



**DEVELOPMENT CONSENT AUTHORITY**

**DARWIN DIVISION**

**MINUTES**

**MEETING No. 370 – FRIDAY 19 MARCH 2021**

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

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

**APOLOGIES:** Nil

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Ann-Marie Reynolds, Amit Magotra (items 1-5 only), Richard Lloyd (item 6 only), (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Brian Sellers, Conneil Brown and Peter Heffernan (item 6 only)

**Meeting opened at 10.00 am and closed at 1.45 pm**

**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**

**PA2020/0449 DWELLING SINGLE WITH A REDUCED SIDE SETBACK  
LOT 1806 (23) BANKSIA STREET, NIGHTCLIFF, TOWN OF NIGHTCLIFF**

**APPLICANT** Project Building Certifiers

DAS tabled an apology for attendance at the DCA meeting and further comments from the submitter.

The applicant sent their apology.

Mr George and Mrs Katerina Sfouggaristas (landowners) attended.

**RESOLVED  
15/21**

That, the Development Consent Authority vary the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 1806 (23) Banksia Street, Town of Nightcliff for the purpose of a dwelling-single with a reduced side setback, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. 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.
2. Prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels, and Council's stormwater drain connection point/s and connection details.
3. 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.
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.

## GENERAL CONDITIONS

5. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity facilities to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
7. 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.
8. 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.
9. 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.
10. 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.

## 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. 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.

## REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 (NTPS 2020) applies to the land and a dwelling-single with a reduced side setback requires consent under Clause 1.8 (When development consent is required). It is identified as *Merit Assessable* under Clause 1.8(1)(b)(ii)(2), and therefore the Authority must consider the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements. Except for Clause 5.4.3 (Building Setbacks of

Residential Buildings and Ancillary Structures), the proposal is compliant with all development requirements of NTPS 2020.

Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NTPS 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:

- (a) The purpose and administration clauses of the requirement; and
- (b) The considerations to the purpose and administration clauses of the requirement.

The proposal has been found not to be in accordance with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), as it will result in a building setback of 0.4m to the northern side boundary, rather than the required 1.0m. The consent authority may consent to a development that is not in accordance with the setback requirements of the clause if the variation:

- satisfies the purpose of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), the zone purpose and outcomes; and
- it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.

Mr and Mrs Sfouggaristas, the landowners, attended the meeting and outlined their preference to have a reduced setback along the northern boundary noting that the variation to the setback sought was limited to the garage wall and the remainder of the dwelling was setback in excess of 1.5m long the northern boundary. Mr and Mrs Sfouggaristas also clarified that the garage width proposed was required to enable access to the rear of the property.

The Authority considers a variation to the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) for a reduction to the setback requirements to be acceptable in this instance as the proposal:

- is generally compatible with the local streetscape and neighbouring developments being two storey and not more than 8.5m in height and the site is in close proximity to existing properties with structures built on the boundary;
- minimises the effect to building massing and breeze penetration due to varied building height, setbacks, articulated façade; and
- does not contribute to overlooking of adjoining private open space and habitable rooms.

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

The land owner of the adjoining property, Lot 1807 Town of Nightcliff, raised concerns regarding removal of the existing dwelling and vegetation, the building design, landscaping, extent of hard surfaces, stormwater drainage and location of air-conditioners.

The Authority notes the additional information tabled by Development Assessment Services on behalf of the submitter which outlined information on the air-conditioning units.

The Authority considers the concerns raised in the submission however notes that a dwelling-single is a permitted use in Zone LR (Low Density Residential) and consent is only required as the garage wall located adjacent to the northern boundary does not meet the side setback requirements outlined in Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

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

The site is located within an established residential area, reticulated services are available to the land and it was previously developed for the purpose of a dwelling single. The land is considered capable of supporting the proposed development.

A requirement to develop a stormwater management plan to be approved by City of Darwin ensures that any increased runoff will not impact on adjoining land.

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

The proposed dwelling-single is unlikely to have any potential impact on the existing or future amenity of the area as it is the type of development anticipated in a residential zone and is already evident in the street.

The reduced setback is limited to a non-habitable part of the building facing north located at the front of the site.

City of Darwin requirement for a stormwater management plan to be submitted for approval prior to the commencement of works which would address any potential impact on amenity resulting from an increase in stormwater run-off from the site and a condition has been included.

**FOR: 4**                      **AGAINST: 1**                      **ABSTAIN: 0**

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

**ITEM 2**  
**PA2020/0412**

**CONCURRENT APPLICATION - REZONE FROM ZONE LR (LOW DENSITY RESIDENTIAL) TO ZONE LMR (LOW-MEDIUM DENSITY RESIDENTIAL) AND SUBDIVISION TO CREATE TWO LOTS  
LOT 2975, (15) GOLDSMITH STREET, FANNIE BAY, TOWN OF DARWIN**

**APPLICANT** One Planning Consult

Mr Israel Kgosiemang (One Planning Consult) attended.

**RESOLVED**  
**16/21**

Pursuant to section 30P(1)(a) of the *Planning Act 1999*, the consent authority made a preliminary decision that, if the Minister were to approve the amendment proposal to rezone Lot 2975 (15) Goldsmith Street, Town of Darwin that it would be likely to determine to consent to the development under section 30W(1)(a) of the *Planning Act 1999*, conditionally for the purpose of a subdivision to create two lots subject to the following conditions:

**CONDITIONS PRECEDENT**

1. 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.
2. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

**GENERAL CONDITIONS**

3. The works carried out under this permit shall be in accordance with the drawing endorsed forming part of this permit.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
  10. 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.
  11. Prior to the issue of the Part V clearance for the subdivision, a written confirmation from a building certifier confirming that the existing building (on Lot A) comply with the *Building Act 1999*, must be provided to the satisfaction of the consent authority.
  12. Prior to the issue of the Part V clearance for the subdivision, a written confirmation from a building certifier confirming that the setback of the existing building (on Lot A) to the internal boundary of the subdivision that created the lot complies with the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structure), must be provided to the satisfaction of the consent authority.

#### NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](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. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>.
3. The Surveyor-General advises you should immediately make an application for unit/street addresses to the Survey and Land Records Unit on (08) 8995 5362 ([surveylandrecords@nt.gov.au](mailto:surveylandrecords@nt.gov.au)).
4. 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.

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. All street trees shall be protected at all times. No tree on the road reserve/footpath/verge shall be pruned, removed or damaged in any way as a result of adjacent development work, unless written permission is obtained from City of Darwin.

## REASONS FOR DECISION

1. Pursuant to sections 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.

The NT Planning Scheme 2020 (NTPS 2020) applies to the land, and subdivision of land requires consent pursuant to Clause 1.8 (When Development Consent is Required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(ii); Therefore, the Strategic Framework (Part 2), Overlays (Part 3), Zone Purpose and Outcomes of Zone LMR – Low Medium Density Residential (Part 4) and Subdivision and Consolidation Requirements (Part 6) need to be considered.

### Part 2 – Strategic Framework, Part 3 (Overlays) and Part 4 (Zone - LMR)

The Darwin Inner Suburbs Area Plan (DISAP) provides the strategic framework for development in the Darwin Inner Suburbs region. The site is identified as having potential for change from Zone LR (Low Density Residential) to Zone LMR (Low – Medium Density Residential). As the subdivision will create two lots of a size and configuration generally anticipated in Zone LMR, the subdivision aligns with the strategic framework and Zone LMR requirements within the NTPS 2020. In relation to Part 3, no overlay applies to the site.

In relation to Part 6 of the NTPS 2020, the assessment has found that the subdivision generally complies with Clause 6.2 (Subdivision in Zones ...LMR...), including subclauses 6.2.2 (Lots Less Than 600m<sup>2</sup> for Dwellings-Single) and 6.2.3 (Site Characteristics for Subdivision in Zones LR, LMR, MR and HR), 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR) and 5.2.4.5 (Vehicle Access and On-site Parking for Dwellings-Single on Lots Less than 600m<sup>2</sup> but not less than 300m<sup>2</sup>). The proposal is not in accordance with subclause 6.2.1 (Lot Size and Configuration for Subdivision in Zone LR, LMR, MR and HR) as Lot A being 664m<sup>2</sup> (> 600m<sup>2</sup>), cannot achieve a building envelope of 11m x 29m.

Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NTPS 2020, the consent authority may consent to a proposed development that is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:



- (a) The purpose and administration clauses of the requirement; and
- (b) The considerations listed under Clause 1.10(3) or 1.10(4).

Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zone .....LMR...)

The requirements of this clause are:

- Minimum lot size of 300m<sup>2</sup>;
- Minimum building envelope requirements of 17m x 17m for a lot size of between 600m<sup>2</sup> and greater and 7m x 15m for a lot 300m<sup>2</sup> to less than 450m<sup>2</sup>;
- Lots have sufficient area and appropriate dimensions to provide for the proposed density of developments including dwellings, vehicle access, parking and ancillary buildings;
- There are no battle-axe lots;
- Lots are oriented to allow dwellings to take advantage of environmental conditions such as prevailing breezes and sunlight;
- Lots are connected to reticulated services;
- Potential land use conflicts are minimised by taking account of the visual and acoustic privacy of residents.
- Where there are lots for medium and higher density residential development, those lots are:
  - (a) distributed in small groups serviced by public transport;
  - (b) in close proximity to public open space and with adequate access to community facilities and services; and
  - (c) not located in a cul-de-sac.

The assessment found that Lot B being 384m<sup>2</sup>, requires compliance with a minimum building envelope requirement of 7m x 15m. The Authority notes that Lot B's building envelope plan shows that it can accommodate a building envelope of 7.5m x 29m (exclusive of side boundary setbacks of 1.5m). The Authority also noted that Clause 5.4.3.3 (Reduced Setbacks for Dwelling-Single on Lots less than 600m<sup>2</sup> but not less than 300m<sup>2</sup>) allows for a zero building setback to a side boundary internal to the subdivision boundary. Therefore, proposed Lot B can achieve a building envelope of 9m x 15m, exceeding the minimum requirement.

The assessment notes that Lot A being 664m<sup>2</sup> (> 600m<sup>2</sup>), requires a building envelope of 17m x 17m, where the configuration of the lot can achieve a building envelope of 11m x 29m only. A non-compliance, therefore, exists with Lot A.

The purpose of this clause is – *to ensure that subdivision of land for urban residential purposes creates lots of size, configuration and orientation suitable for residential development at a density envisaged by the zone.*

The relevant Administration for the clause is:

*“The consent authority may consent to a subdivision that is not in accordance with sub-clauses 5-12, only if it is satisfied the subdivision is consistent with the purpose of this clause and the zone purpose and outcomes.”*

The Authority notes that the subdivision is generally compliant with the clause. The Authority also noted that while the proposed Lot A does not satisfy the minimum building envelope requirement of 17m x 17m, it exceeds the envelope area of 289m<sup>2</sup> exclusive of any boundary setbacks or easements. The Authority was satisfied that the area of the lot is sufficient to accommodate a dwelling-single that has regard for vehicle access, on-site parking and street infrastructure. The Authority noted that the site is currently developed with a two storey single dwelling which will be accommodated within Lot A of the proposed subdivision.

At the hearing Mr Israel Kgosiemang, One Planning Consult (applicant), gave an overview of the amendment proposal and proposed subdivision. Mr Kgosiemang explained to the Authority that the amendment proposal accords with the DISAP. The proposed subdivision will provide a range of low rise housing options according to Zone LMR. In response to a question raised by the Authority at the hearing whether the future building on Lot B can achieve compliance with the NTPS 2020 requirements, Mr Kgosiemang explained that the building envelope plan demonstrates that a compliant dwelling can be accommodated within Lot B of the subdivision.

The Authority taking into account the application material and applicant's comment provided at the hearing is satisfied that the variation to minimum building envelope requirement of 17m x 17m for Lot A will not frustrate the achievement of the purpose of Clause 6.2.1 and the zone purpose and outcomes of Zone LMR, which is to provide a range of low rise housing options that contribute to the streetscape and residential amenity. The Authority notes that the building envelope plan does not depict the final location of the future dwellings and only represents that the lots can accommodate dwellings in a manner that has regard for vehicle access, on-site parking and street infrastructure. The Authority also notes that, the design of the future dwellings can differ from the building envelope, any non-compliance related to Part 5 of the NTPS 2020 will require separate planning approval, which further requires exhibition (public/ neighbour) as per the provisions of the *Planning Act 1999*, and it will be to the discretion of the Development Consent Authority to vary the requirements of Part 5 of the NTPS 2020.

The Authority notes that conditions 11 and 12 of the approval requires a confirmation from the Building Certifier that the existing dwelling-single on Lot A will not cease to comply with the *Building Act 1999* and complies with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the NTPS 2020 prior to titles being issued.

2. Pursuant to section 30P(2)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to support the development proposal and the effect of the proposal on other land, and on any other land, the physical characteristics of which may be affected by the proposal and pursuant to section 30P(2)(l) of the *Planning Act 1999*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated and any requirement for public facilities and

services to be connected to the land; and facilities, infrastructure or land to be provided by the applicant.

No issues are identified with respect to land capability for this subdivision. The subject site is not affected by storm surge, riverine flooding, nor excessive aircraft noise and does not contain any easements.

No concerns with the provision of public utilities or infrastructure have been identified for the proposed subdivision, and all requests by service authorities have been appropriately addressed through recommended conditions and notes to be included on any permit issued.

3. Pursuant to section 50P(2)(m) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact of the existing and future amenity of the area in which the land is situated.

Amenity is defined in the *Planning Act 1999* as: *“in relation to a locality or building, any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.”*

The site is identified within the DISAP as having potential for change from Zone LR (Low Density Residential) to Zone LMR (Low – Medium Density Residential). The subdivision is generally assessed compliant with the relevant clauses of the NTPS 2020 as if the land were in Zone LMR, including the minimum lot size and site characteristics. The subdivision is considered to allow for the future development of the land consistent with that anticipated in Zone LMR. Provided the subdivision proceeds in accordance with the conditions included on the permit, the land is considered capable of supporting the proposed subdivision, and no undue amenity impacts are anticipated as a result of the subdivision.

**FOR: 5                          AGAINST: 0                          ABSTAIN: 0**

**RESOLVED  
17/21**

Pursuant to section 30Q of the *Planning Act 1999*, the consent authority report to the Minister for Infrastructure, Planning and Logistics 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.

**FOR: 5                          AGAINST: 0                          ABSTAIN: 0**

**ACTION:**                          Report to the Minister

**RESOLVED  
18/21**

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 2975 (15) Goldsmith Street, Town of Darwin for the purpose of subdivision to create two lots; and
- issue the relevant notices under Section 30Y.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ITEM 3**

**PA2020/0354**

**UNIT TITLE SUBDIVISION TO CREATE TWO UNITS AND COMMON PROPERTY**

**LOT 9576 (247) TROWER ROAD, CASUARINA, TOWN OF NIGHTCLIFF**

**APPLICANT**

Northern Planning Consultants

Mr Brad Cunnington (Northern Planning Consultants) attended.

**RESOLVED  
19/21**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 9576 (247) Trower Road, Town of Nightcliff for the purpose of a unit title schemes subdivision to create two units and common property, subject to the following conditions:

**CONDITION PRECEDENT**

1. Prior to the endorsement of plans, and prior to the commencement of works (including site preparation), the applicant is to provide written confirmation from Power and Water Corporation (Power) detailing the agreed location and applicable lot (common property or relevant building lot) of all power assets and associated electricity easements.

**GENERAL CONDITIONS**

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. 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.
5. 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.
6. Prior to new titles being issued for the units shown on the endorsed drawings, a Scheme Statement meeting the requirements of the *Unit Title Schemes Act 2009* (as confirmed by the Land Titles Office) shall be submitted for endorsement by the consent authority. The scheme statement must ensure

the provision of access to and use of 22 car parking spaces within the common property by proposed Unit 1 (Unilodge building).

7. Part V Clearance for subdivision into units under the *Unit Title Scheme Act 2009* will not be granted until the relevant Certificate of Compliance has been issued for the development as shown on DP15/0306D.
8. Prior to the issue of Part V clearance a written confirmation from traffic engineer confirming that the works referred to in the technical memorandum prepared by Mr Mark Saldanha of Cardno dated 03 July 2019 have been completed, must be provided to the satisfaction of the consent authority.
9. Prior to new titles being issued for the units shown on the endorsed drawings, confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) demonstrating that the Power and Water Corporation has been provided with a copy of the survey plan with the new lot numbers. This is for the purpose of ensuring the relevant Power and Water Information and Billing System is updated. 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).
10. Prior to new titles being issued for the units shown on the endorsed drawings, confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional (being the Licensed Surveyor in most instances) confirming that all new UTS number labels have been correctly installed at the Customer's Metering Panel(s). 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).
11. Prior to new titles being issued, it shall be confirmed by the consent authority that all areas shown on the plans endorsed by the consent authority through this permit as service authority easements, communal open space, shared driveways, or areas set aside for the communal storage and collection of garbage or other solid waste, or other shared amenities are shown of the survey plan as Common Property.

#### NOTES:

1. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5362 ([surveylandrecords@nt.gov.au](mailto:surveylandrecords@nt.gov.au)).

#### REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land, and the proposed subdivision requires consent under Clause 1.8 (When development consent is required). It is identified as 'Merit Assessable' under Clause 1.8(b)(iii), and therefore the strategic framework (Part 2 – Strategic

Framework), zone purpose and outcomes of Clause 4.19 (Zone C - Commercial), and Clause 6.6.1 (Unit Title Scheme Subdivision) need to be considered.

The Development Assessment Services assessment notes that there are no Overlays within Part 3 relevant to this proposal. The land is located in Zone C (Commercial), 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 a particular centre's service function; respect the amenity of adjacent and nearby uses; and promote community safety in building design, having regard to adjacent and nearby uses. The assessment also notes that proposed unit title scheme subdivision does not alter the approved land use, scale or character of existing development approved through previous approvals. The ongoing use of both proposed units for student accommodation and a shopping centre is consistent with the range of business and community uses anticipated in Zone C.

The Darwin Regional Land Use Plan (DRLUP 2015) is an applicable Strategic Plan under Part 2 of the NTPS 2020. The DRLUP identifies the site as Urban / Peri-Urban, which can include retail and commercial activities. Furthermore, the retail hierarchy in the Darwin Regional Land Use Plan identifies Casuarina Square as a Primary Activity Centre, comprising a regional centre. The assessment notes that the proposed unit title division will not alter the use, function or status of Casuarina within the commercial centres' hierarchy.

*Clause 6.6.1 (Subdivision for the purpose of a Unit Title Scheme)*

The purpose of this clause is to ensure that the new ownership arrangements resulting from a subdivision to create a unit title scheme allow each element of the development to continue to be available to the occupants of the development and where appropriate to visitors; older developments are upgraded; and development will not have a detrimental environmental effect on the land or result in a loss of amenity within the locality.

The application proposes a Unit Title Scheme (UTS) subdivision of the existing development to create two units, with the UniLodge student accommodation contained within one unit title and the remaining shopping centre area contained within the other. The subdivision will facilitate the new ownership arrangements by means of sale, transfer or partition, of the existing development. All driveway access to the proposed units is within the common property, ensuring each element of the development continues to be available to the occupants of the development and, where appropriate to visitors.

Building works comprises of modification of the eastern Dripstone Road access to enable the vehicles exiting the student accommodation car park to turn right onto the driveway to exist on Dripstone Road and alterations to the southern basement car park layout to accommodate the 22 parking spaces and driveway within a single area of common

property. A conditions is recommended on any approval issued to carry out these works prior to Part V clearance.

The Authority considers that no impacts on amenity and environmental impacts are foreseen as a result of the proposed UTS subdivision as these impacts have been considered during the approvals granted for the existing developments. The Authority notes that the proposed UTS subdivision does not alter the land uses, scale, and built form of the existing development approved under previous approvals.

As the proposal is accompanied by related variation applications for car parking alterations and amending the wording of condition to permit the unit titling. These applications were considered by the Authority along with the subject application.

Subclause 6 requires that "*subject to sub-clauses 1, 2, 3 and 5 a subdivision to create a unit title scheme should meet the requirements of Part 5 of the planning scheme and in particular:*

- (a) *all car parking provided as a requirement of a development must be available at all times for the use of the occupants of the development and their visitors or clients and be included: in common property; or*
  - i. *as part of the area under the title for the individual units;*
  - ii. *any loading bays provided for the development must be either in common property or if for sole nit must be within entitlement of that unit.*
- (b) *any areas set aside for the communal storage and collection of garbage and other solid waste must be included in the common property.*
- (c) *any private open space associated with a dwelling must be included in the unit entitlement of that dwelling.*
- (d) *any communal facilities and amenities or open space provided for rooming accommodation, dwellings-group, dwellings-multiple and residential care facilities must be included in the common property.*

The assessment notes that the proposed UTS subdivision is generally consistent with subclause 6 including:

- All loading bays required to service the shopping centre and approved under previous approvals are within the shopping centre's entitlement. No loading bay is required for UniLodge development;
- Garbage collection areas are located within the respective unit entitlement;
- Private open space areas, consisting of the unit balconies, are within the UniLodge building's entitlement. There are no requirements for private open space for the shopping centre; and
- The communal areas of the UniLodge building, located on Level 1 are within the unit entitlements of that unit. As these uses are for the exclusive use of the UniLodge occupants, they are not considered communal for Units 1 and 2.

Of particular relevance for this UTS subdivision is sub-clause 6(a) which requires:

- a. *all car parking provided as a requirement of a development must be available at all times for the use of the occupants of the development and their visitors or clients and be included:*
  - i. *in common property; or*
  - ii. *as part of the area under the title for the individual units;*

The assessment notes that all car parking areas of the shopping centre approved under previous approvals are located within the proposed unit title boundary. The Authority notes that the development approval granted for the UniLodge building (DP14/0054) included the provision of 31 car parking bays of which 22 car parking bays are currently provided on the Trower Road deck car park area of the shopping centre and 9 car parking bays are provided within the western side of the undercroft area of UniLodge building. The UTS subdivision proposes to relocate the 22 car parking bays provided on the Trower Road deck car park area of the shopping car parking spaces to the southern basement car park of the shopping centre and also propose to create a single common property for the continued access to these car park spaces protected through the Exclusive Use provision in the *Unit Title Schemes Act 2009*. A condition recommended the permit requiring approval of the Scheme Statement from the Authority.

In response to a question raised by the Authority at the hearing whether the requirement of 31 car parking bays required under DP14/0054 is achieved for the UniLodge Unit, Mr Cunnington confirmed to the Authority that the provision of 31 car parking bays for the UniLodge Unit is achieved by providing 22 car parking bays within the common property (located southern basement car park of the shopping centre) and 9 car parking bays within the unit title of the UniLodge building (located western side of the undercroft area of UniLodge building).

The Authority noted that related variation application PA2015/0232 proposes alterations to the existing southern basement car park layout to accommodate the 22 parking spaces and driveway within a single area of common property. A condition to obtain a Certificate of Compliance (CofC) for PA2015/0232 prior to Part V clearance is included on the subdivision approval.

2. 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 land, the physical characteristics of which may be affected by the development. Also, pursuant to section 51(m) of the *Planning Act 1999*, the consent authority must take into account the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.



The capability of the land has been previously considered during the development approvals granted for the existing developments. Comments have been sought from the service authorities regarding the change in servicing arrangements as a result of the proposed UTS subdivision.

The application proposes a modification to the eastern Dripstone Road access to enable vehicles exiting the student accommodation car park to turn right onto the driveway, then exit to Dripstone Road. This arrangement will improve the access arrangement to the UniLodge building. A condition is included on any approval issued to carry out these works prior to Part V clearance.

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

No impacts on amenity are foreseen as a result of the proposed UTS subdivision. The amenity impact of the existing development has been previously considered during the approvals granted for the existing developments. The proposed UTS subdivision does not alter the land uses, scale and built form of the existing development approved under previous approvals.

Furthermore, the proposed UTS subdivision is fully compliant with the requirements of Clause 6.6.1 (Subdivision for the Purposes of a Unit Title Scheme). Provided the development proceeds in accordance with the conditions included on the permit, no amenity impacts are foreseen.

**FOR: 5**                      **AGAINST: 0**                      **ABSTAIN: 0**  
**ACTION:**                      Notice of Consent and Development Permit

**ITEM 4**  
**PA2015/0232**

**VARIATION TO CONDITION 1 OF DP15/0306C FOR THE PURPOSE OF ALTERATIONS TO EXISTING CAR PARKING AREAS ASSOCIATED WITH THE SHOPPING CENTRE**

**APPLICANT**

**LOT 9576 (247) TROWER ROAD, CASUARINA, TOWN OF NIGHTCLIFF**  
Northern Planning Consultants

Mr Brad Cunnington (Northern Planning Consultants) attended.

**RESOLVED**  
**20/21**

That, pursuant to section 57(3) of the *Planning Act 1999*, the Development Consent Authority consent to the application to vary condition 1 of DP15/0306C for the purpose of alterations to existing car parking areas associated with the shopping centre, subject to the following condition:

**GENERAL CONDITION**

1. Except where varied by this approval, the development must proceed in accordance with Development Permit DP15/0306 and any variations to it.

## REASONS FOR THE DECISION

1. Pursuant to section 57(3) of the *Planning Act 1999*, 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 proposed changes do not affect compliance with any measurable aspect of the NT Planning Scheme by a margin of greater than 5%, as the works would be unlikely to result in an adverse impact on the amenity of adjoining or nearby land. The 4 car parking spaces lost due to the rearrangement of the southern basement car park (towards Dripstone Road frontage) are provided on the shopping centre's upper basement car park (towards Bradshaw Terrace frontage). The changes do not alter the approved standard dimensions for car bays and maintain the existing aisle widths.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:**

Variation Permit

### ITEM 5

PA2013/0765

**VARIATION TO CONDITIONS 6 AND 28 OF DP14/0054 TO RELOCATE 22 CAR PARKING SPACES ALLOCATED TO THE UNILODGE BUILDING FROM TROWER ROAD DECK CAR PARK TO THE SOUTHERN BASEMENT CAR PARK OF THE SHOPPING CENTRE AND AMENDING THE WORDING OF A CONDITION TO PERMIT SUBDIVISION FOR THE PURPOSE OF UNIT TITLING LOT 9576 (247) TROWER ROAD, CASUARINA, TOWN OF NIGHTCLIFF**

**APPLICANT**

Northern Planning Consultants

Mr Brad Cunnington (Northern Planning Consultants) attended.

**RESOLVED  
21/21**

That, pursuant to section 57(3) of the *Planning Act 1999*, the Development Consent Authority consent to the application to vary conditions 6 and 28 of DP14/0054 to relocate 22 car parking spaces allocated to the UniLodge building from Trower road deck car park to the southern basement car park of the shopping centre and amending the wording of a condition to permit subdivision (for the purpose of unit titling), subject to the following conditions:

### GENERAL CONDITIONS

1. Except where varied by this approval, the development must proceed in accordance with Development Permit DP14/0054 and any variations to it.

2. No further subdivision of the development area to create a separate development parcel (for clarity this includes subdivisions for the purpose of a lease in excess of 12 years).

### REASONS FOR THE DECISION

1. Pursuant to section 57(3) of the *Planning Act 1999*, 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 proposed changes do not affect compliance with any measurable aspect of the NT Planning Scheme and would be unlikely to result in an adverse impact on the amenity of adjoining or nearby land. The 22 car parking spaces associated with the UniLodge building approved under DP14/0054 will remain for exclusive use by UniLodge, in a location more accessible to occupants. The assessment notes that post any approval granted for the UTS subdivision, the UniLodge building will retain the same level of connection with the shopping centre (via shared vehicle access, shared services (to an extent) and car parking (for UniLodge) within the common property).

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:**

Variation Permit

#### ITEM 6

PA2020/0397

**SUBDIVISION TO CREATE 37 LOTS, INCLUDING ONE PUBLIC OPEN SPACE LOT**

**SECTION 4106 (1) BOULTER ROAD, BERRIMAH, HUNDRED OF BAGOT**

APPLICANT

Tropics Consultancy Group

DAS tabled: -

- Comments dated 15 March 2021 from DEPWS in response to additional information provided to DEPWS by applicant on 10 March 2021 advising that the amended proposal is unlikely to have a significant impact on the environment; and
- E-mail correspondence dated 17 March 2021 from City of Darwin to the applicant advising that the road widths as shown on the subdivision plan are acceptable.

Mr Gerard Rosse (Tropics Consultancy Group), Mr Paul Nicholls (Director – Intrapac Pty Ltd – Landowners), Mr Harris Davidson (Senior Civil Engineer- Intrapac Pty Ltd), and Mr Glen Ewers attended.

Submitters who sent their apology:- Ms Fiona Douglas, Mr Ian Redmond and Ms Gayle Laidlaw.

Submitters in attendance: Ms Carolyn Marriott, Mr Peter & Mrs Rachel Hoschke, Ms Shar Molloy (Co-Director), Ms Kirsty Howey & Ms Lotie Boardman (Environment Centre NT (ECNT)), Mr Peter O'Hagan (Public Officer/Secretary - Rapid Creek Landcare Group), Ms Margaret Clinch (Deputy Convenor), Mr David Percival and Mr Jim Young (PLan - The Planning Action Network inc), Ms Carolyn Reynolds, Ms Patsy Hickey, and Mr Andris Berg.

Submitter Ms Shar Molly (ECNT) tabled a petition.

Interested Parties in attendance:- Mr Hermanus Louw, Mr Maxwell Condon, Mr Graham Kirby, Mr Brad Cunnington and Mr Nick Hines (ABC).

**RESOLVED  
22/21**

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 4106 (1) Boulter Road, Hundred of Bagot for the purpose of subdivision, to require the applicant to provide the following additional information that the authority considers necessary in order to enable the proper consideration of the application:

1. Formal written advice from City of Darwin (CoD) that the road widths as shown on the subdivision plan are acceptable and will not affect current lot design or size;
2. Provision of amended plans which better comply with the NT Planning Scheme 2020 in relation to the minimum lot sizes in both Zone LR (Low Density Residential) and Zone RR (Rural Residential); and
3. Circulation of the above-mentioned information together with a copy of the Department of Environment, Parks and Water Security's (DEPWS) advice dated 15 March 2021, to the submitters for procedural fairness, and any comments thereafter. The period to provide comments will be seven days, excluding any public holidays.

**REASONS FOR THE DECISION**

1. The Authority acknowledged that the correspondence from the Department of Environment, Parks and Water Security (DEPWS), which was tabled by Development Assessment Services (DAS) at the Authority meeting, is likely sufficient to allow for the Authority to adequately consider section 51(1)(a) and 51(2) of the *Planning Act 1999*. However, the advice provided by the applicant to date from City of Darwin (CoD) regarding the acceptability of the road widths is in the form of an email. The Authority requires formal advice from CoD to be provided to clearly state that the road widths as shown on the subdivision plan are acceptable to CoD and will not affect the proposed lot design and/or size.
2. The Authority is concerned with the number of lots in both Zone LR (Low Density Residential) and Zone RR (Rural Residential), that fall below the respective minimum lot sizes required by the NT Planning Scheme 2020. It is noted that 20 out of the 30 lots (66%) proposed in Zone LR fall below the required minimum lot size of 800m<sup>2</sup> by up to

4.6%, and that four out of the six lots (also 66%) proposed in Zone RR fall below the required minimum lot size of 4000m<sup>2</sup> by up to 22%. Consequently, the Authority requires amended plans to demonstrate better compliance with the NT Planning Scheme 2020 in relation to the required minimum lot sizes for both zones LR and RR.

3. The Authority recognised at the meeting that submitters had not been provided with the additional information and therefore had not been afforded the opportunity to comment on the advice provided by CoD and DEPWS, which was tabled at the meeting. The Authority considered it important for the above-mentioned information to be circulated to the submitters for procedural fairness. Accordingly, the submitters are to be given seven days to comment on the advice from the date it is emailed to them by DAS. The applicant can then provide a response to any further submissions received if he so chooses.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:**

Notice of Deferral

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



Suzanne Philip  
2021.03.23  
15:55:31  
+09'30'

**SUZANNE PHILIP**

**Chair**

23 March 2021