



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 369 – FRIDAY 5 FEBRUARY 2021

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

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

APOLOGIES: Simon Niblock

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Amit Magotra, Richard Lloyd, Mia Ifergan and Sophie Phillips (Development Assessment Services)

COUNCIL REPRESENTATIVE: Cindy Robson

Meeting opened at 10.30 am and closed at 12 noon

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

ITEM 1

PA2020/0433 PART CHANGE OF USE FROM OFFICE TO EXHIBITION CENTRE AND ANCILLARY PLACE OF ASSEMBLY

LOT 1098 (2) BURNETT PLACE, LARRAKEYAH, TOWN OF DARWIN

APPLICANT Northern Planning Consultants

Mr Brad Cunnington (Northern Planning Consultants) attended.

**RESOLVED
13/21**

That, the Development Consent Authority determine to reduce the car parking requirements pursuant to Clause 5.2.4.2 (Reduction in Parking Requirements outside Zone CB in Darwin), and vary the requirements of Clause 5.2.4.4 (Parking Layout) and Clause 5.2.5 (Loading Bays) 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 1098 (2) Burnett Place, Town of Darwin for the purpose of part change of use from office to exhibition centre and ancillary place of assembly, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with drawings endorsed as forming part of this permit.
2. 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.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water and sewerage and electricity services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. A schematic plan demonstrating the on-site collection of stormwater and its discharge into the local 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 surface flow direction, downpipe direction and any connection to Council connection points.
5. A Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's Waste Management Policy 054, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.
6. 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.

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 the necessary building approvals as required by the Northern Territory *Building Act 1993*.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and part change of use from office to exhibition centre and ancillary place of assembly requires consent under Clause 1.8 (When development consent is required).

The development is identified as *Impact Assessable* under Clause 4.24 – Zone HT (Heritage), and therefore the strategic framework (Part 2 of the Scheme – Darwin Regional Land-Use Plan and Central Darwin Area Plan), zone purpose and outcomes of Clause 4.24 (Zone HT), and Clauses 5.2.1 (General Height Control), 5.2.4 (Vehicle Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.3.1 (Heritage Places and Development in Zone HT), and 5.8.4 (Exhibition Centre, Place of Assembly...), must be considered.

The Authority noted the assessment of Development Assessment Services (DAS) which concludes that the proposal complies with the relevant requirements of the NTPS 2020 except for Clause 5.2.4 (Vehicle parking) and Clause 5.2.5 (Loading Bays).

In relation to Clause 5.2.4 (Vehicle Parking), under clause 5.2.4.1 (Parking Requirements) the assessment identified that the proposal generates a technical shortfall of 5 car parking spaces, as there are 10 spaces required for the site and 5 spaces are proposed.

The Authority carefully considered the information provided by the applicant along with the matters provided under Clause 5.2.4.2 and determined that a parking reduction of 5 car parking spaces is granted in recognition of the following:

- The land is zoned HT (Heritage) and it is considered that the proposal is consistent with the zone purpose in that Audit House contributes to the heritage of the area and to use it partly as an exhibition centre and ancillary place of assembly (for functions)

enhances the building so its historical value can be fully realised. It is a sound adaptive re-use of the building and is very compatible with the preservation of the heritage value and significance of the surrounding area.

- There are a number of formally indented parking bays provided within Burnett Place, with a total of 15 bays provided. These bays provide public car parking for the Myilly Point Heritage Precinct, and together with the three Burnett Houses, it is considered that the 5 car parking space shortfall can be accommodated with the on-street parking available.
 - The site is on a bus route which connects with the city.
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).

Regarding Clause 5.2.4 (Vehicle Parking), under Clause 5.2.4.4 (Parking Layout), the proposal has been found not to be in compliance with the clause because on the site, the individual car parking spaces are not demarcated and the car parking area is not sealed or line-marked. A variation to this clause is granted in this instance as the non-compliance is unlikely to result in adverse impacts on the local road network or internal functionality of the car parking area or unreasonably impact on the amenity of the surrounding locality. The Authority noted that the proposed on-site parking configuration is that currently used.

Regarding Clause 5.2.5 (Loading Bays), the proposal has been found non-compliant with the clause because a single loading bay is required and no formalised loading bay is provided in the development. A variation to this clause is granted in this instance because the need for a dedicated loading bay is likely to be low due to the generally expected low visitation numbers and sporadic functions. It is also noted that a number of exhibitions and functions having been held at the property in the past without the need for a dedicated loading bay. The Authority considered the non-compliance will not result in adverse impacts on the local road network or the number or availability of car parking spaces.

Furthermore, the proposal also satisfies the administration of the above clauses particularly as the proposal is consistent with the purpose and zone outcomes of Zone HT (Heritage), principally in that the parking and loading bay non-compliances do not detract from the conservation and enhancement of the buildings that contribute to the heritage of the area.

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

Two submissions were made under section 49 in relation to the application during the exhibition period. The key issues raised in the submissions relate to heritage issues, compliance with the building code, additional works not shown in the application, the ancillary nature of the amenities building and the application being retrospective in nature.

These matters have been considered by the Authority and it is found that:

- There are no heritage issues of note arising from the proposal particularly as the Heritage Branch has stated that there are no concerns or heritage issues associated with the application and the Minister responsible for the administration of the *Heritage Act 2011*, approved the amenities building under the *Heritage Act 2011*.
- The matters raised regarding compliance with the building code are matters to be considered under the *Building Act 1993* and are not directly related to the consideration of the proposal under the *Planning Act 1999*. A note is included on any development permit issued advising the applicant that the development permit is not an approval to undertake building work and the applicant is to contact a Northern Territory registered building certifier to seek the necessary building approvals as required by the Northern Territory *Building Act 1993*.
- Additional external paving has been undertaken since the application was lodged in order to improve site accessibility. The works essentially expand the areas of existing gravel pathways around the amenities block and these in themselves do not require planning approval. The Authority noted that the applicant has received confirmation from the Heritage Branch confirming that those works are exempt from approval requirements under the *Heritage Act 2011*. Additionally, existing landscaping remains along the Kahlin Avenue frontage which provides a level of screening to the amenities block and the landscaping along this frontage does not detract from the overall streetscape.
- The amenities building is ancillary to the proposed exhibition centre and ancillary place of assembly, being associated with, as well as subordinate and auxiliary to, the primary use (exhibition centre with ancillary place of assembly).
- The application is retrospective in nature and there is nothing preventing retrospective applications being made under the *Planning Act 1999*.

At the hearing Mr Brad Cunningham gave an overview of the proposal as described in the development application. Mr Cunningham noted that Audit House has been used as an exhibition centre for art exhibitions and place of assembly for small shows and functions for a number of

years. Mr Cunnington also noted that the amenities building provides much improved facilities to Audit House which cannot be included inside the heritage building without major alterations to it.

In response to a question raised by the Authority at the hearing whether the wedding reception functions would also occur in the premise, Mr Cunnington explained that the National Trust have the discretion to allow the type of events that can occur on site.

4. Pursuant to Section 51(m) of the *Planning Act 1999*, the consent authority must consider the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of conditions and/or notations on the development permit as required. It is noted that the Heritage Branch advised that there are no concerns or heritage issues associated with the application.

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

It is considered unlikely that the proposal will have a significant impact on the amenity of the area particularly given the low height and subservient nature of the amenities building and the nature of the intended uses of the site as a whole. It is also noted that the Heritage Branch has stated that there are no concerns or heritage issues associated with the application, and that a number of exhibitions and functions have been held at the property in the past without apparent issue.

6. Pursuant to section 51(r) of the *Planning Act 1999*, the consent authority must take into consideration any potential impact on natural, social, cultural or heritage values, including, for example, the heritage significance of a heritage place or object under the *Heritage Act 2011*.

The site is in Zone HT (Heritage), however there are no heritage issues of note arising from the proposal, particularly as the Heritage Branch has stated there are no concerns or heritage issues associated with the application, and the Minister responsible for the administration of the *Heritage Act 2011*, approved the amenities building under the *Heritage Act 2011*.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Consent and Development Permit

ITEM 2
PA2020/0402
APPLICANT

CHANGE OF USE FROM SHOP TO BAR-SMALL (SHOP 6)
LOT 121 (60) ARALIA STREET, NIGHTCLIFF, TOWN OF NIGHTCLIFF
Dom's Bar and Lounge Pty Ltd

DAS tabled a letter from a submitter withdrawing their submission, copies were given to the DCA members and other submitters who attended the meeting.

Photos of the existing bar-small operating from Tenancy 7 were shown on the projector screen at the meeting and tabled by the applicant.

Sales trends (08/01/2020 – 08/01/2021) of the existing bar-small operating at Tenancy 7 were shown on the projector screen at the meeting and tabled by the applicant.

Mr Dominic Wundke (Dom's Bar and Lounge Pty Ltd) and Mr Devon Turner attended.

Submitters Mr Dale Bennett and Ms Kirrily Chambers sent their apologies.

Submitters in attendance:- Mr Mark & Mrs Alex Kersemakers, Mr Paul & Mrs Susan Walsh, Mr Peter & Mrs Rosanna van den Henrik and Mr John Bell.

Mr Paul Walsh advised that he was also speaking on behalf of Ms Kirrily Chambers.

RESOLVED
14/21

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 121 (60) Aralia Street, Town of Nightcliff for the purpose of change of use from shop to bar-small (shop 6), subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale and must be generally in accordance with the plans submitted with the application but modified to show:
 - a. Internal connection of shop 6 with bar-small operating from Tenancy 7.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. 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.

5. The use and development as shown on the endorsed plan must not be altered without the further consent of the consent authority.
6. The use must operate in conjunction with the bar-small use approved through DP19/0142 and any variations to it.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The Department of Environment, Parks and Water Security and Natural Resources has advised that the proponent complies with the noise requirements contained in the latest version of the NT EPA Northern Territory Noise Management Framework Guideline, available at: https://ntepa.nt.gov.au/data/assets/pdf_file/0004/566356/noise_management_framework_guideline.pdf.
3. The Department of Environment, Parks and Water Security has advised that the proponent must comply with their General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act*. Guidelines to assist proponents to avoid environmental impacts are available on the NT EPA website at: <https://ntepa.nt.gov.au/publications-and-advice/environmental-management>.
4. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to Council.
5. 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(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and change of use from shop to bar-small requires consent under Clause 1.8 (When development consent is required).

The development is identified as '*Impact Assessable*' under Clause 4.11 – Zone C (Commercial), and therefore the Strategic Framework (Part 2 of the Scheme – Darwin Mid Suburb Area Plan), zone purpose and outcomes of Clause 4.11 (Zone C), and Clauses 5.5.2 (Plot Ratios), 5.2.4 (Vehicle Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.5.3 (Commercial and Other Developments in Zone

C..), 5.5.4 (Expansion of Existing Development in Zone C..) and 5.5.10 (Night Club Entertainment Venue, Bar-Small and Bar-Public) need to be considered.

The Authority notes that the proposed bar-small use is located within a mixed-use centre providing a wide range of retail, entertainment, community and business activities that serve the broader locality. The Authority also notes that the proposed bar-small will operate as an extension of the existing bar-small ('hotel' use under NTPS 2007) in the adjoining Tenancy (Tenancy 7), approved through DP19/0142, which also includes part of the arcade thoroughfare for seating associated with the use.

The Authority was satisfied with the Technical Assessment provided by the Development Assessment Services (DAS) which concluded that the proposed use complies with the relevant requirements of the NTPS 2020.

In considering the comment raised in the technical assessment regarding subclause 8 of Clause 4.11 (Zone C) which requires that "*developments are operated in a manner to ensure that there is no unreasonable loss of amenity for surrounding premises, having regard to the mixed use nature of the zone*", the Authority took the view that that the proposed use is unlikely to result in the loss of amenity of surrounding areas as there will be no increase in the scale of the venue (maximum number of patrons) and the trading hours of the proposed use shall be similar to the existing premises. Therefore, provided the use operates as per the conditions of the licence granted by the Licensing Commission no loss of amenity of surrounding areas is expected.

The application states that the proposed use is expanding an existing bar-small currently operating from Tenancy 7. Conditions are included to show the internal connection between Shop 6 and Tenancy 7 and as these details were not confirmed on the submitted plans. A condition is included on the permit to prevent the use from altering without the consent of the Authority.

Within regard to the of Management Plan as required under subclause 2 of Clause 5.5.10 (Night Club Entertainment Venue, Bar-Small and Bar-Public), the key characteristics required to be considered are operational hours, details of estimated patronage, impact on amenity of surrounding areas (within 400m), access to public transport and waste management. The Authority noted that the applicant has provided a management plan substantially addressing all key characteristics. The Authority took the view that the proposed development is entirely dependent on the grant of a liquor licence under the *Liquor Act 1978*. These matters are dealt extensively in the application for grant of a liquor licence. The Authority relied on its decision of approval granted for the hotel use for Tenancy 7, which outlines that:

“.....regulation of the hours of operation of licensed premises is a matter to be determined by the Liquor Commission but the Authority notes that it expects that any liquor licence which may be granted by the NT Liquor Commission for the proposal, will give due consideration to limiting the proposal’s opening hours to take account of the amenity of the school and nearby residential areas. The Authority considers it is unnecessary for it to also to impose a condition on the proposal’s trading hours for this purpose, given the extensive provisions of the Liquor Act 1978 requiring the NT Liquor Commission to consider, before the grant of any liquor licence, matters such as noise and impacts on the amenity of the locality of the proposed premises, and, its wide powers to impose conditions on any licence it does grant (see for example sections 6 and 31 of the Liquor Act 1978). Further, if the Authority imposes trading hours on the development, any future enforcement action taken by it in respect of a breach of those hours will ultimately involve prosecution for an offence under Part 7 of the Planning Act 1999. Such an action has the potential to raise questions of duplicity in relation to prosecutions or other actions taken under the Liquor Act 1978 for breach of licensing hours imposed under that Act on the same premises.....”

It was urged on behalf of the submitters that, as a threshold issue, the Authority should consider the operation impacts on the amenity of surrounding areas and should consider placing restrictions on hours of operation and patron numbers to meet the purpose of Clause 5.5.10 of the NTPS2020. The Authority concluded that the Management Plan's requirement in Clause 5.5.10 of the NTPS 2020 is to guide the Authority in making its decision on the proposed use. The Authority is clear in determining that further, duplication of hours of trading or limiting the number of patrons on any development permit may cause difficulties in enforcement, potentially raising the legal issue due to duplicity. The Authority clarifies that the approval of a planning application for the proposed use does not mean that approval from the Liquor Commission will also be granted as they are two very distinct processes with separate decision-making authorities.

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

Six submissions were made under section 49 in relation to the application during the exhibition period. At the hearing, DAS tabled a letter from a submitter withdrawing their submission and copies were given to the DCA members and other submitters who attended the meeting.. The key issues raised in the submissions relate to noise and amenity impacts of the existing and proposed on surrounding areas, operating hours, expansion of existing use. These written submissions were considered in detail by the Authority.

In addition to the written submissions, the Authority heard from submitters present at the meeting.

Mr Walsh raised the issue of noise emanating from the existing bar-small operating from Tenancy 7 and believes that approving the expansion of the bar-small would further increase this issue. In relation to the bar-small's operating hours, Mr Walsh stressed that the business owner has already applied to the Liquor Licensing Commission of the removal of current restriction placed on the use of the arcade area. Mr Walsh advised the Authority that his property is located 70m from the proposed use and is most impact by the noise emanating from the existing premises. Mr Walsh stated that that the current limitations of the liquor license and Northern Territory Fire and Rescue Service (NTFRS) limit the number of patrons in Shop 6 and arcade space of the licensed area to 96. Limitation on the hours of use of the arcade area effectively reduces the number of patrons able to be present on the premises when the arcade is not in use. The proposed use which extends the floor area will enable more patrons (approx. double) to remain on the premises after the Arcade is not in use. Mr Walsh stressed that there have been numerous disturbances to the surrounding residential area due to loud music noise emanating from the existing venue, shouting and laughing of patrons. Mr Walsh told the Authority that the Planning Act and the Planning Scheme requires the DCA to consider the amenity impacts within 400m of the proposed use. Furthermore, there is a requirement that the hours of operation are consistent with reasonable community expectations for the use and do not impact on the amenity of nearby residential uses. The DCA should consider this as a critical tool in determining this application and stressed that any decision made by the Authority should consider imposing the Management Plan as part of a condition on the permit.

Mr Walsh noted that the Department of Environment Parks and Water Security considers the proposed change of use as 'agent of change' as it creates a venue with music or is a venue that introduces music close to residential or other sensitive noise receptor uses. Therefore, the Authority should consider these comments as it directly relates to the surrounding areas' amenity. Mr Walsh further added that there has been a significant breach of various restrictions imposed by the Liquor Licensing Commission on the existing venue despite the assurances made by the applicant.

In addition to the issues raised above, Mr Walsh raised concerns about smoking by patrons of existing bar-small on Cunjevoi Crescent.

Mrs Alex Kersemakers echoed Mr Walsh comments in relation to the increased number of patron after 10.30pm. Mrs Kersemakers emphasised that allowing the expansion of existing premises will double the number of patrons in the venue until 1.00am. Mrs Kersemakers also raise the issue of smoking by patrons on Cunjevoi Crescent.

In response to the submitters' comments, Mr Wundke (applicant) clarified that a detailed plan had been prepared outlining methods to tackle noise and other issues identified by the submitters. These details would be scrutinised as part of the licensing application process, which is due for hearing. Mr Wundke explained to the Authority that any change in existing noise levels noise generated from the venue by proposed operation changes will be contained within Shop 6. This will help decrease noise at the venue from patrons/music by having more patrons internally. In response to the issue of smoking by patrons on Cunjevoi Crescent Mr Wundke confirmed to the Authority that the outdoor area on Cunjevoi Crescent is not part of licenced premises. Therefore Smoking Management Plan is not required under the Tobacco Control Act. Mr Wundke added that it is difficult to control a patron outside the licensed premises; however, efforts would be made to tackle this issue. In relation to the toilet facilities, Mr Wundke confirmed that the arrangements have been made to keep the toilets available to other users of the arcade including patrons of the hairdressing salon.

The Authority has taken all comments into account and carefully considered the submitters' concerns and the applicant's response to the matters raised. In relation to the potential impact on amenity as a result of noise, hours of operation and number of patrons the Authority relies on its reasons listed in point one (1) above which concludes that the NT Liquor Commission will consider the proposed use in relation to the proposed grant of a liquor licence under the Liquor Act 1978 and that the submitters have rights under Part IV of that Act to object to the granting of such licence. The Authority reiterated to the submitters that the approval of a planning application for the proposed bar-small does not mean that the Liquor Commission's approval will also be granted as they are two very distinct processes with separate decision-making authorities.

The Authority noted that a question was raised by a submitter (Mrs Rosanna van den Henrik) regarding relevant Authority to monitor the noise emanating from the premises. In raising this question, the submitter referred to other states' requirements to control the noise nuisance. The Authority told the submitter that the Environment Division of the Department of Environment, Parks and Water Security and Natural Resources is the relevant Authority for administering the Northern Territory Noise Management Framework Guideline. A note has been included on the permit to comply with the noise guidelines.

3. Pursuant to Section 51 (m) of the *Planning Act 1999*, the consent authority must consider the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

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

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

In considering the potential impact on amenity the Authority referred to the definition of amenity within the *Planning Act 1999* which states that “**amenity** in relation to a locality or building, means any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.”

The Authority notes that the proposed bar-small use is located within a mixed use centre providing a wide range of retail, entertainment, community and business activities that serve the broader locality.

The Authority considered all of the written submissions provided with the DAS report, as well as verbal submissions on the day of the hearing. These submissions have been discussed previously in reason 2. The Authority notes that there has been considerable public interest in the proposed development. The Authority acknowledged the very strongly worded and deeply held concerns of the submitters who took the time to make detailed written submissions and appear at the hearing. However, in considering amenity, the Authority noted that the proposed use will also require approval from the Liquor Commission and as part of that process the suitability of the proposed use in the subject location will be further examined. The Authority is left to consider the proposal in the context of its current zoning and compliance with the NT Planning Scheme.

The proposed development is fully compliant with the Zone C (Commercial) requirements, and the Authority concluded that the potential impact on the existing and future amenity of the area is consistent with what could reasonably be expected from a development in accordance with the zone provisions.

A note advising the applicant of their obligation to comply with the general environmental duty under section 12 of the *Waste Management and Pollution Control Act* is included on the permit. A condition requiring that the use and development as shown on the endorsed plan must not be altered without the further consent of the consent authority and its relation to the existing bar-small use operating from Tenancy 7 is also included on the permit.

The Authority considers that the proposed use would be unlikely to impact the area's existing or future amenity. The operator will need to adhere to relevant legislation such as the Liquor Act, the Waste Management and Pollution Control Act, and the permit condition.

FOR: 5

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

12 February 2021