



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 440 – FRIDAY 4 APRIL 2025

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

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

APOLOGIES: Mick Palmer and Jimmy Bouhoris

LEAVE OF ABSENCE: None

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

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 10.45 am and closed at 12.15 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 TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1
PA2024/0287 **RECONSIDERATION - COMMUNAL SPACE ADDITIONS (VERANDAH AND ENCLOSED GYM AREA) TO AN EXISTING DWELLING-MULTIPLE WITH A REDUCED BUILDING SETBACK TO THE SIDE BOUNDARY**
SUBJECT SITE **UNIT 8689 COMMON PROPERTY, ELSEY ON PARAP, (33) PARAP ROAD, PARAP, TOWN OF DARWIN**
APPLICANT **ONE PLANNING CONSULT**

DAS tabled information package including the emails with the applicant and the public submitter regarding the concerns raised after the reconsideration report was submitted.

Applicant: Israel Tshupo Kgosiemang (One Planning Consult) attended.

Submitter: Emma Clee attended.

RESOLVED
29/25 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, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Unit 8689, Common Property, Elsey On Parap, (33) Parap Rd, Parap, Town of Darwin Communal space additions (verandah and enclosed gym area) to an existing dwelling-multiple with a reduced building setback to the side boundary, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) a setback of 2m between the proposed structures to the southern side boundary.
 - (b) height of the proposed structures.
2. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system or an alternate approved connection.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as 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, drainage, sewerage, electricity to the development shown on

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

Please refer to notations 1 for further information.

5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin, to the satisfaction of the consent authority.
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.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 (NTPS 2020) applies to the land. The site is located in Zone MR (Medium Density Residential) and developed with 20 x 1 and 8 x 2 bedroom dwellings in a 3 storey building including undercroft car parking.

The proposed application involves the construction of a covered BBQ area and a partially enclosed verandah, intended for use as a gym, along the southern side boundary. The original proposal combined the BBQ area and verandah into a single structure with a zero-metre setback from the southern boundary. Following comments from Power and Water Corporation regarding potential encroachment over the easement, and concerns from the adjoining property owner about setback intrusion, the plans were amended. The revised plans showed the structure divided into two distinct sections: a covered BBQ area located on the western side of the easement, and an enclosed verandah (gym area) on the eastern side, set back 0.6 metres from the southern boundary.

Outbuilding structures ancillary to an existing dwelling-multiple requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(i), therefore zone purpose and outcomes of Clause 4.4 (Zone MR – Medium Density Residential), and Clause 5.2.1 (General Height Control), Clause 5.2.4 (Vehicle Parking), Clause 5.2.6 (Landscaping), Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), Clause 5.4.4 (Extensions and Structures

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Ancillary to a Dwelling-group or Dwelling-Multiple Development), Clause 5.4.6 (Private Open Space), Clause 5.4.7 (Communal Open Space), Clause 5.4.8 (Residential Building Design), Clause 5.4.17 (Building Articulation), Clause 5.4.18 (Fencing), and Clause 5.4.19 (Residential Plot Ratio), need to be considered.

The Authority first considered the application at its meeting on 07 March 2025. The Authority noted the assessment of Development Assessment Services (DAS), which concluded that the proposal does not comply with Clauses 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and Clause 5.2.6.1 (Landscaping in Zones other than Zone CB) because the proposal will result in a 0.6m building setback to the southern side boundary, where 3m is required and proposes a landscaping buffer of 0.6m the southern side boundary, where 2m is required. The application was subsequently deferred to enable the applicant to provide amended plans showing a minimum setback of 2m, with a landscaping buffer, between the proposed structures and the southern side boundary.

On 20 March 2025, the applicant provided amended plans indicating that the existing 2m landscaping buffer along the affected southern side boundary will be retained and a revised setback of 2 metres between the proposed structures and the southern side boundary.

A re-assessment of the amended proposal by DAS found that it complies with Clause 5.2.6.1 (Landscaping in Zones other than Zone CB), as the revised plans indicates a 2-metre landscaping strip along the southern side boundary, meeting the clause requirements. However, a variation to Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) is still required, as the proposal indicates a 2-metre setback to the southern boundary, whereas a minimum setback of 3 metres is prescribed. This is discussed further at reason 2 below.

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

The DAS reassessment of the amended proposal concludes that the amended proposal does not comply with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and a variation is still required, as the proposal indicates a 2-metre setback to the southern boundary, whereas a minimum setback of 3 metres is prescribed.

The Authority reconsidered the application at the 04 April 2025 Development Consent Authority meeting. The Authority noted the changes made in the amended plans achieves better compliance with the setback requirements prescribed by the clause 5.4.3. Notwithstanding this, it acknowledged that the amended proposal continues to require a variation to the requirements of Clause 5.4.3.

Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)

Administratively, the consent authority may consent to a development that is not in accordance with sub-clause 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.

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The purpose of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) is to *ensure that residential buildings and ancillary structures are located in a manner that:*

- a) is compatible with the streetscape and surrounding development including residential buildings on the same site;
- b) minimises adverse effects of building massing when viewed from adjoining land and the street;
- c) avoids undue overlooking of adjoining properties; and
- d) facilitates breeze penetration through and between buildings.

In accordance with (a), the Authority noted that the proposed structures are located along the southern side boundary of the lot and will have no impact on the public street view. As the proposed additions provide communal open space to the existing dwelling-multiple development, they remain relatively small in scale and lower in height than the primary dwellings-multiple on-site.

In accordance with (b) and (c) a 2-metre setback with a landscaped buffer helps soften the visual impact of the structures when viewed from neighbouring properties. The inclusion of solid walls and a landscaped buffer between the proposed gym, BBQ area, and adjacent properties ensures privacy, minimizing any building massing and potential overlooking concerns.

In accordance with (d), the Authority noted that a tiled open area without solid walls between two proposed structures promotes natural ventilation, allowing breeze penetration through the site and adjoining lots.

Mr Israel Tshupo Kgosiemang (applicant) attended the hearing and spoke further to the amended plans. Mr Kgosiemang posited that the amended proposal achieves better compliance with the setback requirements outlined in Clause 5.4.3 and the 2-metre landscaping buffer between the proposed structures and southern side boundary further minimises the visual impact of building massing on adjoining properties. Mr Kgosiemang also explained that the stormwater from the proposed structure will be collected via downpipes and connected to the City of Darwin's stormwater connection. Mr Kgosiemang noted that a condition precedent is recommended by DAS that requires approval from the City of Darwin for stormwater management and confirmed that this will be addressed during development works.

The Chair of the Authority asked the applicant to clarify the setback between the proposed structures and the southern side boundary setback as the amended plans showed discrepancies in the setback measurements. Mr Kgosiemang confirmed a 2-metre setback will be provided between the proposed structures and was amenable to the inclusion of a condition precedent to provide amended plans to this effect. Mr clarified that a surveyor will be engaged to ensure that the structures are accurately positioned at the required 2-metres.

In response to sub-clause 2(b) of Clause 1.10 (Exercise of Discretion by the Consent Authority), the Authority took into account the considerations listed under Clause 1.10(3) as below:

- (a) *the relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6 – This is discussed above.*
- (b) *any Overlays and associated requirements in Part 3 that apply to the land - The site is not affected by any overlays.*

- (c) *the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6* - The site is located within Zone MR. The proposed additions aligns with the purpose of Zone MR by providing recreational facilities for on-site residents of the existing Dwelling-multiple development. The Authority determined that a reduced setback of 2m to the side boundary may be acceptable; it should neither pre-empt full consideration of the merits of an application nor presuppose a favourable decision by the Authority. In indicating that such a 2m setback may be sufficient, the Authority considered the necessity of communal facilities for residents while ensuring that the amenity of neighbouring properties is not compromised.
3. 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 application was exhibited between 27 September 2024 to 11 October 2024 in accordance with the requirements of the *Planning Act 1999*. One public submission was received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal. The submission was received from the adjoining neighbour to the southern side boundary raising concerns about the proposed setback and landscaping, as well as potential impacts related to privacy, safety, visual dominance, noise transmission, and depreciation of property value.

The submitter attended the DCA hearing on 07 March 2025, and expressed a strong objection to the proposal. The submitter stated that a setback of not less than 2m with landscaping buffer within the setback area would minimise the adverse impact on the existing and future amenity due to the proposed structure.

The amended plan addressing requirements on the Letter of Deferral were circulated to the submitter to comment. In response, further comments were received, raising concerns about discrepancies in the setback measurements shown on the endorsed plans and the potential issue of leaf litter on their property from the large trees proposed in the landscape plan.

The submitter also attended the DCA hearing on 04 April 2025, and raised the following concerns:

- a) The distance between the boundary line of their property and the adjoining property to the west (the T-point) is 1.5 metres, not 2 metres as shown in the drawings. As a result, the setback between the proposed structures and the southern side boundary is inaccurate.
- b) The roof overhang is not specified in the drawings and should be clarified, as it forms part of the structure and affects the setback distance from the boundary line.
- c) The amended plans indicate a minimum height of 3.15 metres, which contradicts the applicant's previous statement at the hearing that the proposed structures would be 3 metres high.
- d) A tree and shrub within the landscaping buffer extend over the boundary line, causing leaf litter to accumulate on their property.
- e) The purpose of the newly marked area adjacent to the car park on the eastern side of the proposed structures is not identified or explained in the amended plans.

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The applicant responded to the matters raised by the submitter as follows:

- (a) The amended plans achieved the 2m setback as required by the Letter of Deferral. Surveyor will be involved in the construction process to ensure the 2m setback to be properly implemented.
- (b) No overhang is proposed for the structures, while the width of the gutter is minor and will not impact the amenity of the development. Stormwater will be properly managed to ensure it is collected and discharged on site.
- (c) The minor increase to the height provides sufficient space for the gym despite the reduction in room area caused by the increased setback. In addition, the proposed height still complies with the NTPS2020 requirements.
- (d) Regarding the landscaping, should the tree be located too close to the boundary line, the owner is prepared to have it removed.
- (e) Additionally, the applicant clarified as the setback to the southern side boundary has increased from 0.6m to 2m, the length of the gym addition was extended further to the east to provide for sufficient space for the gym structure. The existing area has established landscaping and an existing wall that is to be demolished.

The Authority has taken all comments into account and concerns of the submitter. Regarding the distance between the boundary line of submitter's property and the adjoining property to the west (the T-point), the Authority noted that according to the survey plan, the boundary line is 1.82m long, and not 1.5m as stated by the submitter. The authority acknowledges that the amended plans does not clearly indicates the setback measurements and amended plans are required to clearly reflect the 2m setback between the structures and southern side boundary and is reflected as condition precedent on the approval. The submitter at the hearing acknowledged that this would address her concerns regarding the correct setback for the proposed development.

In regard to the height concerns, the Authority noted that a minor increase in height is unlikely to have a visual impact on the building massing of adjoining properties. A condition precedent has been included in the permit to clarify the height in the amended plans and to ensure the measurements are properly implemented during construction.

With respect to the large tree, the Authority noted that landscaping is to be maintained in accordance with the previously endorsed development approval for the existing development.

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

The land is capable of supporting the proposed development. An ancillary outbuilding of a dwelling-multiple is an expected form of development within Zone MR. The land is not impacted by any overlays and no constraints have been identified that would otherwise prevent the development, The requirements of service authorities are addressed through conditions of the development permit.

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- 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.

There is unlikely to be an adverse impact on the existing and future amenity of the area as a result of the proposed development, as discussed under the reasons listed in point (2) above. The proposed development complies with the purpose and outcomes of the zone and is considered to be generally reflective of the style of the existing dwelling on site or reasonably anticipated in the residential area.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Determination

**ITEM 2
PA2025/0044
SUBJECT SITE
APPLICANT**

DATA CENTRE WITH ANCILLARY OFFICE IN A 7-STOREY BUILDING

**LOTS 9704 AND 9703 (2 & 6) RYKO COURT, DARWIN CITY, TOWN OF DARWIN
CUNNINGTON ROSSE TOWN PLANNING AND CONSULTING**

Development Assessment Services (DAS) tabled an updated architectural design statement, that was provided by the applicant on 3 April 2025.

Applicant: Brad Cunnington (Cunnington Rosse Town Planning and Consulting) and via teams link Paul Tomsic, Crystal Jordan, Jasen Floyd and James Moore (NextDC) and Jason Lenard-Smith (Hames Sharley Architects) attended.

**RESOLVED
30/25**

That, the Development Consent Authority should reduce the car parking requirements pursuant to clause 5.9.2.12 (Reduction in Car Parking Spaces in Darwin City Centre), and vary the requirements of clauses 5.2.5 (Loading Bays), 5.3.7 (End of Trip Facilities in Zones HR CB C SC and TC), 5.5.15 (Design in Commercial and Mixed Use Areas), 5.5.16 (Active Street Frontages), and 5.9.2.2 (Volumetric Control) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lots 9703 (6) and 9704 (2) Ryko Court, Darwin City, Town of Darwin for the purpose of a data centre with ancillary office in a 7-storey building, subject to the following conditions:

CONDITIONS PRECEDENT

- Prior to the endorsement of plans and prior to commencement of works, amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - an annotation stating that bicycle parking and lockers will be designed to Australian Standard AS2890.3 – Bicycle Parking, and specific the number of bike lockers to be provided, to ensure compliance with Clause 5.3.7 (End of Trip Facilities);
 - details of façade treatments/finishes as demonstrated in the architectural statement prepared by Hames Sharley, tabled at the hearing,
- Prior to the endorsement of plans and prior to the commencement of works, a landscape plan to the satisfaction of the consent authority must be submitted to and approved by

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the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The landscaping plan must be generally in accordance with the landscape concept plan dated (25 March 2025) prepared by TCL but modified to show:

- a) compliance with Clause 5.2.6.2 (Landscaping in Zone CB) of the NT Planning Scheme 2020.
- b) treatments to the exterior of the water tanks adjacent the north-eastern property boundary, including landscaping, and/or architectural embellishments, and/or artwork, to minimise the visual impact when viewed from the public domain.

The landscape plan must also include a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. All species selected must be to the satisfaction of the consent authority.

3. Prior to the endorsement of plans and prior to the commencement of works, in principle approval is required for a revised design layout showing suitable indoor substations to the requirements of the Power and Water Corporation, to the satisfaction of the consent authority.
4. Prior to the endorsement of plans and prior to the commencement of works, in principle approval is required for the provision of awnings to the street frontages to the requirements of the City of Darwin and to the Transport and Civil Services Division, of the Department of Logistics and Infrastructure, to the satisfaction of the consent authority. Refer to notation 7(l) for more information on TCSD, DLI requirements.
5. Prior to the endorsement of plans and prior to the commencement of works, in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.
6. Prior to the commencement of works, 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.
7. Prior to the commencement of works, a traffic impact assessment report is to be prepared by a suitably qualified traffic engineer with attention to the in accordance with the Austroads Document Guide to Traffic Management Part 12: Traffic Impacts of Developments, in the report structure provided as Appendix C of that document, with particular attention to vehicular, pedestrian, cyclist and public transport issues and opportunities. The Traffic Impact Assessment report is to also include swept paths for waste collection vehicles entering and exiting the site, and identifying any necessary upgrades to the surrounding street network to the requirements of the City of Darwin, to the satisfaction of the consent authority.
8. Prior to the commencement of works, the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.
9. Prior to the commencement of works, a Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's Waste Management

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Guidelines, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.

10. Prior to the commencement of works, 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

11. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
12. The use and/or development as shown on the endorsed plans must not be altered without the further consent of the consent authority.
13. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage, electricity and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notes 1, 2, and 3 for further information.
14. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
15. 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.
16. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Darwin, to the satisfaction of the consent authority.
17. 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.
18. No fence, hedge, tree or other obstruction exceeding a height of 0.6 m 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.
19. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
20. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report.

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21. If Council approval is obtained for in association with Condition 7 and other encroachments into the City of Darwin road reserve, the applicant will be required to enter into appropriate agreements with the City of Darwin to the requirements of City of Darwin, to the satisfaction of the consent authority.
22. All substation, fire booster and water meter arrangements are to be appropriately screened to soften the visual impact of such infrastructure on the streetscape, to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority, in consultation with the Power and Water Corporation, and NT Fire and Emergency Services.
23. The development must be designed and constructed to comply with the acoustic treatments for which the Acoustics Report, dated 28 January 2025, prepared by Aurecon, was based upon, and a statement from a suitably qualified acoustic engineer confirming compliance with the Acoustics Report must be submitted prior to occupation of the development, to the satisfaction of the consent authority.
24. Lots 9703 and 9704, Town of Darwin are required to be consolidated and a new title issued for the consolidated lot. Also please refer to Note 8 for advice related to the National Construction Code (NCC).
25. Before the use or occupation of the development starts, the areas set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority. Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.
26. The loading and unloading of goods from vehicles must only be carried out on the land and within the designated loading bays, to the satisfaction of the consent authority.
27. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
28. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.
29. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.

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30. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. 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
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/buildersdesigners.html>
4. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
5. 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.
6. Notwithstanding the approved plans, any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin Policy Number 42 – Outdoor Advertising Signs Code.
7. The Transport and Civil Services Division, of the Department of Logistics and Infrastructure advises the following:
 - a) All proposed work (including the provision or connection of services) within, or impacting upon the Garramilla Boulevard road reserve shall be in accordance with the standards and specifications of the TCSD, DLI. Design documents must be submitted to the TCSD for road agency approval and no works are to commence prior to approval. Note that a development permit issued under the *Planning Act 1999* is not an approval for access onto a Territory Road. Approval for access to be taken from, or constructed within the NTG controlled road reserve rests solely with the TCSD, DLI as the approving road authority.

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- b) The developer, its contractor or service provider is required to obtain a 'permit to work within the NTG road reserves' prior to commencement of any works within the Garramilla Boulevard road reserve.
- c) Access shall not be permitted to the subject lot from the Garramilla Boulevard road reserve/ All access arrangements shall be via the internal local road network to the standards and approval of the City of Darwin.
- d) No temporary access for construction purposes shall be permitted from the Garramilla Boulevard road reserve. Construction and delivery vehicles shall not be parked on the Garramilla Boulevard road reserve.
- e) The loads of all trucks entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets. This includes ensuring that all wheels, tracks and body surfaces are free of mud and other contaminants before entering onto the sealed road network. Where tracked material on the road pavement becomes a potential safety issue, the developer will be obliged to sweep and clean material off the road.
- f) Surface stormwater run-off from the development site onto the Garramilla Boulevard road reserve is not permitted. The developer shall ensure that the stormwater run-off from the development site is collected to prevent uncontrolled discharge to adjoining lands through the provision of kerbing, transverse grated drains and inlet pits, or alternatively the site is to be graded to collect the run-off internally. Accordingly, stormwater shall be wholly contained within the site and discharged into the local underground stormwater system to the standards and approval of the TCSD (where it impacts on the TNG controlled road reserves), the Crown Land Management Division (where it impacts on Crown land or a drainage easement in favour of the Territory) and/or the City of Darwin council. Stormwater design plans submitted for approval shall provide details of site levels and existing downstream drainage infrastructure.
- g) Discharge of untreated waters into the stormwater drainage system is not permitted. Any contaminated stormwater shall be isolated, contained and treated prior to discharge off-site to the standards and requirements of the Department of Lands, Planning and Environment and/or the Environment Protection Authority.
- h) The Garramilla Boulevard verge fronting the development is to be topdressed, grassed and landscaped consistent with existing Departmental landscaping plans, to the TCSD's standards and approval.
- i) Dryland grassing shall be established on the Garramilla Boulevard verge fronting the development and shall be undertaken to the Department's standards and requirements.
- j) All landscaping and setback requirements under the North Territory Planning Scheme shall be contained within lot boundaries. Any landscaping proposed by the developer additional to planning requirements and within the Garramilla Boulevard road reserve shall be to the standards and approval of TCSD, DLO.
- k) Any proposals for the upgrading/resurfacing of the Garramilla Boulevard footpath/verge fronting the development shall require the approval of TCSD, DLII
- l) The construction of awnings over the Garramilla Boulevard road reserve is subject to TCSD, DLI's approval (refer to condition 3) and will require the execution of a 'deed of indemnity and release' in favour of the Northern Territory of Australia prior to construction. An application with detail drawings of the proposed structures and locations in the road reserve, shall be submitted to the TCSD for consideration. Awnings proposed on Territory roads shall be in accordance with the Department's policy 'Awnings and columns in the road reserve'.

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- m) Where unfenced, the Garramilla Boulevard frontage is to be appropriately fenced in accordance with the Department's standards and requirements to deter unauthorised vehicular and/or pedestrian movement. Any gates provided are to be fixed to open inwards only.
 - n) The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e not flashing or of variable message). The sign shall be positioned:
 - a. So as not to create sun or headlight reflection to motorists;
 - b. Be located entirely (including foundations and aerially) within the subject lot. Advertising signage including temporary or permanent, e.g. 'A' frame, vehicle or trailer mounted, etc. shall not be erected or located within the Garramilla Boulevard road reserve.
 - o) Any floodlighting or security lighting provided on site is to be shielded in a manner to prevent the lighting being noticeable or causing nuisance to Garramilla Boulevard traffic.
 - p) Upon completion of any works within or impacting upon the Garramilla Boulevard road reserve, the road reserve shall be rehabilitated to the standards and requirements of DLI.
8. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works. Due to provisions in the National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued.
9. The Authority advises the applicant that the building and façade must be constructed in accordance with the materials shown on the drawings endorsed as part of this permit.
10. The development and use hereby permitted should be designed, constructed, and operate in accordance with Australian Standard AS1158-2005 'Lighting for roads and public spaces'. Copies of AS1158-2005 'Lighting for roads and public spaces' can be obtained from the Australian Standards website.
11. External lighting must be designed, baffled according to the relevant Australian standards and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.

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 present application relates to Lots 9704 (2) Ryko Court, and 9703 (6) Ryko Court, Darwin City, Town of Darwin (the site). The application proposes the construction of a data centre with ancillary office in a 7-storey building to be owned and operated by NextDC. The proposed development comprises lower ground (semi-basement) level car parking, loading area and dock, and other service areas. The ground level provides shared lobby and meeting areas, concierge, security office, breakout space, NextDC offices and storage areas. The upper levels provide central data halls, plant rooms, switch room and areas for other service equipment.

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Mr Brad Cunnington of Cunnington Rosse Town Planning Consultants (the applicant) and Mr Jason Lenard-Smith (project architect) attended the meeting, and spoke to the application, and provided an overview of the proposed development. Mr Cunnington clarified that the proposed development forms the second stage of NextDC's regional data centre presence in Darwin with the first stage being the smaller data centre located at 8 Ryko Court approved under DP23/0213. Mr Cunnington also provide contextual details such as the NextDC (the landowner and future site occupier) are a preferred proponent of the Northern Territory Government to provide data centre facilities in the NT; that the site was selected due to its high public exposure and the potential for future visibility of corporate signage, its strategic location on the fringe of the Darwin Central Business District (CBD), and its proximity to essential security services; and that the proposed data centre will have a total capacity of 7 megawatts.

The NT Planning Scheme 2020 (NTPS 2020) applies to the land and a data centre (undefined use) and office (up to 1 storey above ground level) requires consent under Clause 1.8 (when development consent is required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(i), therefore, pursuant to clause 1.10(4) (Exercise of Discretion by the Consent Authority), the strategic framework (Part 2 of the Scheme, including Darwin Regional Land Use Plan 2015 and Central Darwin Area Plan 2019), zone purpose and outcomes of Clause 4.10 (Zone CB – Central Business), and clauses 3.13 (GL – Gateway Locations) 5.2.1 (General Height Control), 5.2.4.4 (Layout of Car Parking Area), 5.2.5 (Loading Bays), 5.2.6.2 (Landscaping in Zone CB), 5.3.7 (End of Trip Facilities in Zones HR CB C SC and TC), 5.5.15 (Design in Commercial and Mixed Use Areas), 5.5.16 (Active Street Frontages), 5.9.2.1 (Building Design in Darwin City Centre), 5.9.2.2 (Volumetric Control), 5.9.2.7 (Development along the Priority Pedestrian and Cycle Network), 5.9.2.8 (Development in Gateway Locations), 5.9.2.11 (Car parking spaces in Darwin City Centre), 5.9.2.12 (Reduction in Car Parking Spaces in Darwin City Centre) and 5.9.2.13 (Design of Car Parking Areas and Vehicle Access), need to be considered.

The Authority noted the assessment completed by Development Assessment Services (DAS), which concludes that the application complies with the relevant requirements of the NTPS 2020 except for clauses 5.2.5 (Loading Bays), 5.3.7 (End of Trip Facilities in Zones HR CB C SC and TC), 5.5.15 (Design in Commercial and Mixed Use Areas), 5.5.16 (Active Street Frontages), 5.9.2.2 (Volumetric Control), and 5.9.2.11 (Car parking spaces in Darwin City Centre).

A discussion on the relevant parts of the NTPS 2020 is provided below:

Part 2 – Strategic Framework

Darwin Regional Land Use Plan 2015 (DRLUP)

The Darwin Regional Land Use Plan, provides a broad framework for developing land in the greater Darwin Area and identifies the development site for urban land-uses. The DRLUP provides key residential and commercial objectives to identify adequate urban land, and ensure the detailed planning for future development in the greater Darwin region.

The development site is more specifically located within the Darwin Central Business District (CBD) activity centre which is identified as providing a capital city role and higher order function as the NT's dominant commercial, cultural, administrative, tourism and civil centre. The continued growth of the retail role of the CBD is identified as important

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to maximise tourism expenditure and to support further residential and commercial floor space growth.

The application states *The activity centre hierarchy on page 21 confirms the continued growth of the Darwin CBD in the provision of a full range of facilities and services, performing the critical capital city role and higher order function as the dominant commercial, cultural, administrative, tourist and civic centre. Consistent with the Northern Territory's confirmed intention to grow the digital ecosystem around a regional data centre, the proposal reaffirms the primacy of the Darwin CBD without compromising more central, higher value CBD areas (from a highest and best use perspective).*

Central Darwin Area Plan 2019 (CDAP)

The application is located within an area identified on the Land Use Vision Map for Mixed use (Commercial, Civic, Residential, Education, Tourism, Recreation & Retail) development. The Mixed Use theme identifies that intensive residential and commercial activity drive the activities within the city centre. This area plan encourages diverse development and uses to ensure that mixed use environments are robust, flexible and responsive to economic and social change, and achieve this through a series of objectives that aim to support a dynamic mix of uses that contribute to safe, active, attractive, and diverse localities.

A review of the application against the relevant objectives of the CDAP found the proposed data centre will support the outcomes envisaged for this mixed used area. It is noted that this site is located adjacent a gateway location, and at the periphery of the Darwin CBD.

Part 3 – Overlays

Overlay clause 3.13 (Gateway Locations) applies to the site. The purpose of this overlay is to *Ensure that the use or development of land identified as a Gateway Location is designed to respect and enhance the unique characteristics of the locality.*

Sub-clause (2) of clause 5.9.2.8 states *every application is to include a design statement prepared by a suitably qualified professional demonstrating how the proposed development meets the purpose and requirements of this clause.*

The application included an architectural statement prepared by the project architects, Hames Sharley. Of note, this statement states *"The façade employs patterned and coloured concrete to create an articulated aesthetic, subtly referencing the cladding of perforated aluminium on the existing D1 centre. Linear lighting highlights key architectural elements, while corporate branding and colours are used thoughtfully as wayfinding tools. Vertical circulation elements are expressed from the primary building frontages, adding depth and articulation to the otherwise expansive facades. This design balances the functional requirements of a high-performing data centre with thoughtful architectural elements that enhance its urban presence, promote connectivity, and create a positive experience for both building users and the surrounding community."*

Prior to the meeting, Mr Cunnington provided an updated architectural statement prepared by Hames Sharley, which was tabled by DAS during the hearing. This additional information offered greater clarity around key façade treatments and the rationale behind their selection. Mr Cunnington also elaborated on the tabled content, highlighting

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various design elements and façade treatments that were not fully captured in the originally exhibited application renders. Mr Cunningham clarified that the proposed treatments are intended to respond appropriately to the site's scale and context, while also addressing concerns related to expanse of blank walls, security, and visual interest. The primary areas of focus are the large grey and white wall segments. For the dark grey areas, a geometric pattern featuring varied orientations—vertical, horizontal, and diagonal—will be applied, along with a textured finish to break up the visual mass and avoid a monolithic appearance. In contrast, the white sections will incorporate offset vertical elements, such as architectural battens and downpipes, strategically spaced to emphasise verticality and reduce perceived bulk.

Mr Cunningham explained that the development incorporates integrated louvred plant screens at the top level, which are designed to visually contain and soften the appearance of rooftop services, contributing to a more refined and responsive built form.

Sub-clause (4) requires that *Building design must be in accordance with the relevant requirements for gateway locations identified in Clause 5.9 (Location Specific Development Requirements), where the relevant requirement for development in the Darwin city centre is clause 5.9.2.8 (Development in Gateway Locations)*. Under that clause, only sub-clause (4) is relevant to this application.

Clause 5.9.2.8(4) requires that *Development is to establish a strong sense of arrival through one or more of the following design elements: (a) an increased building height of at least one storey compared to adjacent buildings; [...]; (c) signage incorporated into the building design; or [...]*, where the proposal is considered to satisfy sub-clauses (a) and (c).

In response to (a), the Authority noted that the development site is bound by three public streets, and only one neighbouring property. The neighbouring property is approximately 3 storeys tall from ground level. Although this development will utilise a similar style to the neighbouring data centre, as this application is for a 7-storey building, it is considered to satisfy sub-clause (a).

In response to (c), the application proposes to incorporate distinct signage that states 'NextDC', with the entity logo next to this. The dimensions of the signage facing the north-east (towards Tiger Brennan Drive) and that towards the south (towards McMinn Street) is approximately 16 m wide, by 4 m high, and as such, will feature prominently to those entering and exiting the Darwin CBD via Garramilla Boulevard. This is considered to meet the criteria of (c).

A note has been included on the permit that the building and façade must be constructed in accordance with the materials shown on drawings prepared by Hames Sharley and the drawings endorsed through this permit

Part 4 - Zoning

Clause 4.10 Zone CB (Central Business)

The purpose of Zone CB is to *Promote an active and attractive mixed use environment that maximises its function as the commercial, cultural, administrative, tourist and civic centre for the surrounding region that is integrated with high density residential development.*

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In Zone CB, building form and design is expected to facilitate a vibrant commercial precinct along and the creation of safe, active street frontages and public places, whilst balancing competing demands with reference to the overall mixed use nature of the zone. The proposal is considered to support the broader intent of Zone CB. However, in particular, it is considered that zone outcome (10) warrants special attention.

Zone outcome (10) states *Developments are designed and operated in a manner that avoids unreasonable loss of amenity for surrounding premises, having regard to the close proximity between residential and entertainment uses, and the overall mixed use nature of the zone.*

The primary adverse impacts may be realised from this proposal that would not ordinarily be expected in the Darwin CBD relate to noise generation, in association with the telecommunication infrastructure and emergency power generation plant. As the application includes a noise assessment, and incorporates a 'selection [of] appropriately low noise equipment', and modelling shows that routine operations at the development site would produce external noise of 45 decibels, which is equal to the NT EPA lowest recommended maximum assigned amenity noise level.

The Authority noted this assessment, and clarified with Mr Cunnington that as the development site is closer to, and is of a larger scale, than the existing data centre at 8 Ryko Court, this warrants a more detailed consideration of the potential impact of noise on local amenity.

In response, Mr Cunnington advised that the acoustic reporting for this application was completed by a suitably qualified person, in collaboration with the project architects. Mr Cunnington also suggested that as the technology associated with the mechanical plant and data centre services improve over time, the potential amenity impacts would likely reduce.

In order to ensure that acoustic treatments are applied, a permit condition requiring a statement from a suitably qualified acoustic engineer, to ensure the treatments that the acoustic report relied upon are built, has been included on the development permit.

In addition, the Authority noted that the application includes vertical lighting elements along the Garramilla Boulevard, and Ryko Court frontages, and queried whether these features may present an unreasonable visual impact on local amenity.

Mr Cunnington advised that this feature lighting was designed to comply with the relevant Australian Standard, and as such, not be of a nature that would adversely affect local amenity.

The Authority noted this explanation and have included a permit note stating 'The development and use hereby permitted should be designed, constructed, and operate in accordance with relative Australian Standards.

Part 5: Development Requirements

The proposal was found not to be in accordance with clauses 5.2.5 (Loading Bays), 5.3.7 (End of Trip Facilities in Zones HR CB C SC and TC), 5.5.15 (Design in Commercial and Mixed Use Areas), 5.5.16 (Active Street Frontages), and 5.9.2.2 (Volumetric Control). The variations area discussed at Reason 2 below.

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

The proposal was found not to be in accordance with clauses 5.2.5 (Loading Bays), 5.3.7 (End of Trip Facilities in Zones HR CB C SC and TC), 5.5.15 (Design in Commercial and Mixed Use Areas), 5.5.16 (Active Street Frontages), and 5.9.2.2 (Volumetric Control).

5.2.5 Loading Bays

Sub-clause (4) requires that *A loading bay is to: (b) be at least 7.5m by 3.5m*, where the proposed loading bay facility is 2.5 m wide and 8.8 m long. It is noted that a minimum requirement for the data centre (undefined use) has not been considered necessary, with it expected that the single facility is sufficient for both the office and data centre land uses at the development site.

Administratively, sub-clause (2) states *The consent authority may consent to a use or development that is not in accordance with sub-clauses 3 and 4 only if it is satisfied sufficient, safe and functional loading areas are available to meet the needs of the use with regard to: (a) the scale of the use and development on the site; (b) any potential adverse impacts on the local road network; [...].*

The purpose of this clause is to *Provide for the loading and unloading of vehicles associated with the use of land.*

The application states that *the proposed loading / unloading area is suited to the nature of the development and use of the site, will not adversely impact the road network, and does not require off-site loading or unloading.*

In response to sub-clause (a), the Authority noted that the application is for a specialised use, and that the design of this loading bay facility will meet the requirements of the developer, who is also the future site occupier. Therefore, it is reasonably considered that the proposed loading bay facility will cater for the future use of the site. The Authority also noted that the loading bay width of 2.5 m aligns with the width of the loading bay dock, which is expected to house a lift facility to lift goods from ground level to a 1 m high mezzanine level, and that there is 1 m of space located on each side of the proposed loading bay facility which may provide additional room for the ad hoc loading and unloading of goods.

In response to sub-clause (b), it is not reasonably envisaged that the reduced loading bay dimensions would result in delivery vehicles being unable to utilise the facility.

At the hearing, Mr Cunnington advised that although the plans show the loading bay as being non-compliant with the NTPS 2020, that the area identified represents the width of a potential service vehicle, and that sufficient, unimpeded areas adjacent the loading bay facility will allow for the loading and unloading of goods at the development site.

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Based on the above discussion, the Authority considered that a variation to clause 5.2.5 (Loading Bays) is acceptable, as the deficiencies of the proposed loading bay facility are unlikely to have an adverse impact on the local road network, nor its functionality.

5.3.7 End of Trip Facilities in Zones HR CB C SC and TC

Sub-clause (3) requires that *All bicycle parking facilities and associated bicycle parking devices should be designed in accordance with Australian Standard AS2890.3 – Bicycle Parking and must: (a) be located in a convenient and safe location with adequate security for the storage of bicycles; [...] (h) be easily accessible from the road [...]*, where the proposed bicycle parking facility is located on the lower ground level and will be accessed via a 2-door pedestrian hallway, and a single sliding door.

Administratively, sub-clause (1) states *The consent authority may consent to a use or development with fewer bicycle parking spaces, lockers and/or showers and changing facilities than required by sub-clauses 2-6 if satisfied that either: [...] (b) it would be unreasonable to provide the end of trip facilities as required by this clause with regard to, but not limited to, the location of the development and likely commute distances; [...]*.

The purpose of this clause is to *Ensure that new commercial and high density residential buildings provide sufficient safe, quality and convenient end of trip facilities to enable active travel choices by residents, visitors, workers and customers for the proposed use of the site.*

The applicant indicated that future cyclists will be able to access the bicycle parking facility via a hallway ('street airlock'), with potential for users to be able to access a 6 m² lift between the lower ground and ground levels.

In response to sub-clause (1)(a), it is considered that the site is encumbered by physical constraints (being located on a hill), and there is limited opportunity to provide a secure bike locker facility in a convenient location for future users, without compromising accessibility of essential services or office spaces. The Authority considered that a variation to clause 5.3.7 (End of Trip Facilities in Zones HR CB C SC and TC) is acceptable, as the development will provide a spacious bicycle parking facility that is accessible to future site users.

In order to ensure that appropriate end of trip facilities are provided to the appropriate Australian Standard, a permit condition requiring that amended plans include an annotation stating that bicycle parking and lockers will be designed to Australian Standard AS2890.3 – Bicycle Parking, and the specific the number of bike lockers to be provided, to ensure compliance with Clause 5.3.7 (End of Trip Facilities), has been included on the development permit.

5.5.15 Design in Commercial and Mixed Use Areas

Sub-clause (22) requires that *Development with a floor area of 3500m² or greater is to provide a dedicated parenting room (to allow for activities such as baby change and breastfeeding)*, where despite having a floor area of 11,088 m², no dedicated parenting room is provided.

Administratively, sub-clause (10) states *The consent authority may consent to a development that is not in accordance with sub-clause 22 if it is satisfied that the*

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development provides appropriate provisions for parenting activities relative to the nature and scale of the development.

The purpose of this clause is to *Encourage a diverse mix of commercial and mixed use developments that are safe, contribute to the activity and amenity of commercial centres, are appropriately designed for the local climate, and minimise conflicts between different land uses within and surrounding the commercial centre.*

The applicant has stated that the universal room is a multi-functional space that could be used as a parents room. This is not considered to meet the requirements of this clause, by virtue it requires a *dedicated* parenting room, and that the nature of a parenting room may adversely impact on the amenity of other uses that take place in this space.

In response to sub-clause (10), it is noted that although the floor area of the development is 11,088 m², there are only expected to be up to 40 staff on-site at any given time. As such, it is considered that this commercial land use is not of a scale that would reasonably require a dedicated parenting room.

The Authority considered that a variation to clause 5.5.15 (Design in Commercial and Mixed Use Areas) is acceptable, as the non-provision of a dedicated parenting room is not considered likely to result in adverse impacts to future site users.

In addition, sub-clause (14) requires that *Building design is to minimise the expanse of blank walls facing the street and public open spaces and limit external finishes that could cause nuisance to residents or the general public, such as materials that would result in excessive reflected glare*, where the Authority consider that the proposal may contain elements which do not support this requirement. Of note, the Authority commented that the development proposes industrial elements, no longer proposed artwork on the external water tanks, and shows a large blank white wall along the north-eastern side of the development, which will be visibly prominent to the public domain, for traffic entering the Darwin CBD via Garramilla Boulevard.

In response, Mr Cunnington at the hearing advised the following:

- That the data centre land use is comparable in nature to that ordinarily expected in Zone LI (Light Industry), by virtue that it's built form is more akin to a warehouse. Based on this, the design of the built form was intentional, and seeks to declare itself as a data centre when viewed from the public domain.
- That the artwork originally proposed on the external water tanks has been removed due to complexities regarding the stringent corporate approval process that would be required on behalf of the future site operator.
- That the white blank wall facing the north-east is intentionally white, in order to contrast with darker coloured elements on the external water tanks, existing data centre at 8 Ryko Court, and the frontage directly facing Garramilla Boulevard. The Authority queried the potential for this expanse of white wall to pose a glare issue to the public, to which the Mr Cunnington then advised that this surface would be painted, and as such, reasonably be unlikely to pose a glare issue.

The Authority acknowledged the response provided by Mr Cunnington but determined that the potential for additional landscaping in this area of the development site should be further explored to help mitigate the visual impact of the water tanks and adjoining blank walls as viewed from the public domain. Accordingly, a condition precedent has

been included on the permit, to incorporate landscaping or alternative treatments to the exterior of the water tanks and blank walls. These may include landscaping or architectural embellishments designed to minimise the visual impact.

5.5.16 Active Street Frontages

Sub-clause (5) requires that *Services on street level frontages are to be limited to: (b) a direct single point of access to service equipment for all service authorities*, where 9 separate equipment accesses are proposed to the development from the public domain (or within 4 m of the property boundary). This includes 2 accesses to a fire booster, 1 to a fire pump room, 4 to high voltage rooms, 1 to a water service, and another to a telecommunications closet.

Sub-clause (6) requires that *Buildings are to provide a minimum of 60% of the length of each site boundary that fronts a primary or secondary street, or public open space, as active street frontage, made up of any combination of the following components, where the distance between individual components is no more than 1.5m: [...]*, where only approximately 36% of the total building boundary (as viewed at ground level) that faces Garramilla Boulevard, Harvey Street and Ryko Court is made up of windows or main pedestrian entrances.

Sub-clause (7) requires that *Building frontage that is outside the requirements of sub-clause 6, excluding areas for access, are to limit the scale and visual presentation of blank walls*, where limited treatments have been applied to reduce the scale and visual appearance of the development from the vantage point of pedestrians walking past. This is considered most relevant at the Harvey Street frontage, which includes a large presentation of blank walls (white concrete panels on one side, and concrete panels with coloured/grey additives on the other) from ground level to the relevant parapet.

Administratively, sub-clause (2) states *The consent authority may consent to a development that is not in accordance with sub-clauses 5, 6 and 7 if: (a) an alternative solution effectively meets the purpose of this clause; (b) the site design reflects the established character of the area; or (c) it is satisfied that compliance would be impractical considering servicing requirements and any advice provided under sub-clause 4.*

The purpose of this clause is to *Provide a site-responsive interface between commercial buildings and the public domain that: (a) is attractive, safe and functional for pedestrians; (b) encourages activity within the streetscape; and (c) encourages passive surveillance of the public domain.*

In response to sub-clause (a), it is noted that the upper ground level provides approximately 22 m of full height windows that overlook Ryko Court (albeit some are semi-obscured by external fire tanks). Although these dimensions are not active street frontage, they're considered to provide some passive surveillance of the public domain.

In addition to this, Mr Cunnington advised the following:

- That a proposed balcony is no longer provided to the office premises facing Ryko Court, on the basis that an additional entry point would adversely impact on site security.
- That landscaping between the Ryko Court service points and the street will no longer be provided, at the request of the Power and Water Corporation, due to ongoing serviceability concerns.

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- Ryko Court is the lowest order street frontage that affects the site, and on the premise that all vehicle access to the development, and that services visible from the public domain are located on this street should be taken into consideration.
- Paperbark trees will be planted in the vicinity of the Harvey Street and Ryko Court street corner, and provide a natural contrast to the white façade proposed at ground level.
- That this development is intentionally orientated to focus its active street frontage towards Garramilla Boulevard, taking into account its topographical constraints at this development site.
- The existing cul-de-sac layout of Ryko Court will likely restrict the potential for future developments to provide active street frontages, by virtue that several of those lots contain short street frontages, that will need to provide for vehicular and service accesses. As such, the Ryko Court frontage of this development would not then be out of character with the final built form on this street.

In response to sub-clause (b), it is considered that the locality of the development site is the area bound by McMinn Street, Day Street, the former railway reserve, and Garramilla Boulevard, and which is located on the periphery of the Darwin CBD. A review of the town planning history for this locality identified the area as being generally zoned for the following under their respective town planning schemes – light industrial uses in 1966, highway commercial/special purpose (electrical substation) in 1978, highway commercial/community purpose (electrical substation) in 1992, and central business in 2007 and 2020. Although the existing locality comprises limited residential development (with varying levels of active street frontage), the majority of the area is high security fencing (such as a 170 m length along Harvey Street associated with the electrical substation site), light industrial/commercial developments along the McMinn Street service road, or otherwise undeveloped lots. As such, the limited active street frontage proposed in this development is not considered to be inconsistent with the existing character of this locality.

In support of this, Mr Cunnington suggested that the Authority should consider that the lack of active street frontage at existing developments in the locality should be taken into consideration. Mr Cunnington identified that the existing dwelling-multiple at the corner of Garramilla Boulevard and Harvey Street did not provide active street frontage, nor passive surveillance, and neither do the existing warehouse or substation developments on Harvey Street. As such, the character of the local area should include these developments, and take into consideration the location of the development at the periphery of the Darwin CBD.

In response to sub-clause (c), the provision of separate and dedicated accesses to essential services from the public domain are considered to be necessary for their operation, maintenance, and accessibility in the event of an emergency.

Taking into account the above discussion, the Authority considered that a variation to clause 5.5.16 (Active Street Frontage) is acceptable, as although the proposal includes limited active street frontage, this is not considered to be out of character with the locality.

5.9.2.2 Volumetric Control

Sub-clause (6) requires that *The tower of a development is to: (a) have a footprint that covers a maximum of 56% of the site area, to a maximum of 1200m² in any single tower; (b) have the length of each side of the tower be no more than 75% of the length of the adjacent boundary; and (c) provide minimum setbacks of: i. 6m from any site boundary; [...], where (a) the application proposes the tower component will be 65% of the site area; (b) the length of the tower facing all property boundaries exceeds 75%, and (c) the development will be located within 6 m of the property boundaries fronting Garramilla Boulevard, Harvey Street, and Ryko Court.*

Administratively, sub-clause (3) states *The consent authority may consent to a development, excluding development located within the Smith Street Character Area, that is not in accordance with sub-clauses 5 and 6 if it is satisfied the development: (a) is appropriate to the location considering the scale of the development and surrounding built form; and (b) will not unreasonably restrict the future development of adjoining sites.*

The purpose of this clause is to *Ensure the siting and mass of buildings within the Darwin city centre promotes urban form that is of a scale appropriate to the locality, and provides adequate separation to allow: (a) potential for view corridors to Darwin Harbour; (b) breeze circulation between buildings; [...]; and (d) reasonable privacy for residents.*

The application states *Emphasising the building mass towards Garramilla Boulevard and the Garramilla / Harvey Street intersection, with a corresponding reduction in volumetric massing to other elevations, directly responds to the arterial road frontage and Gateway location, providing a prominent and distinctive entry into the CBD whilst respecting the purpose of Clause 5.9.2.2. Emphasising the primary pedestrian entrance adjacent the intersection, including the provision of landscaping and entry awning, retains a human scale at ground level.*

In response to sub-clause (a), it is considered that a variation to the volumetric dimension is acceptable, as the subject lot is located at a gateway location, and a variation to the Garramilla Boulevard/Harvey Street frontage would help visually distinctive built form for people entering the Darwin CBD via Garramilla Boulevard.

The minor setback encroachment to Ryko Court (approximately 1.2 m) is due to the cul-de-sac, which results in an awkward lot boundary at this corner. As north-west side of the building is a straight line, and the setback breach is approximately 1.2 m, this is not considered likely to result in any adverse impacts to sight lines or local amenity.

In response to sub-clause (b), as the development site is bounded by three public streets, and another property with an existing data centre, this application is not considered to reasonably restrict the future development of other properties in the area.

In support of this variation, Mr Cunnington identified that the primary bulk of the built form encroachment was along a section of Harvey Street, and the Garramilla Boulevard frontage, and as such, the only lot materially affected by this variation would be the existing residential development at 3 Harvey Street, with the development unlikely to adversely affect sight lines from other perspectives. Mr Cunnington suggested that as this development was affected by a gateway location overlay, that a variation to the volumetric control for the built form about 25 m may be appropriate to this site, to accentuate its built form.

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Based on the above discussion, the Authority considered that a variation to clause 5.9.2.2 (Volumetric Control) is acceptable, as it will not result in an unreasonable impact on local visual amenity.

5.9.2.11 Car parking spaces in Darwin City Centre

Sub-clause (5) requires that a *Use and development is to include the minimum number of car parking spaces specified in the table to this clause (rounded up to the next whole number) [calculated as 12.74 (13) car parking spaces]*, where only 12 car parking spaces are provided at the development site.

It is noted that net floor area is defined in Schedule 2 of the NTPS 2020 as *net floor area in relation to a building, includes all the area between internal surfaces of external walls but does not include: (a) stairs, cleaners cupboards, ablution facilities, lift shafts, escalators or tea rooms where tea rooms are provided as a standard facility in the building; (b) lobbies between lifts facing other lifts servicing the same floor; (c) areas set aside as public space or thoroughfares; (d) areas set aside as plant and lift motor rooms; (e) areas set aside for use of service delivery vehicles; and (f) areas set aside for car parking or access*. As such, this assessment has considered the following spaces as shown on the plans as measurable under this definition – Security office (42 m²); MCX meeting room (29 m²); MCX office (409 m²); NextDC office (103 m²); Utility meeting room (19 m²); NextDC meeting room (10 m²); Combined Quiet Rooms (18 m²); and concierge (7 m²). This results in an office space of 637 m², which then requires 2 car parking spaces for every 100 m² of net floor area, resulting in a requirement for 12.74 (13) car parking spaces to be provided on-site.

Administratively, sub-clause (2) states *The consent authority may consent to a use or development that is not in accordance with sub-clause 5 as set out in clause 5.9.2.12 (Reduction in car parking spaces in Darwin City Centre)*.

5.9.2.12 Reduction in car parking spaces in Darwin City Centre

As discussed above, this development is calculated as requiring 13 car parking spaces on-site, where only 12 were proposed.

Administratively, sub-clause (1) states *The consent authority may consent to: [...] (b) for any bicycle spaces proposed for a use or development in excess of those required by the table to clause 5.3.7 (End of trip facilities in Zones HR, CB, C, SC and C), a reduction of 1 car parking space for every 10 excess bicycle parking spaces are appropriate in function and number for the use of the building, up to 2% of the number of car parking spaces required by Clause 5.9.2.11 (Car parking spaces in Darwin City Centre)*.

In response to sub-clause (1)(b), it is considered that as 2.13 (3) bicycle parking spaces are required where 27 are proposed, there exists an excess of 24 bicycle parking spaces. As this clause can only allow a reduction up to 2% of the car parking spaces required under clause 5.9.2.11, a reduction of 0.255 (i.e. 2% of 12.74) car parking spaces can be considered by the consent authority.

In addition, administratively, sub-clause (2) states *The consent authority may also consent to a use or development with fewer car parking spaces than required by Clause 5.9.2.11 (Car parking spaces in Darwin City Centre), in accordance with the table to this clause*.

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Pursuant to category (1), as *the development is located within 200m of a dedicated off-road bicycle path or on-road bicycle lane*, the consent authority can consider a 5% reduction. This would result in a reduction of 0.64 car parking spaces.

Based on the above discussion, the Authority considered that the application meets the relevant criteria to access a reduction of 0.895 car parking spaces, resulting in a revised requirement for 11.85 (12) car parking spaces at the development site, where 12 are required.

- a) The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NTPS 2020, except for clauses 5.2.5 (Loading Bays), 5.3.7 (End of Trip Facilities in Zones HR CB C SC and TC), 5.5.15 (Design in Commercial and Mixed Use Areas), 5.5.16 (Active Street Frontages) and 5.9.2.2 (Volumetric Control), as identified above.
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 land has been identified for mixed use purposes and is considered capable of supporting the proposed development, by virtue that no land capability concerns were identified during the assessment nor by service authorities.

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 impact on amenity should be considered in the context of the site and its surroundings. The development is consistent with the broader intent of Zone CB (Central Business) and applicable clauses, the proposal is for a single storey building and is of a limited scale compared to other developments in the area. The subject lot is located at the periphery of the CBD, and is situated outside of the core and city centre focus areas identified within the Central Darwin Area Plan. The development will result in increased activation of the locality, by introducing another day time land use. Any adverse impacts on amenity have been addressed through the recommended conditions and notes for any permit that may be issued for the proposal.

The Authority noted that the assessment of the proposed data centre focused on how it aligns with existing planning requirements, particularly in terms of land use, location, and design response. While the data centre is an *undefined use* under the NTPS 2020, it shares characteristics with light industrial uses, making that the most appropriate comparable category. Located on the periphery of the CBD in a relatively inactive area, the development responds well to the surrounding context, particularly along Harvey Street and Ryko Court, where there is limited pedestrian movement, no through-access, and a lack of footpaths.

The Authority also noted that the immediate locality features a mix of low-activation uses, including a residential building with inactive ground floor frontage, older warehouse-style developments, and infrastructure such as a substation (as discussed

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above). Adjacent lots are similarly constrained by narrow frontages and are expected to accommodate access and service functions in future development. The design addresses the zone's purpose and outcomes by responding to the established character, supporting a low-activation interface that is consistent with surrounding conditions.

The Authority noted that the proposed use includes generators, plant rooms, and large air-conditioning units, all of which have the potential to generate significant noise. The application includes an acoustic report, which includes an assessment of projected noise emissions and recommends noise emission treatments to minimise their impacts. To ensure these measures are implemented, a condition has been included in the approval requiring a statement from a qualified acoustic engineer, confirming that the development has been constructed with the recommended noise mitigation treatments prior to occupation.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 3
PA2025/0056 **PART CHANGE OF USE FROM OFFICE TO LEISURE AND RECREATION (PILATES STUDIO)**
SUBJECT SITE **LOT 9328 (17) SCATURCHIO STREET, CASUARINA, TOWN OF NIGHTCLIFF**
APPLICANT **MASTERPLAN PTY LTD**

Applicant: Nick Kearns and George Dakis (Masterplan Pty Ltd) and Brendan Dell (Pure Pilates) attended.

RESOLVED
31/25

That, the Development Consent Authority vary the requirements of Clause 5.2.4.1 (Car Parking Spaces) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 9328 Town of Nightcliff, 17 Scaturchio Street, Casuarina, for the purpose of part change of use from office to leisure and recreation (Pilates studio), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. The use and development as shown on the endorsed plans must not be altered without the further consent of the consent authority.
3. Not more than 4 patrons and staff combined are permitted between the hours of 8.00am and 4.30pm (Monday to Friday inclusive).
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notation 1 for further information.

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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. The car parking on Lots 9328 and 9329, Town of Darwin must be available for the use of the occupants of the development and their visitors/clients.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on site and/or surrounding infrastructure.
2. All proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin's Policy 6310.100.E.R – Outdoor Advertising Signs Code.
3. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.
4. The applicant is advised to engage a Northern Territory registered building certifier to ensure that the intended use of any existing buildings or structures is permitted by occupancy certification in accordance with the *Building Act 1993*.

REASONS FOR THE DECISION

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

The application proposes a part change of use from office to leisure and recreation (pilates studio). During the hearing Mr Nick Kearns (the applicant) explained to the Authority that the proposed pilates studio is defined under the Northern Territory Planning Scheme 2020 (NTPS 2020) as leisure and recreation, which covers a broad range of uses.

Mr Kearns described the proposed layout which comprises a pilates room, a yoga room, a creche room, amenities and a reception area. Mr Kearns clarified that the proposed operation is as follows:

- 5.30am – 7.30am: Group classes
- 7.30am – 4.30pm: One-on-one sessions
- 5.00pm – 7.00pm: Group classes

Section 51 of the *Planning Act 1999* states that a consent authority must, in considering a development application, take into account a range of matters including any planning scheme that applies to the land.

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The NT Planning Scheme 2020 (NTPS 2020) applies to the land and leisure and recreation requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(i), therefore Part 2: Strategic Framework (Darwin Regional Land Use Plan 2015), Part 4: Zone Purpose and Outcomes of Clause 4.11 – Zone C (Commercial) and Part 5: Development Requirements, including Clauses 5.2.1 General Height Control, 5.2.4 Car Parking, 5.2.5 Loading Bays, 5.2.6 Landscaping, 5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR, 5.3.7 End of Trip Facilities in Zones HR, CB, C, SC and TC, 5.5.1 Interchangeable Use and Development, 5.5.2 Commercial Plot Ratio, 5.5.3 General Building and Site Design, 5.5.4 Expansion of Existing Developments in Zones CB, C, SC and TC and 5.8.5 Leisure and Recreation, need to be considered and are discussed below:

Part 2: Strategic Framework

Darwin Regional Land Use Plan (DRLUP) 2015:

The Authority noted that an application which is Merit Assessable is not required to take into account Part 2 Strategic Framework of the NTPS2020. Notwithstanding, it is noted that the proposal is located within areas identified as urban/peri-urban and as an existing regional centre within the Darwin Regional Land Use Plan (DRLUP) 2015. The scale of the development is considered appropriate to the service function of the existing commercial precinct as a primary centre and is sufficiently separated from sensitive land uses, including residential uses to the north and west of Bradshaw Terrace.

Part 3 – Overlays and Part 4 – Zoning: Clause

In relation to Part 3, the site is not affected by any overlays.

In relation to Part 4, the site is in Zone C (Commercial) under the NTPS2020. The site forms part of an existing commercial complex known as the CasCom Centre which contains three existing separate buildings. This application relates to a proposed use within a tenancy of one of these buildings. The Authority noted that the proposed leisure and recreation (pilates studio) supports the purpose of Zone C as it is for a new use in an existing commercial complex (CasCom Centre). The proposal contributes to the diversity of commercial activities on the site and the scale of the development is considered appropriate to the function of CasCom Centre.

Part 5: Development Requirements

The Authority noted the assessment of the Development Assessment Services (DAS), which concludes that the proposed development complies with all relevant development requirements of the NTPS 2020 except for Clause 5.2.4.1 (Car Parking Spaces). This is discussed at Reason 2 below.

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

The proposal has been assessed against the Part 5 requirements of the NTPS 2020 and does not comply with Clause 5.2.4.1 (Car Parking Spaces).

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In response to sub-clause (a), the Authority considered that a variation to Clause 5.2.4.1 (Car Parking Spaces) is appropriate for the following reasons:

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

Table to clause 5.2.4.1 provides the following car parking requirements for leisure and recreation:

- 10 for every 100m² of net floor area

Administratively, the consent authority may consent to a use or development that is not in accordance with sub-clause 4 if it is satisfied a reduction of the number of car parking spaces is appropriate with regard to:

- a) the zoning of the land, the use or development or proposed use or development of the land, and the possible future use or development of the land;
- b) the provision of car parking spaces in the vicinity of the land;
- c) the availability of public transport in the vicinity of the land; and
- d) the potential impact on the surrounding road network and the amenity of the locality and adjoining property;

or if the use or development relates to a heritage place and the Minister responsible for the administration of the Heritage Act 2011 supports the reduced provision of car parking spaces in the interest of preserving the significance of the heritage place.

The proposed part change of use generates a parking requirement of 35.3 (rounded up to 36) car parking spaces.

No new car parking is provided on-site, and as such, the proposal relies on the existing 89 car parking spaces located on the site, along with 50 additional car parking spaces located at adjoining Lot 9329 that also form part of the CasCom Centre car park. The tenancy agreement for the proposed use includes specific access arrangements to ensure patrons have access to the CasCom car park when visiting the premises, as well as the 3 car spaces specifically nominated for the premises under the tenancy arrangement. The access arrangements/agreements for other tenancies are not known, however, the CasCom Centre car park is a shared carpark for all tenancies in the centre.

The Authority determined to grant a reduction to the required car parking spaces (in the context of the Administration under subclause 2) for the following reasons:

- There are no heritage declarations for the land.
- (a) the zoning of the land, the use or development or proposed use or development of the land and the possible future use or development of the land

The site is located in Zone C (Commercial) with zone outcomes including providing 'a diversity of commercial activities that provide for a range of needs of the surrounding area at an appropriate scale for their location...a mix of other business activities [including leisure and recreation in the list]'. The use of the land for a pilates studio is considered in keeping with Zone C (Commercial). The application utilises existing buildings, infrastructure and car parking on site, with the use unlikely to impact of the future use and development of the land.

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The specific nature of a pilates studio is such that the application of an alternative approach to car parking rather than broad leisure and recreation car parking rate is appropriate. The proposed pilates studio will operate sessions and therefore the car parking required would be based upon the average group size and running times.

The application advises that morning and afternoon sessions between 5.30am – 7.30am and 5.00pm – 7.00pm will be run as classes and between 7.30am – 4.30pm will be one-on-one sessions. The one-on-one sessions equate to one trainer and one client per room and sessions run for 45 minute, which equates to a maximum capacity of 4 people in the premises over this period. The classes would have a maximum (operating) capacity for 10 patrons per room and run for 45 minutes each, which equates to a maximum capacity of approximately 22 to 25 people in the premises over this period.

(b) *the provision of car parking spaces in the vicinity of the land;*

The application seeks to utilise the existing 89 car parking spaces located on the site, along with 50 additional car parking spaces located at adjoining Lot 9329 that also form part of the CasCom Centre car park. These car parking spaces are shared with the existing tenancies of the CasCom Centre and have a time limit of 2 hours allowing for consistent turnover of car parking spaces.

The Chair of the Authority asked Mr Kearns to explain how the gates to the CasCom complex are opened after hours. Mr Brendan Bell (Pure Pilates) clarified that the gates automatically open at 5.00am and close at 8.00pm. Mr Bell also advised that staff have access to an app which can open the gate to ensure patrons have access to the CasCom car park.

The application advises that peak periods for the proposed pilates studio are the morning and afternoon sessions between 5.30am – 7.30am and 5.00pm – 7.00pm.

The tenancy is located adjoining an existing purpose-built bicycle storage facility, which includes toilets and showers, providing convenient access to end of trip facilities for users of the proposed pilates studio. This encourages the use of alternative modes of transport.

(c) *the availability of public transport in the vicinity of the land; and*

The Casuarina Interchange is approx. 300 metres south-west of the site and is serviced by regular bus routes that run all across the Darwin region.

(d) *the potential impact on the surrounding road network and the amenity of the locality and adjoining property;*

The applicant has advised that the peak demand based on the business operation is 22 – 25 car parking spaces, which would principally occur in the mornings before 8.00am and in the afternoons after 4.30pm. These peak periods are after-work hours and therefore the car parks used by the office tenancies would be available, providing additional parking space for the proposed pilates studio. The CasCom Centre car park also has a time limit of 2 hours, allowing for consistent turnover and availability of car parking spaces.

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The proposed development has access to public transport, with the Casuarina bus interchange in close proximity, and access to existing end of trip facilities, therefore encouraging alternative modes of transport and reducing reliance on private cars. In addition, the physical design of the pilates studio space inherently limits the potential number of patrons (i.e the pilates studio is only large enough to fit 10 reformers beds). For the above reasons, the Authority determined that sufficient on-site parking is available to accommodate the demand generated by the proposed use outside of office hours. To ensure class sizes do not adversely impact the availability of on-site parking for other users during office hours (8:00 am – 4:30 pm), a condition specifying maximum number of patrons and staff permitted between 8:00 am – 4:30 pm, Monday to Friday has been included on the permit.

At the meeting, Mr Kearns raised that Brendan Dell (Pure Pilates) advised that boom gates may be installed in the future, which could change the extent of car parking availability. Mr Kearns further asked if it was possible to amend the group class times in the morning, to extend past 8.00am. Mr Kearns acknowledged that this change may be more appropriately considered under a variation application. The Authority advised that an application must be assessed on the planning merits at the time of assessment, not assessed against any future changes that may or may not happen. The Authority further stated that that if there were any changes to the car parking availability in the future, a variation application can always be considered to amend the hours of the group classes.

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

In addition, the application clarifies that *'the site has existing perimeter fencing and secure access gates across the vehicle entry points which are controlled by automatic timers, enabling them to be open to the public during the day, but secured overnight when onsite businesses are closed'*. A general condition is applied to require the car parking spaces to be available for the use of the occupants of the development and their (visitors/ clients).

In response to sub-clause 5(b) of Clause 1.10 the considerations listed under Clause 1.10(3) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NTPS 2020, except for the non-compliances as discussed above as identified above.

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

No land capability issues have been identified as part of the application. Comments were received from service authorities during exhibition of the application and conditions are appropriately included to address servicing requirements.

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 impact on amenity has been considered in the context of the site and its surrounds. The proposed use is generally consistent with the broader intent of Zone C, which supports a range of business, community, and leisure and recreation uses. The part

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change of use within an existing office building is unlikely to have a significant impact on the amenity of the area. Furthermore, the proposal is found to be generally compliant with the NT Planning Scheme 2020, aside from a few parking-related matters. These variations are not expected to result in any major amenity impacts, as discussed under Reason 2 above. The conditions and notes applied to the permit will also assist in mitigating any potential adverse impacts on amenity.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

10 April 2025