of the majority of submitters regarding competition with the other similar fast food outlets in the area and health concerns are not considered by the Authority as they are not matters for consideration under the *Planning Act 1999*.



Mrs Kristina Oberhardt and Mr Rick Oberhardt expressed that their main concern is associated with issues regarding traffic and parking on Bradshaw Terrace and Nakara Terrace. Ms Oberhardt explained that over the years the traffic issues on Bradshaw Terrace have increased and the vehicles are continuously parked on Bradshaw Terrace which extends down to Nakara Terrace. Ms Oberhardt believes that the proposed restaurant will increase these issues. In addition to traffic and parking issues, Ms Oberhardt also raised concerns regarding ongoing security issues in the Casuarina Village Precinct and the issue of littering by the customers visiting the drive-through facility.

Mr Peter Brown acknowledged his issue was not so much with the proposed restaurant but with long term issues of traffic and parking along Bradshaw Terrace and Nakara Terrace. Mr Brown explained that there are no pedestrian crossings from Casuarina Bus Interchange up to the Trower Road Intersection. As McDonalds is likely to attract a lot of vehicular traffic, the existing issue is likely to get worse. Mr Brown suggested that provision should be made in the development for safe pedestrian crossing.

The Authority carefully considered the concerns of the submitters and considered these comments in making its decision. In relation to the potential traffic impact, the Authority noted that the inclusion of a condition on the Development Permit to provide a traffic impact assessment would address the concerns of the submitters. A condition to carry out the works identified in the traffic assessment is also included on the Development Permit.

Furthermore, Mr Brian Sellers from the City of Darwin confirmed to the Authority that Council had requested a detailed, comprehensive traffic impact assessment to be carried out by the applicant in consultation with the City of Darwin, which will identify the traffic issues and measures to resolve those issues. Mr Sellers acknowledged that the recommended condition precedent would address this requirement and confirmed, in response to a question from the applicant, that it could be amended to take place prior to the commencement of works rather than prior to the endorsement of plans as considerable work on the assessment has already taken place. The condition has been amended accordingly.

In response to the concerns raised by the submitters on safety and littering, a condition of the Development Permit requires amended plans to show the provision of lighting and bins in the car park area.

3. Pursuant to section 51(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 lands, the physical characteristics of which may be affected by the development.

There are no concerns regarding the capability of the land to accommodate the proposed development. The Department of Environment and Natural Resources has not identified any issues of

concern with the proposal, and the land is not identified as being within a storm surge area and is not subject to flooding in a 1% AEP flood event. The overall height and scale of the development is largely consistent with that anticipated in Zone C with respect to the capability of the land and the effect on surrounding properties.

A condition is included on the Development Permit to provide a full assessment of the Road Safety Audit (RSA) and a network SIDRA analysis (with predicted volumes) for the Bradshaw Terrace intersection. The submission also identifies necessary upgrades to the surrounding street network as a result of the implications of the development.

All other service authority requirements are addressed through appropriate conditions and/or notations on the Development Permit.

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

The development is consistent with the broader intent of Zone C (Commercial) and applicable clauses, including car parking and plot ratios. The non-compliances identified with Clause 6.5.3 and Clause 6.19 are minor in nature and are unlikely to unduly the effect the existing and future amenity of the area.

The design and layout of the proposed development is considered to provide adequate buffers and screening to residential uses across Bradshaw Terrace. The landscaping provided along the Bradshaw Terrace frontage is expected to ensure the visual impact of the drive-through is minimised and that an appropriate buffer is provided between residential land located across Bradshaw Terrace. A condition is included on the Development Permit to maintain the landscaping for the life of the development to protect the future amenity of the residential area.

5. Pursuant to section 51(p) of the *Planning Act 1999*, the consent authority must take into consideration the public interest, including (if relevant) how the following matters are provided for in the application:
  - (i) community safety through crime prevention principles in design;
  - (ii) water safety;
  - (iii) access for persons with disabilities

In relation to community safety through crime prevention, the establishment of use of a vacant building site will allow for continued passive surveillance of surrounding streets. As the restaurant is proposed to operate 24 hours a day, the presence of persons on the site and lighting will increase the surveillance opportunity to abutting streets. A condition is included on the Development Permit to provide lighting in the car park area to provide enhanced safety.

The proposal includes a pedestrian link through the car park to the building. The Authority at the hearing discussed in length about the provision of disabled access within the development. The Authority noted that the uniqueness of the site in terms of the number of access

easements makes it challenging to provide disabled access through and around the site. Noting the importance of access for persons with disabilities, the Authority was mindful that any such access could also create safety concerns or potential conflict with the vehicular traffic entering/exiting through the drive-through.

**ACTION:** Notice of Consent and Development Permit

Ms Robin Knox a member of the Darwin Division of the Development Consent Authority requested the following to be included in the minutes for Item 3 - Dissent and objection to the variation to Clause 6.19 (End of Trip Facilities in Zones HR, CB, C SC and TC) of the NT Planning Scheme for not providing any shower facilities within the development for staff.

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

**SUZANNE PHILIP**

**Chair**

27 July 2020