

**DEVELOPMENT CONSENT AUTHORITY  
DARWIN DIVISION**

**PROPOSED CONCURRENT APPLICATION PA2023/0327**

Amendment proposal to rezone Part Lot 7433 and Part Lot 5988 (57) Bayview Boulevard,  
Bayview, Town of Darwin  
from Zone FD (Future Development), Zone LR (Low Density Residential) and Zone LMR (Low-  
Medium Density Residential) to a Specific Use Zone

And

A development proposal seeking consent to Part Lot 7433 and Part Lot 5988 (57) Bayview  
Boulevard, Bayview, Town of Darwin for subdivision to create 18 lots

**Agenda Item Number: 3**

**Meeting Date: 23 May 2025**

<b>Bookmark A</b>	<b>Site Context</b>
<b>Bookmark B</b>	<b>Letter of Deferral</b>
<b>Bookmark C</b>	<b>Updated Application</b>
<b>Bookmark D</b>	<b>Technical Assessment - Altered Application</b>
<b>Bookmark E</b>	<b>Public Comments - Altered Application</b>
<b>Bookmark F</b>	<b>Service Authority Submissions: Altered Application</b>
<b>Bookmark G</b>	<b>Previous DAS Report - 09 December 2024</b>

## 1. GENERAL INFORMATION

<b>SITE:</b>	Part Lot 7433 and Part Lot 5988 (57) Bayview Boulevard, Bayview, Town of Darwin (Site context is at <b>Bookmark A</b> )
<b>CURRENT ZONE:</b>	Zone FD (Future Development), Zone LR (Low Density Residential) and Zone LMR (Low-Medium Density Residential)
<b>PROPOSED ZONE</b>	Specific Use Zone
<b>AREA:</b>	Lot 7433 - 54,300m <sup>2</sup> / 5.34ha Lot 5988 is 42,900m <sup>2</sup> / 4.29ha
<b>APPLICANT</b>	Earl James and Associates, Kevin Dodd
<b>PERSONS ON WHOSE BEHALF THE APPLICATION IS MADE</b>	Dover Investments Pty Ltd, Director Ivan Wong
<b>LANDOWNER</b>	Dover Investments Pty Ltd, Director Ivan Wong
<b>ANY PERSON WITH AN AGREEMENT TO ACQUIRE AN INTEREST IN THE LAND</b>	NONE

## 2. BACKGROUND

The concurrent application was first heard by the Development Consent Authority (the Authority) on 9 December 2024 where consideration was deferred to allow the applicant to provide further information on the following matters:

1. Provide further information on how the Authority has power to determine the subdivision application as greenfield areas under Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) of the Northern Territory Planning Scheme 2020 (NTPS 2020).
2. Provide an amended statement of effect which identifies and justifies the proposed non-compliance with sub-clause 7 of Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) of the NTPS 2020
3. Any amendments to the application that arise as a result of the above information request.

A copy of the deferral letter is at **Bookmark B**.

In April 2025, in response to the deferral request the applicant updated the 'amendment component' of the application to a Specific Use Zone (i.e. a zone that is specific to the site) as an intermediate zone to facilitate subdivision as if the land were already in Zone LR (Low-Density Residential) in greenfield areas identified for compact urban growth in the strategic framework and Zone LMR (Low-Medium Density Residential). The updated amendment does not change the proposed development outcome, but rather uses a different mechanism to achieve it. If the application is approved, the land will need to undergo a separate rezoning

process to standardised zones (i.e. Zone LR and LMR) to enable dwelling construction.

The updated application documentation (provided at **Bookmark C**) includes the following:

- Supplementary report addressing DCA deferral.
- Supplementary report addressing amendment proposal component of concurrent application.
- Proposed Specific Use Zone.
- Updated Development Report.

A revised technical assessment of the updated application is included at **Bookmark D**.

The applicant's response to the points of deferral was circulated to all public submitters (including late submitters) and service authorities, for further review and comment. At the time of writing the report, one additional comment from a public submitter has been received, a copy is at **Bookmark E**. In addition, no further comments or advice was received from service authorities, see copies of service authority responses to circulation of the updated application documentation at **Bookmark F**.

A copy of the previous assessment report to the Authority is at **Bookmark G**, which includes all public submissions and service authority comments originally received, and the proposal previously considered at the 9 December 2024 meeting.

### 3. LEGISLATIVE REQUIREMENTS

The Minister for Lands, Planning and Environment is responsible for determining proposals to amend the NT Planning Scheme 2020 (including the amendment component of a concurrent application).

The *Planning Act 1999* establishes requirements relating to the exhibition, consultation and reporting of concurrent applications.

Under section 30N, the consent authority must conduct a hearing if any submissions are received during the exhibition period.

Under section 30P(3), the consent authority deferred defer consideration of the application to develop the above land for the purpose of subdivision to create 18 lots to require the applicant to provide the following additional information that the Authority considers necessary in order to enable proper consideration of the application. The application was updated to address the deferral request and was circulated to all public submitters (including late submitters) and service authorities, for further review and comment

Under section 30P, the consent authority must (following any required hearing and taking account of matters under section 30P(2)) make a preliminary decision that if the Minister were to approve the amendment proposal, the authority would be likely to consent or refuse to consent to the development proposal.

Under section 30Q of the Act, the consent authority must give the Minister a written report that includes the preliminary decision, the submissions received, the issues raised in submissions or during consultation, and any other information that the consent authority believes the Minister should take into account when considering the proposal.

Upon receipt of a notice of approval of the amendment proposal from the Minister, the consent authority must determine, as required by section 30W(1) to either consent, alter and consent or refuse the development proposal.

### **Third Party Appeal Rights**

There is no third party right of appeal in relation to any decision by the Minister for Lands, Planning and Environment in relation to the amendment proposal.

There is no right of appeal by a third party under Part 9 of the *Planning Act 1999* in respect of this determination in relation to the development proposal

## **4. ASSESSMENT SYNOPSIS**

This report concludes that the Authority should:

- make a preliminary decision that if the Minister were to approve the amendment proposal the consent authority would be likely to consent to the development proposal;
- provide a report to the Minister including the preliminary decision, the submissions and the issues raised in the submissions; and
- delegate to the Chair the determination of the development proposal subject to the Minister's decision on the amendment proposal.

## **5. CURRENT SITUATION**

The original application noted that in order to subdivide the land in accordance with the Darwin Inner Suburbs Area Plan, a planning scheme amendment to change the zone from Zone FD (Future Development) to Zone LR (Low Density Residential) and Zone LMR (Low-Medium Density Residential) was required to support the proposed lot sizes. The concurrent application process is being utilised to allow for a single process for the application, exhibition and receiving of comments for both the planning scheme amendment and development application.

In December 2024, the Authority deferred the application to require the applicant to provide further information on how the Authority has power to determine the subdivision application as greenfield areas under Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) of the Northern Territory Planning Scheme 2020 (NTPS 2020).

In April 2025, in response to the deferral request the applicant updated the 'amendment component' of the application to a Specific Use Zone (i.e. a zone that is specific to the site) as an intermediate zone to facilitate subdivision as if the land were already in Zone LR (Low-Density Residential) in greenfield areas identified for compact urban growth in the strategic framework and Zone LMR (Low-Medium Density Residential). The updated amendment does not change the proposed development outcome, but rather uses a different mechanism to achieve it. If the application is approved, the land will need to undergo a separate rezoning process to standardised zones (i.e. Zone LR and LMR) to enable dwelling construction.

The updated application proposes to subdivide to create 18 lots, all located in a Specific Use Zone, as below:

- Area A – Comprises of a strip of land that is part of Lot 5988 and a portion of Lot 7433. The subdivision proposes to create 12 lots in this area having lots sizes ranging from 454m<sup>2</sup> to 715m<sup>2</sup> and will be developed as if the land were in Zone LR in a greenfield area identified for compact urban growth within the strategic framework. This

area also includes the creation of a 15m wide public road and access to Lot 7433 adjacent to Lot 10.

- Area B – Comprises of a strip of land that is part of Lot 5988 and a portion of Lot 7433. The subdivision proposes to create 2 lots in this area measuring 399m<sup>2</sup> and 392m<sup>2</sup> and will be developed as if the land were in Zone LMR.
- Area C1 - Comprises of the middle section of Lot 7433 and a small portion of Lot 5988. The subdivision proposes to create 2 lots to be developed as if the land were in Zone LR in a greenfield area identified for compact urban growth within the strategic framework and include lot sizes of 1429m<sup>2</sup> and 670m<sup>2</sup>.
- Area C2 - Comprises of the middle section of Lot 7433 and a small portion of Lot 5988. The subdivision proposes to create 2 lots to be developed as if the land were in Zone LMR and include lot sizes of 1812m<sup>2</sup> and 597m<sup>2</sup>.

## 6. PUBLIC EXHIBITION

The original application was placed on public exhibition for a period of 28 days from 8 March 2024 to 5 April 2024. 13 public submissions were received under section 49(1) of the *Planning Act 1999* and one late submission was received on 8 April 2024.

The updated application in response to the points of deferral was circulated to all public submitters (including late submitters), for further review and comment. At the time of writing the report, one additional comment from a public submitter has been received, refer to **Bookmark E**.

The additional comments received from Nuno De Castro expressed concerns regarding the traffic load imposed by the additional lots on the existing road network of Stoddard Drive. Nuno advised that the existing road of Stoddard Drive on the hill is not designed for the traffic load of existing lots at Bayview based on the Darwin City Council guidelines. Nuno questioned if the developer could build a new road access to Tiger Brennan Drive for this proposed subdivision to divert traffic away from Stoddard Drive.

A response to traffic impact issues is addressed at section 7(f) of the previous assessment report to the Authority, refer to **Bookmark G**.

## 7. SERVICE AUTHORITY COMMENTS

The original application was circulated to the service authorities and comments received are at **Bookmark E** contained in **Bookmark G**.

The updated application in response to the points of deferral was circulated to all relevant service authorities and no further comments or advice was received from service authorities. See copies of service authority responses to circulation of the updated application documentation at **Bookmark F**.

## 8. PRELIMINARY DECISION ABOUT DEVELOPMENT PROPOSAL (SECTION 30P OF THE PLANNING ACT)

Section 30P(2) of the *Planning Act 1999* establishes matters the consent authority is required to consider in making a preliminary decision in relation to the development proposal.

The matters discussed below are those identified in section 30P(2) that are relevant to this proposal.

- (a) the planning scheme that applies to the land to which the application relates (the land);

#### Northern Territory Planning Scheme 2020 (NTPS 2020)

As the application is *Impact Assessable* the exercise of discretion by the consent authority that applies is Clause 1.10(4) (Exercise of Discretion by the Consent Authority) of the NTPS2020.

Clause 1.10(4) specifies that *in considering an application for a use or development identified as Impact Assessable the consent authority must take into account all of the following:*

- a) *any relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;*
- b) *any Overlays and associated requirements in Part 3 that apply to the land;*
- c) *the guidance provided by the relevant zone purpose and outcomes in Part 4, or Schedule 4.1 Specific Use Zones; and*
- d) *any component of the Strategic Framework relevant to the land as set out in Part 2 An assessment of the relevant parts of the NTPS 2020 is as follows:*

#### **Part 2 - Strategic Framework**

Clause 2.1 (Purpose of the Strategic Framework) requires that interpretation of the Planning Scheme and determinations of a consent authority have regard to the policies and planning concepts expressed in documents appearing in Part 2 or Schedule 5 and ensure that a use or development or proposed use or development is consistent with them.

#### Darwin Regional Land Use Plan 2015 (DRLUP)

The purpose of the Darwin Regional Land Use Plan 2015 (DRLUP) is to identify the essential characteristics and needs that will shape future development in the region and establish an overarching framework for that development.

The location of the proposed development is in an area identified for Urban/Peri-Urban land use. These areas will accommodate a full range of land uses such as a variety of housing types, retail and commercial, community facilities and services, sport, recreation and urban open space, and natural and conservation areas.

The proposal aligns with the key Residential objectives of the DRLUP by providing residential lots that integrate new and existing residential development to maintain character and create a cohesive society that meets the diverse needs and aspirations of all sectors of the community.

#### Darwin Inner Suburbs Area Plan 2016

The Darwin Inner Suburbs Area Plan 2016 (DISAP) provides a framework to guide progressive growth and development within the Inner Suburbs of Darwin building on the broad regional strategic planning policies established by the Darwin Regional Land Use Plan 2015.

The Land Use Plan identifies the subject land as future development. Land to the west of the site is shown in the DISAP as a mixture of low density and low-medium residential, which forms part of the existing Bayview Marina Estate.

## Part 3 – Overlays

### 3.4 CR - Coastal Reclamation

The site is within the level of the highest astronomical tide. The application proposes site preparation earthworks and a sea wall to ensure the site (areas A and C1 and C2) is suitable for residential development. Area B does not require earthworks as this area has been filled and surcharged as part of a previous stage of Bayview that was completed in 2004.

Sub-clause 3 of Clause 3.4 (CR - Coastal Reclamation) states, *the consent authority in considering an application for coastal landfill must have regard to the advice of the agency responsible for natural resources and the environment.*

The application was circulated to the Department of Lands, Planning and Environment, previously the Department of Environment, Parks and Water Resources (DEPWS) and their comments are summarised in the report to the DCA contained in **Bookmark G**.

Conditions and notes relating to erosion and sediment control and acid sulfate soils have been recommended for inclusion on any development permit issued.

### 3.7 LSSS - Land Subject to Storm Surge

The purpose of Clause 3.7 (LSSS - Land Subject to Storm Surge) is to *identify areas with a known risk of inundation from primary or secondary storm surges and ensure that development in these areas demonstrates adequate measures to minimise the associated the risk to people, damage to property and costs to the general community caused by storm surge.*

The relevant administration is provided below:

- (5) *Land within the PSSA is to be used or developed only with consent.*
- (6) *The consent authority may consent to a use or development within the PSSA that is not in accordance with sub-clauses 8-10 only if it is satisfied that the application demonstrates that there is no increased risk to people and property, including adjoining property.*

The site is located within the primary and secondary storm surge area (PSSA and SSSA). The application identifies bulk earthworks that will be undertaken to achieve the proposed road design and site levels for lots in preparation for residential development. These works will ensure that the lots are suitable for development as they will be elevated to approximately RL 6.5m AHD, above the storm surge level. In addition, a seawall is proposed will enable the development of the lots for their intended purposes, and with a crest level of RL6.5m AHD, will mitigate risk and damage as a result of any storm surge event.

## Schedule 4 – Specific Use Zones

The application proposes to re-zone the site to Specific Use Zone which seeks to *‘facilitate an intermediate zone for low and low-medium density residential subdivision in a manner consistent with the existing lot size and configuration established in the earlier stages of the Bayview development’.*

The proposed subdivision provides a range of lot sizes capable of accommodating a mix of dwelling-single, dwelling-group and dwelling-multiple development and reflects the existing lot sizes and configuration of the Bayview development, complying with the sub-clause 4 and 5 of the Specific Use Zone.

In addition, the site will be connected to reticulated services, integrates with the existing road network and has access to existing open space and community facilities in accordance with sub-clause 6 of the Specific use Zone.

As such, if the amendment proposal was to be approved the development proposal would be consistent with the purpose of Specific Use Zone.

Sub-clause 2 of the Specific Use Zone specifies that *'Clause 6.2 (Subdivision in Zones LR, LMR, MR and HR) applies to the subdivision of land subject to this specific use zone, to the extent of any inconsistencies'*. In addition, sub-clause 3, the consent authority must not consent to a development that is not in accordance with sub-clause 7. Sub-clause 7 specifies that the proposed subdivision design must in accordance with Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) applied as follows

- Area A - Clause 6.2.1 applies as if the land were in Zone LR in a greenfield area identified for compact urban growth within the strategic framework.
- Area B - Clause 6.2.1 applies as if the land were in Zone LMR.
- Area C1 - Clause 6.2.1 applies to the area identified as Zone LR in the diagram to this Zone as if the land were a greenfield area identified for compact urban growth in the strategic framework.
- Area C2 - Clause 6.2.1 applies to the area identified as Zone LMR in the diagram in this Zone as if the land were in Zone LMR.

An assessment of the applicable Part 6 requirements, as applied under the Specific Use Zone, is provided below.

## **Part 6 – Subdivision Requirements**

A technical assessment of the development proposal against the requirements of the NTPS 2020, as if the site were in the Specific Use Zone, is included at **Bookmark D**. The assessment establishes that the proposed subdivision complies with all applied clauses, except for Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR).

### Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR)

The purpose of the Clause is to *'ensure that subdivision of land for residential purposes is appropriately integrated with infrastructure, community services and facilities'*.

Sub-clause 7 requires that a minimum of 10% of the subdivision area is public open space, the proposed subdivision does not provide any public open space.

Administratively, sub-clause 1 specifies that *'the consent authority may consent to a subdivision that is not in accordance with sub-clauses 2-7, only if it is satisfied the subdivision is consistent with the purpose of this clause'*.

A variation to 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) of the NTPS in relation to the provision of public open space could be supported as while this subdivision does not include dedicated public open space, it has access to other public open space already provided as part of the existing Bayview development.

(b) the amendment proposal in the application;

The amendment proposal within this application relates to a proposed change in the zoning of the land, from Zone FD (Future Development), Zone LR (Low Density Residential) and Zone LMR (Low-Medium Density Residential) to a specific use zone to facilitate an intermediate



zone for low and low-medium density residential subdivision. The merits of the proposal are discussed in section 7(i) of this report. In summary, the site is potentially suitable for the proposed use because it facilitates housing choice to meet the diverse needs of Darwin's population consistent with the existing pattern of residential development and promotes sustainable development by utilising existing service infrastructure.

(c) any significant development report given to the consent authority under section 30D(6)(c)(iii);

The Minister did not request a significant development report.

(d) any interim development control order in force for the land;

There are no interim development control orders relevant to the site.

(e) any environment protection objective, as defined in section 4(1) of the *Waste Management and Pollution Control Act 1998*, that is relevant to the land;

The application was circulated to Development Coordination of the Department of Lands, Planning and Environment (previously known as DEPWS) and a range of statutory obligations under the WMPC Act have been identified in their comments which is recommended to be referenced as a permit note.

(f) any information received as a result of consultations carried out, submissions received, or evidence given at a hearing;

A total of 13 public submissions were received during the exhibition period of the original application and one submission was received after the exhibition period.

The main concerns raised by the submitters in their submissions and expressed at the hearing held on the 9 December 2024 are:

- Existing and future traffic congestion and safety concerns.
- Removal of Mangroves.
- Impact on amenity
- Decrease in property value as a result of the proposed subdivision.
- Relocation of the seawall.
- Proposed building envelopes.
- The application involves harbour dredging however it's not included in the application and there should be no risk to nature, people, community and property as a result of the proposal.
- The Area Plan does not automatically rezone land and rezoning is to be considered by the Minister. The DISAP identifies the zone as Zone FD and does not indicate a potential change to the zoning.
- Concerns that some drawings and plans are not to scale.
- Concerns regarding the cost of the development and that it's not the answer to the current housing problem.

The updated application, in response to the points of deferral, was circulated to all public submitters (including late submitters), for further review and comment. At the time of writing the report, one additional comment from a public submitter has been received.

The additional comments received from Nuno De Castro (refer to **Bookmark E**) expressed concerns regarding the traffic load imposed by the additional lots on the existing road network of Stoddard Drive. Nuno advised that the existing road of Stoddard Drive on the hill is not designed for the traffic load of existing lots at Bayview based on the Darwin City Council guidelines. Nuno questioned if the developer can build a new road access to Tiger Brennan Drive for this proposed subdivision to divert traffic away from Stoddard Drive.

Key issues raised relate to traffic impacts which has been considered previously by the Authority.

- (g) a matter that the Minister has, under section 30ZC(1), directed the consent authority to consider in relation to concurrent applications generally;

The Minister has made no direction in relation to the application.

- (i) the merits of the development proposal as demonstrated in the application;

The application submits the following merits:

*The Bayview Marina development is a master planned development that has provided a variety of housing options for the Darwin market over many years and also comprised an Estate Development, unit title component that comprised the lots fronting the marina and the associated marina berths. The land currently being proposed for development is part of the balance of Crown lease issued by the NT Government. The purpose of these Crown leases is for residential subdivisional purposes and the subdivisions now being proposed are consistent with the purpose of the leases that the Government has issued. The proposed subdivisions will be the final subdivisions form the Crown leases and will complete the Bayview Marina development. The design and construction of the proposed, new allotments will benefit the NT economy and will provide prime housing options that are sure to be well sought after in the market. The range of lots sizes being proposed will provide an opportunity for people with varying financial capabilities to secure an allotment and develop a home in close proximity to the Darwin CBD.*

- (j) the capability of the land to support the development proposal and the effect of the proposal on the land, and on other land, the physical characteristics of which may be affected by the proposal;

The land is capable of supporting the proposed development. Comments from service authorities have been sought in relation to the capability of the land. The requirements of service authorities are addressed through conditions and notes on the permit.

- (k) the public facilities or public open space available in the area in which the land is situated and any requirement for the facilities, or land suitable for public recreation, to be provided by the applicant;

The application does not actively provide any public facilities or public open space, however the proposal is located in the existing suburb of Bayview which has established public open space areas within walking distance to the site.

(l) the public utilities or infrastructure provided in the area in which the land is situated and any requirement for:

- (i) public facilities and services to be connected to the land; and
- (ii) facilities, infrastructure or land to be provided by the applicant;

The original application was circulated to the service authorities and comments received were discussed in the original assessment report to the Authority (refer **Bookmark G**). The updated application, in response to the points of deferral, was circulated to all service authorities, for further review and comment.

At the time of writing the report, no further comments or advice has been received from service authorities, see copies of service authority responses to circulation of the updated application documentation at **Bookmark F**.

(m) the potential impact on the existing and future amenity of the area in which the land is situated;

The proposal complies with the subdivision requirements applied for the Specific Use Zone and is generally consistent with the surrounding residential development. Conditions and advisory notes on any permit issued can address matters identified by service authorities (erosion and sediment control, stormwater, construction noise, vehicle access, reticulated services etc.).

(n) 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;

It is not considered that the proposed zoning and development would have an adverse impact upon the public interest in terms of community safety, water safety, or access for persons with a disability.

(na) if the development proposal relates to a subdivision or consolidation of land in a Restricted Water Extraction Area –whether the subdivision or consolidation complies with the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(1) of that Act

Not applicable.

(o) if the development proposal relates to a subdivision of land on which a building is, or will be, situated – whether the building complies, or will comply, with any requirements prescribed by regulation in relation to the building (including, for example, requirements about the structural integrity and fire safety of the building);

Not applicable.

(p) any potential impact on natural, social, cultural or heritage values (including, or example, the heritage significance of a heritage place or heritage object under the Heritage Act 2011);

The proposal is unlikely to have any potential impact on social, cultural or heritage value within this development area.

(q) any beneficial uses, quality standards, criteria, or objectives, that are declared under the Water Act ;

The following declared beneficial uses apply to the subject land for Darwin Harbour:

- Aquaculture, environment, cultural, rural stock and domestic.

It is the responsibility of the developer and land owner to ensure that land use does not result in a contravention of the *Water Act 1992*.

(r) other matters the consent authority considers relevant.

No other matters are raised for consideration by the consent authority.

(2A) If a development proposal is required to be referred to the NT EPA under Part 4, Division 3 of the *Environment Protection Act 2019*, the consent authority must not make a preliminary decision under this section in relation to the development proposal unless:

- a) the NT EPA has determined that an environmental impact assessment is not required under that Act for that proposal; or
- b) if the NT EPA has determined that an environmental impact assessment is required – an environmental approval has been granted under that Act for the proposal and the decision is consistent with that approval; or
- c) the *Environment Protection Act 2019* otherwise permits the making of the preliminary decision.

The NT EPA has developed guidance for proponents on referring a proposal and this includes a pre-referral screening tool. The applicant undertook screening in accordance with the NT EPA's pre-referral screening tool and it did not consider that the project has potential to have a significant environmental impact and therefore is not required to be referred to the NT EPA.

The pre-referral screening review was circulated to Development Coordination of the Department of Lands, Planning and Environment (previously known as DEPWS) for review and it was noted '*that the NT EPA decided a previous proposal, 'Bayview – The Boulevarde' project, which incorporated the current proposed development area, required environmental impact assessment. The reasons for the assessment included:*

- *The location of the project is within the NT Department of Health guideline 1.6km buffer distance from areas of extensive tidal mangroves, as areas of intensive natural breeding of pest biting midges. Development within the recommended buffer zone risks exposure of future residents to regular nuisance from biting midges.*
- *The proposed footprint presents a high risk of disturbance of Potential Acid Sulfate Soils, and associated ecological impacts if the disturbance is not appropriately managed'.*

In response to the above-mentioned comments from Development Coordination of the Department of Lands, Planning and Environment (previously known as DEPWS), the applicants environmental consultant recommended that a caution notice regarding biting midge problem and appropriate mosquito breeding prevention and control measures be implemented during the construction phase be addressed via conditions on the permit. In addition, a condition to prepare a Sulfate Soil Management Plan (ASSMP) was also recommended, this is addressed via a note on the permit.

## **RECOMMENDATION SUMMARY**

The consent authority is required to make a number of related decisions about a concurrent application. The decisions required in relation to the amendment proposal and development proposal are summarised below.

**Recommended 1** relates to the preliminary decision the consent authority is likely to make, as required by section 30P, on the development proposal seeking consent.

A development proposal seeking consent to Part Lot 7433 and Part Lot 5988 (57) Bayview Boulevard, Bayview, Town of Darwin for subdivision to create 18 lots, in the event the Minister were to approve the amendment proposal.

Note that the preliminary decision does not result in a development permit at this stage in the concurrent application process.

**Recommended 2** relates to the report the consent authority is required, under section 30Q to provide to the Minister.

**Recommended 3** delegates to the Chair the determination of the development proposal contained in the application after receipt of a notice from the Minister under section 30U(1) Minister's decision on the amendment proposal.

Note that the determination of the development proposal will also give effect to the amendment proposal contained in the concurrent application.

## **RECOMMENDATION 1**

Recommendation 1:

As required by section 30P(1)(a), the consent authority must make a preliminary decision that, if the Minister were to approve the amendment proposal to rezone Part Lot 7433 and Part Lot 5988 (57) Bayview Boulevard, Bayview, Town of Darwin; and provide consent pursuant to 30W(6) that it would be likely to determine to consent to the development under section 30W(1)(a) conditionally for the purpose of a subdivision to create 18 lots subject to the following conditions:

## **CONDITIONS PRECEDENT**

1. Prior to the commencement of works (including site preparation), in principle approval is required for all road infrastructure including, but not limited to; the road reserve widths, road geometries pavement widths and a detailed landscaping plan for all proposed road reserves, with all works meeting the requirements of the Northern Territory Government's Subdivision Guidelines 2023, to the requirement of City of Darwin to the satisfaction of the consent authority.

2. Prior to commencement of works (including site preparation), crossover design approval is to be obtained from City of Darwin.
3. Prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels, and Council's stormwater drain connection points and connection details. The plan shall include details of the gross pollutant traps, site levels, Council's stormwater drain connection points and connection details.
4. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.
5. Prior to the commencement of works, a Type 2 Erosion and Sediment Control Plan (ESCP) must be developed in accordance with the Department of Environment, Parks and Water Security 15 <https://www.waterquality.gov.au/issues/acid-sulfate-soils> Page 6 of 8 nt.gov.au Erosion and Sediment Control Plan (ESCP) procedures (see Note 1). The ESCP must be developed and certified by a Certified Professional in Erosion and Sediment Control (CPESC). The ESCP must be submitted for acceptance prior to the commencement of any earth disturbing activities (including clearing and early works) to Development Assessment Services via email: [das.ntg@nt.gov.au](mailto:das.ntg@nt.gov.au).

## **GENERAL CONDITIONS**

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

Please refer to notations 1, 2 and 3 for further information.

8. 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.
9. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for approval by the Surveyor General.
10. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the City of Darwin.

11. 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.
12. Engineering design and specifications for the proposed and affected roads, including:
  - a. street lighting
  - b. stormwater drainage
  - c. vehicular access
  - d. pedestrian/cycle corridors, and
  - e. street-scaping and landscaping of nature strips.

Shall comply with the Northern Territory Subdivision Development Guidelines 2023. All approved works will be constructed at the applicant's expense, to the requirements of City of Darwin.

13. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
14. The owner shall:
  - a. remove disused vehicle and/ or pedestrian crossovers;
  - b. provide footpaths/cycleways;
  - c. collect stormwater and discharge it to the drainage network; and
  - d. undertake reinstatement works;

all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority

15. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street to the requirements of the City of Darwin, to the satisfaction of the consent authority.
16. All works relating to this permit must be undertaken in accordance with the endorsed Erosion and Sediment Control Plan (ESCP) to the satisfaction of the consent authority. Should the endorsed ESCP need to be amended, the revised ESCP must be developed and certified by a Certified Professional in Erosion and Sediment Control (CPESC). The revised ESCP must be submitted for acceptance to Development Assessment Services via email: [das.ntg@nt.gov.au](mailto:das.ntg@nt.gov.au).
17. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority on written advice from the CPESC.
18. Before issue of titles and pursuant to section 34 of the *Land Title Act*, a Caution Notice should be lodged with the Registrar General on the parent parcel to include the following advice on all the proposed lots indicated on the endorsed drawings. The Caution Notice is to state that: 'The land is subject to high biting midge problems, and the owner/occupier is responsible for managing biting midge problems that occur on this land. This could be

via the use of personal insect repellents, avoidance of outdoor areas during periods of pest biting insect problems, use of protective clothing, use of fine mesh insect screening on dwellings and outdoor patios and verandas, and the use of adult biting insect control insecticides around houses and in shrub and grass areas, applied by a qualified pest controller', to the requirements of Department of Health (Medical Entomology), to the satisfaction of the consent authority.

19. The developer should implement necessary measures to ensure mosquito breeding does not occur during the construction phase of the development, to the requirements of the Department of Health (Medical Entomology), to the satisfaction of the consent authority.
20. Before the issue of Titles, the developer is to provide written confirmation (in the form of plans or drawings) demonstrating that all lots less than 600m<sup>2</sup> for dwellings-single allow for future vehicle access via a single driveway unrestricted by street infrastructure (including any power, water, sewer, or stormwater infrastructure) which demonstrates that a 3.5m driveway can be located on each lot whilst ensuring that each lot's street frontage has a minimum continuous length of 6.5m, to the satisfaction of the consent authority.

## NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto:powerdevelopment@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind)
3. 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>
4. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>



5. 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.
6. Street and public lighting shall be designed to achieve the minimum lighting levels required as per the AS/NZS 1158.3.1:2020 and the lighting design shall be certified by a member of the Illuminating Engineering Society (The IES). Street and public lighting designs for public spaces/road reserves/pathways within the subdivision shall be compatible with the City of Darwin's smart lighting control system.
7. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
8. The location, design and specifications for proposed and affected crossovers shall be provided at the applicant's expense, to the satisfaction of City of Darwin.
9. As part of any subdivision, the parcel numbers for addressing should comply with the Australian Standard (AS/NZS 4819:2011). For more information contact Survey and Land Records [surveylandrecords@nt.gov.au](mailto:surveylandrecords@nt.gov.au) 08 8995 5356. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
10. The Department of Environment, Parks and Water Security Erosion and Sediment Control Plan (ESCP) procedures as updated available at: <https://depws.nt.gov.au/land-management>.
11. Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at [www.austieca.com.au](http://www.austieca.com.au) and the Land Management Factsheets available at [www.nt.gov.au/environment/soil-land-vegetation](http://www.nt.gov.au/environment/soil-land-vegetation). For further advice, contact the Development Coordination Branch: (08) 8999 4446.
12. All land in the Northern Territory is subject to the Weeds Management Act 2001 (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. General duties described in Division 1 of the WM Act include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection. Gamba grass is subject to a statutory weed management plan. Management obligations outlined in these plans are legally binding on all owners and occupiers. Management requirements and copies of the statutory weed management plans are available online at <https://nt.gov.au/environment/weeds/weed-management-planning>. Information regarding weed management is available online, <https://nt.gov.au/environment/weeds>, or alternatively contact the Weed Management Branch for further advice on (08) 8999 4567. Further information as to management requirements and the Weed Management Plan for gamba grass is available online (<https://nt.gov.au/environment/weeds>), or alternatively contact the Weed Management Branch for further advice on (08) 8973 8857.

13. The Transport and Civil Services Division (TCSD) of the Department of Infrastructure, Planning and Logistics (DIPL) advises:
- All proposed work (including the provision or connection of services) within, or impacting upon the Tiger Brennan Drive road reserve shall be in accordance with the standards and specifications of the TCSD, DIPL.
  - Note that a development permit issued under the *Planning Act 1999* is not an approval for access upon a Northern Territory Government (NTG) road. Approval for the access to be taken from, or constructed within the NTG controlled road reserve rests solely with the TCSD, DIPL as the approving authority.
  - All new road reserves created within the subdivision shall be vested with the relevant local road authority and shall be noted on the survey plans as such.
14. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
15. 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 8936 4070 to determine if the proposed works are subject to the Act.
16. The development has the potential to create Acid Sulfate Soils (ASS) and consideration should be made to manage and mitigate acid sulfate soils during the development. Any proposed works should be undertaken in accordance with the National Acid Sulfate Soils Guidance and further information - <https://www.waterquality.gov.au/issues/acid-sulfate-soils>. Jurisdictional guidelines such as the Queensland Acid Sulfate Soil Technical Manual: Soil Management Guidelines v4.0 (Dear et al. 2014) and the Western Australian Acid Sulfate Soils Guidelines Series (DER 2015) may also be referenced. It should be noted that failure to ensure proper management of ASS could result in implications with your proposed development.
17. All new roads, including alterations and extensions to existing roads, are required to be named under the Place Names Act 1967. You should immediately make application to the Place Names Committee to commence the road naming process. Contact the Place Names Unit on 8995 5333 or [place.names@nt.gov.au](mailto:place.names@nt.gov.au). Further information can be found at [www.placenames.nt.gov.au](http://www.placenames.nt.gov.au)

## REASONS FOR RECOMMENDATION 1

1. The concurrent application comprises:
- An amendment proposal to rezone Part Lot 7433 and Part Lot 5988 (57) Bayview Boulevard, Bayview, Town of Darwin from Zone FD (Future Development), Zone LR (Low Density Residential) and Zone LMR (Low-Medium Density Residential) to a Specific Use Zone.

And

- A development proposal seeking consent to Part Lot 7433 and Part Lot 5988 (57) Bayview Boulevard, Bayview, Town of Darwin for subdivision to create 18 lots

Pursuant to Section 30N, the concurrent application was first heard by the Development Consent Authority (the Authority) on 9 December 2024. At the hearing, the Authority noted the assessment of Development Assessment Services (DAS) which found that the proposed development complies with the relevant requirements of the NTPS 2020. However, the Authority queried if it has the power to consider the subdivision in its current form as it does not have discretion under Clause 6.2.1 to consent to lots in Zone LR with a minimum lot size of less than 760m<sup>2</sup> (800m<sup>2</sup> – 5% of 800m<sup>2</sup>), unless such lots are appropriately identified in Table A to the Clause. The Authority requested that additional information be provided to demonstrate compliance with Clauses 6.2.1.

2. The application was deferred by the Authority on 9 December 2024 to allow the applicant to provide further information on the following matters:
  - Provide further information on how the Authority has power to determine the subdivision application as greenfield areas under Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) of the Northern Territory Planning Scheme 2020 (NTPS 2020).
  - Provide an amended statement of effect which identifies and justifies the proposed non-compliance with sub-clause 7 of Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) of the NTPS 2020
  - Any amendments to the application that arise as a result of the above information request.

In April 2025, in response to the deferral request the applicant updated the 'amendment component' of the application to a Specific Use Zone (i.e. a zone that is specific to the site) as an intermediate zone to facilitate subdivision as if the land were already in Zone LR (Low-Density Residential) in greenfield areas identified for compact urban growth in the strategic framework and Zone LMR (Low-Medium Density Residential). The updated amendment does not change the proposed development outcome, but rather uses a different mechanism to achieve it. If the application is approved, the land will need to undergo a separate rezoning process to standardised zones (i.e. Zone LR and LMR) to enable dwelling construction.

It is considered that the updated application responds to the Authority's deferral request.

3. Pursuant to Section 30P(2)(a) and (b) of the *Planning Act 1999*, the consent authority must take into account any planning scheme that applies to the land to which the application relates and the amendment proposal contained within the application.

As the application is Impact Assessable the exercise of discretion by the consent authority that applies is Clause 1.10(4) (Exercise of Discretion by the Consent Authority) of the NTPS2020.

Clause 1.10(4) specifies that *in considering an application for a use or development identified as Impact Assessable the consent authority must take into account all of the following:*

- a) *any relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;*
  - b) *any Overlays and associated requirements in Part 3 that apply to the land;*
  - c) *the guidance provided by the relevant zone purpose and outcomes in Part 4, or Schedule 4.1 Specific Use Zones; and*
  - d) *any component of the Strategic Framework relevant to the land as set out in Part 2*
- An assessment of the relevant parts of the NTPS 2020 is as follows:*

## **Part 2 - Strategic Framework**

Clause 2.1 (Purpose of the Strategic Framework) requires that interpretation of the Planning Scheme and determinations of a consent authority have regard to the policies and planning concepts expressed in documents appearing in Part 2 or Schedule 5 and ensure that a use or development or proposed use or development is consistent with them.

### Darwin Regional Land Use Plan 2015 (DRLUP)

The purpose of the Darwin Regional Land Use Plan 2015 (DRLUP) is to identify the essential characteristics and needs that will shape future development in the region and establish an overarching framework for that development.

The location of the proposed development is in an area identified for Urban/Peri-Urban land use. These areas will accommodate a full range of land uses such as a variety of housing types, retail and commercial, community facilities and services, sport, recreation and urban open space, and natural and conservation areas.

The proposal aligns with the key Residential objectives of the DRLUP by providing residential lots that integrate new and existing residential development to maintain character and create a cohesive society that meets the diverse needs and aspirations of all sectors of the community.

### Darwin Inner Suburbs Area Plan 2016

The Darwin Inner Suburbs Area Plan 2016 (DISAP) provides a framework to guide progressive growth and development within the Inner Suburbs of Darwin building on the broad regional strategic planning policies established by the Darwin Regional Land Use Plan 2015.

The Land Use Plan identifies the subject land as future development. Land to the west of the site is shown in the DISAP as a mixture of low density and low-medium residential, which forms part of the existing Bayview Marina Estate.

## **Part 3 – Overlays**

### 3.4 CR - Coastal Reclamation

The site is within the level of the highest astronomical tide. The application proposes site preparation earthworks and a sea wall to ensure the site (areas A and C1 and C2) is suitable for residential development. Area B does not require earthworks as this area has been filled and surcharged as part of a previous stage of Bayview that was completed in 2004.

Sub-clause 3 of Clause 3.4 (CR - Coastal Reclamation) states, *the consent authority in considering an application for coastal landfill must have regard to the advice of the agency responsible for natural resources and the environment.*

The application was circulated to the Department of Lands, Planning and Environment, previously the Department of Environment, Parks and Water Resources (DEPWS). Comments regarding acid sulfate soils and erosion and sediment control are addressed through conditions and notes on the permit.

### 3.7 LSSS - Land Subject to Storm Surge

The purpose of *Clause 3.7 (LSSS - Land Subject to Storm Surge)* is to identify areas with a known risk of inundation from primary or secondary storm surges and ensure that development in these areas demonstrates adequate measures to minimise the associated risk to people, damage to property and costs to the general community caused by storm surge.

The relevant administration is provided below:

5. *Land within the PSSA is to be used or developed only with consent.*
6. *The consent authority may consent to a use or development within the PSSA that is not in accordance with sub-clauses 8-10 only if it is satisfied that the application demonstrates that there is no increased risk to people and property, including adjoining property.*

The site is located within the primary and secondary storm surge area (PSSA and SSSA). The application identifies bulk earthworks that will be undertaken to achieve the proposed road design and site levels for lots in preparation for residential development. These works will ensure that the lots are suitable for development as they will be elevated to approximately RL 6.5m AHD, above the storm surge level. In addition, a seawall is proposed will enable the development of the lots for their intended purposes, and with a crest level of RL6.5m AHD, will mitigate risk and damage as a result of any storm surge event.

### **Schedule 4 – Specific Use Zones**

The application proposes to re-zone the site to Specific Use Zone which seeks to '*facilitate an intermediate zone for low and low-medium density residential subdivision in a manner consistent with the existing lot size and configuration established in the earlier stages of the Bayview development*'.

The proposed subdivision provides a range of lot sizes capable of accommodating a mix of dwelling-single, dwelling-group and dwelling-multiple development and reflects the existing lot sizes and configuration of the Bayview development, complying with the sub-clause 4 and 5 of the Specific Use Zone.

In addition, the site will be connected to reticulated services, integrates with the existing road network and has access to existing open space and community facilities in accordance with sub-clause 6 of the Specific use Zone.

As such, if the amendment proposal was to be approved the development proposal would be consistent with the purpose and outcomes of the Specific Use Zone.

Sub-clause 2 of the Specific Use Zone specifies that '*Clause 6.2 (Subdivision in Zones LR, LMR, MR and HR) applies to the subdivision of land subject to this specific use zone, to the extent of any inconsistencies*'. In addition, sub-clause 3, the consent authority must not consent to a development that is not in accordance with sub-clause 7. Sub-clause 7 specifies

that the proposed subdivision design must be in accordance with Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) applied as follows

- Area A - Clause 6.2.1 applies as if the land were in Zone LR in a greenfield area identified for compact urban growth within the strategic framework.
- Area B - Clause 6.2.1 applies as if the land were in Zone LMR.
- Area C1 - Clause 6.2.1 applies to the area identified as Zone LR in the diagram to this Zone as if the land were a greenfield area identified for compact urban growth in the strategic framework.
- Area C2 - Clause 6.2.1 applies to the area identified as Zone LMR in the diagram in this Zone as if the land were in Zone LMR.

An assessment of the applicable Part 6 requirements, as required under the Specific Use Zone, is provided below.

## **Part 6 – Subdivision Requirements**

The Development Assessment Services (DAS) assessment has established that the development proposal complies with the requirements of the NTPS 2020, if the site were in the Specific Use Zone, except for Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR).

A variation is required to Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR).

### Clause 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR)

The purpose of the Clause is to *'ensure that subdivision of land for residential purposes is appropriately integrated with infrastructure, community services and facilities'*.

Sub-clause 7 requires that a minimum of 10% of the subdivision area is public open space, the proposed subdivision does not provide any public open space.

Administratively, sub-clause 1 specifies that *'the consent authority may consent to a subdivision that is not in accordance with sub-clauses 2-7, only if it is satisfied the subdivision is consistent with the purpose of this clause'*.

A variation to 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) of the NTPS in relation to the provision of public open space could be supported as while this subdivision does not include dedicated public open space, it has access to other public open space already provided as part of the existing Bayview development.

4. Pursuant to Section 30P(f) of the *Planning Act 1999*, the consent authority must take into account any information received as a result of consultations carried out, submissions received, or evidence given at a hearing.

A total of 13 public submissions were received during the exhibition period and one submission was received after the exhibition period which is addressed in section 30(r) below). The applicant's response to the points of deferral was also circulated to all public submitters (including late submitters), for further review and comment and additional comments were received from one person who had previously made a submission.

The main concerns raised by the submitters in their submissions and expressed at the

hearing held on the 9 December 2024 are:

- Existing and future traffic congestion and safety concerns.
- Removal of Mangroves.
- Impact on amenity
- Decrease in property value as a result of the proposed subdivision.
- Relocation of the seawall.
- Proposed building envelopes.
- The application involves harbour dredging however it's not included in the application and there should no risk to nature, people, community and property as result of the proposal.
- The Area Plan does not automatically rezone land and rezoning is to be considered by the Minister. The DISAP identifies the zone as Zone FD and does not indicate a potential change to the zoning.
- Concerns that some drawings and plans are not to scale.
- Concerns regarding the cost of the development and that it's not the answer to the current housing problem.

All comments received have been taken into account and carefully considered.

In relation to concerns regarding traffic impacts, the application was circulated to the relevant referral agencies including Crown Land Estate, Transport Planning and City of Darwin. City of Darwin request conditions relating to road design including pedestrian/cycle corridors, compliance with the NT Subdivision Guideline and a Site Construction Management Plan. These requirements will be addressed through conditions on the permit. No concerns were raised regarding access to the subdivision and it is noted that the roads within the subdivision are managed by City of Darwin.

In relation to decrease in property values, it is noted that fluctuations in property prices is not a relevant consideration in assessing an application under the provisions of the *Planning Act 1999*, or the *NTPS 2020*.

In relation to concerns regarding dredging, it is noted that Clause 3.9 (Darwin Harbour Dredging) is listed over the site, however this overlay applies for dredging of the seabed. The proposal does not include dredging of the seabed and therefore this clause is not applicable.

In relation to concerns regarding the removal of Mangroves, the application was circulated to referral agency responsible for environmental matters the Department of Lands, Planning and Environment (formerly the Department of Environment, Parks and Water Security). In their original comments they advised the applicant should consider whether the development has the potential for a significant environmental impact under the *Environment Protection Act 2019* by using the pre-referral screening tool. Further comments were provided recommending the application arrange a pre-referral meeting with DEPWS. The additional information provided following the pre-referral meeting was circulated to DEPWS for review and further comments were provided raising matters to be addressed by the applicant in relation how matter regarding buffer zones for biting midges and disturbance of Potential Acid Sulfate Soils will be addressed. The matter raised in the comments from DEPWS can be addressed through conditions and notes on any development permit issued regarding managing and mitigating acid sulfate soils, as requested by DEPWS in their original comments and regarding biting midges, Medical Entomology recommends a warning on land titles advising of the biting midge problem as a condition. The applicant has submitted a pre-referral screening report as supporting

documentation prepared by EcOz Environmental Consultants.

In relation to amenity impacts, concerns regarding relate to future dwelling development and will be addressed during the development of future dwellings.

7. Pursuant to Section 30P(j) of the *Planning Act 1999*, the consent authority must take into account the capability of the land to support the development proposal and the effect of the proposal on the land, and on other land, the physical characteristics of which may be affected by the proposal.

The land is capable of supporting the proposed development. Comments from service authorities have been sought in relation to the capability of the land. The requirements of service authorities are addressed through conditions and notes on any development permit issued.

8. Pursuant to Section 30P(m) of the *Planning Act 1999*, 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 proposal complies with the subdivision requirements applied for the Specific Use Zone and is generally consistent with the surrounding residential development. Conditions and advisory notes on any permit issued can address matters identified by service authorities (erosion and sediment control, stormwater, construction noise, vehicle access, reticulated services etc.).

9. Pursuant to Section 30P(r) of the *Planning Act 1999*, the consent authority must take into account other matters the consent authority considers relevant.

One late public submission objecting to the application was received on 8 April 2024. The main issues raised in the submission relate to:

- Traffic congestion, specifically during peak hours into Bayview due to there only being intersection that allows entry and exit from the traffic lights to the west and has a waiting time of several minutes.
- Traffic report should also consider existing vacant blocks that will be developed.
- Additional traffic generated by the development negatively impacting Latrobe Street Perth Street causing an increased risk to residents and children.
- Concerns regarding traffic safety impacts from increased in-street parking a Perth Street is narrow and currently difficult to navigate.
- Development not complying with low and medium density housing when considering the surrounding area which is mainly single dwellings.
- Concerns the proposal will place a greater burden on the existing infrastructure.
- The proposal will affect property value.
- Concerns regarding the placement of the exhibition signs and not being consulted about the proposed development.
- Negative impact on existing residents from increased traffic.
- The nearest park to the development is small and the proposal will place additional pressure on the existing limited open space.
- Concerns regarding the removal of mature mangroves, an irreplaceable and essential ecological system.

The concerns raised are addressed at reason 6 above.



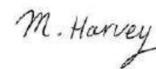
## RECOMMENDATION 2

That under section 30Q of the *Planning Act 1999*, the consent authority report to the Minister for Lands, Planning and Environment advising of the likely decision in relation to the development proposal, issues raised in the submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the amendment proposal.

## RECOMMENDATION 3

That, pursuant to section 86(1) of the *Planning Act 1999*, the Development Consent Authority delegates its powers to the Chair or in the absence of the Chair any member of the Darwin Division of the Authority to:

- determine pursuant to Section 30W(1)(a) to consent to the development proposal contained in the concurrent application and consent to the concurrent application after receipt of a notice under Section 30U(1) that the Minister has approved the amendment proposal contained in the application.
- issue a development permit under section 54(1) in relation to the development proposal to develop Lot 7433 and Part Lot 5988 (57) Bayview Boulevard, Bayview, Town of Darwin for the purpose of subdivision to create 18 lots; and
- issue the relevant notices under Section 30Y.



SIGNED:

.....  
MADISON HARVEY, SENIOR PLANNER  
DEVELOPMENT ASSESSMENT SERVICES