



# **DEVELOPMENT CONSENT AUTHORITY**

## **DARWIN DIVISION**

### **MINUTES**

**MEETING No. 286 – FRIDAY 2 DECEMBER 2016**

**BROLGA ROOM  
NOVOTEL DARWIN ATRIUM  
100 THE ESPLANADE  
DARWIN**

**MEMBERS PRESENT:** Denis Burke (Chairman), Bob Elix, Doug Phillips and John Gleeson

**APOLOGIES:** Garry Lambert

**OFFICERS PRESENT:** Kate Walker (Secretary), Adelle Godfrey, Steven Kubasiewicz, Sarah Gooding, Joseph Sheridan and Walter Hawkins (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** James Whyte and Nadia Smith

**Meeting opened at 11.15 am and closed at 12.25 pm  
Meeting reopened at 1.35pm and closed at 3.00 pm**

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

**ITEM 1**                      **SHADE SAIL ADDITION TO AN EXISTING SINGLE DWELLING WITH REDUCED**  
**PA2016/0603**            **FRONT AND SIDE SETBACKS**  
                              **LOT 6759 (32) AH MAT STREET, TOWN OF DARWIN**  
**APPLICANT**           **AEROSAIL ENGINEERED FABRIC STRUCTURES PTY LTD**

Ms Cecilia Da Silva from Aerosail Engineered Fabric Structures Pty Ltd was present.

**RESOLVED**  
**227/16**

That, pursuant to section 53(c) of the *Planning Act*, the Development Consent Authority refuse to consent to the application to develop Lot 6759 (32) Ah Mat Street, Town of Darwin for the purpose of a shade sail addition to an existing single dwelling with reduced front and side setbacks for the following reasons:

1. Pursuant to section 51(a) of the Planning Act, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The land is in Zone SD (Single Dwelling) of the Northern Territory Planning Scheme (NTPS). Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) requires that shade sails are setback a minimum of 3m to the street frontage and 0.9m to a side boundary with a maximum height of 2.5m. The shade sail proposed minimum front setbacks of 1.4m (height of 2.2m) and 1.8m (height of 2.8m), plus a side setback of 0.6m. The purpose of Clause 7.3 includes to ensure that structures are compatible with the streetscape and surrounding development, amongst other matters.

The consent authority identified that the streetscape is characterised by single dwellings consistently setback from the road reserve, with front landscaping extending into the road reserve, and almost exclusively comprising open front yards unencumbered by structures or front fencing. The streetscape character is understood to have been established through a restrictive building covenant affecting the site and surrounding area which places a restriction on structures to be erected on the land.

The applicant outlined at the hearing that the purpose of the shade sail was to shade parked vehicles within the driveway. The applicant also outlined that increasing the setback of the sail to increase the level of compliance would fail to shade a car length and in this case, that the shade sail would not be functional or serve its intended purpose. The consent authority determined that a shade sail with a minimum setback of 1.4m would be inconsistent with the streetscape, and the inability of the design to achieve a more compliant setback to increase the level of compliance ultimately renders the development as unsuitable. Having considered the application submitted, the consent authority failed to identify any special circumstances that would warrant granting the variation sought.

2. Pursuant to Section 51 (n) of the Planning Act, 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 primary setbacks of existing dwellings along the frontage of Ah Mat Street are consistent, and are characterised by open landscaped front yards unencumbered by structures and front fencing. The consent authority determined that the streetscape character along Ah Mat Street would be degraded by allowing the development which departs from this existing established streetscape character.

**ACTION:** Notice of Refusal

**ITEM 2**  
**PA2016/0618**  
**APPLICANT**

**SHADE SAIL ADDITIONS TO AN EXISTING SINGLE DWELLING WITH REDUCED FRONT AND SIDE SETBACKS**  
**PORTION 2602 (49) CARNOUSTIE CIRCUIT, HUNDRED OF BAGOT**  
**NT SHADE AND CANVAS PTY LTD**

Landowner Mr Mark Teakle was present.

**RESOLVED**  
**228/16**

That, the Development Consent Authority vary the requirements of Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(b) of the *Planning Act*, alter the proposed development and consent to the proposed development as altered to develop Portion 2602 (49) Carnoustie Circuit, Hundred of Bagot for the purpose of shade sail additions to an existing single dwelling with reduced front and side setbacks, subject to the following conditions:

#### **CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:

- a) an increased front setback of the shade sails to Carnoustie Circuit of 2.5m.

#### **CONDITIONS**

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

3. 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. A "Permit to Work Within a Road Reserve" may be required from the City of Darwin before commencement of any work within the road reserve.

2. This development permit does not grant "building approval" for the proposed structure. The Building Code of Australia requires that certain structures within 900mm of a boundary meets minimum fire resistance level requirements and you are

advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.

3. 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.

## **REASONS FOR THE DECISION**

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

The subject land is in Zone SD (Single Dwelling) of the Northern Territory Planning Scheme. Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) requires that shade sails are setback 3m to the primary street frontage, and 0.9m to a side boundary, at a maximum height of 2.5m. The shade sails propose a minimum front setback of 1.0m (height of 3.5m), plus a side setback of 0.6m (height of 3.5m). The purpose of Clause 7.3 includes to ensure that structures are compatible with the streetscape and surrounding development, amongst other matters.

The consent authority identified that the streetscape is characterised by single dwellings consistently setback from the road reserve, on large lots of between 900m<sup>2</sup> and 1000m<sup>2</sup> in area, with front landscaping extending into the road reserve, and largely comprising open front yards. The streetscape character is understood to have been established through a restrictive building encumbrance affecting the site and surrounding area which places a restriction on structures to be erected on the land. The consent authority also noted the location of a carport on the adjacent lot to the north-east which is setback 4.5m and complies with the minimum setbacks required by Clause 7.3.

2. The applicant outlined at the hearing that the purpose of the shade sails were to shade parked vehicles within the driveway. The consent authority determined to alter the application to require amended plans nominating an increased setback of 2.5m in order to provide a more consistent and sensitive setback with surrounding dwellings, whilst still shading the full length of parked vehicles.

The consent authority determined to grant a variation to Clause 7.3 to reduce the required setback from 3m to 2.5m as altered in this instance, as the scale of non-compliance of 0.5m is unlikely to be noticeable and increasing the setback any further may not allow for shading the full length of parked vehicles as intended. The consent authority noted the design of the double shade sails as a positive feature of the design which would also provide interest to the streetscape.

3. Pursuant to Section 51(n) of the *Planning Act*, 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 application, as altered, achieves an overall



streetscape appearance which is more sensitive to the surrounding character than the application as originally proposed.

**ACTION:**

Notice of Consent and Development Permit

**ITEM 3  
PA2016/0628**

**LEISURE AND RECREATION FACILITY (TENNIS CENTRE) INCLUDING AN OFFICE,  
RESTAURANT AND FUNCTION CENTRE IN A 2 STOREY BUILDING  
SECTION 6294 (23) ABALA ROAD, HUNDRED OF BAGOT  
MODE DESIGN CORP PTY LTD**

**APPLICANT**

Ms Sarah Hubbard from Mode Design Corp Pty Ltd was present, with Mr Glen Everett from BG Group NT.

**RESOLVED  
229/16**

That, the Development Consent Authority vary the requirements of Clause 6.1 (General Height Control), of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the Planning Act, consent to the application to develop Lot 6294 (23) Abala Road, Hundred of Bagot for the purpose of a leisure and recreation facility (tennis centre) including an office, restaurant and function centre in a 2 storey building, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:

- (a) 8 additional car parking spaces to bring the total to 130 car parking spaces additional to those currently existing at the site; and
- (b) an amended landscaping plan, showing the location of trees within the car parking area.

2. Prior to the endorsement of plans and prior to the commencement of works, approval must be given from the Department of Defence for all structures higher than 15 metres above ground level to the satisfaction of the consent authority.

3. Prior to endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental Construction Management Plan (ECMP) to the requirements of the City of Darwin and Transport Infrastructure Planning Division of the Department of Infrastructure Planning and Logistics, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land.

4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact assessment report is to be prepared by a suitably qualified traffic engineer, to the requirements of City of Darwin and the Transport Infrastructure Planning Division of the Department of Infrastructure

Planning and Logistics, to the satisfaction of the consent authority. The Report must detail the development's traffic generation, trip distribution, traffic operation impact, the nature and timing of impacts, and recommended measures required to accommodate and / or mitigate the traffic impacts of the development, including construction traffic. All road sections and / or intersections where traffic generated by the development increases the existing traffic by 5% or more must be assessed.

5. Prior to the commencement of works, an Erosion and Sediment Control Plan (ESCP), is to be submitted to and approved by the consent authority on the advice of the Department of Environment and Natural Resources (DENR). All works relating to this permit are to be undertaken in accordance with the endorsed ESCP to the requirements of the consent authority, on advice from DENR. The ESCP should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase. The IECA Best Practice Erosion and Sediment Control Guidelines 2008 may be referenced as a guide to the type of information, detail and data that should be included in an ESCP. Information regarding erosion and sediment control and ESCP content is available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website: <https://nt.gov.au/environment/soil-land-vegetation>.

## **CONDITIONS**

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

7. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin to the satisfaction of the consent authority.

8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin and the Transport Infrastructure Planning Division of the Department of Infrastructure Planning and Logistics to the satisfaction of the consent authority.

9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

10. 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.

11. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.

12. Any developments works identified in the traffic impact assessment report shall be carried out to the requirements of the relevant service authorities to the satisfaction of the consent authority.

13. All works relating to this permit are to be undertaken in accordance with the endorsed erosion and sediment control plan to the requirements of the consent authority, upon the advice of the Department of Environment and Natural Resources.

14. All proposed works related to intersection, road upgrades and work impacting on (Henry Wrigley Drive or McMillans Road) are to be designed, supervised and certified on completion by a practicing and registered civil engineer, and shall be in accordance with the standards and specifications of the Transport Infrastructure Planning Division of the Department of Infrastructure Planning and Logistics. Drawings must be submitted to the Transport Infrastructure Planning Division and no works are to commence prior to gaining approval and receipt of a "Permit to Work Within a Road Reserve".

15. Where unfenced, the Henry Wrigley Drive frontages are to be appropriately fenced in accordance with the Transport Infrastructure Planning Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.

16. Building materials must be selected so as to not create reflective glare for aircraft operations to the satisfaction of the consent authority.

17. External lights must be designed, baffled and located to the satisfaction of the consent authority to prevent any adverse effect on adjoining land, roads, and on the operation of the RAAF Base Darwin and Darwin International Airport.

18. 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. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s).

19. The area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

- (a) constructed;
- (b) properly formed to such levels that they can be used in accordance with the plans;
- (c) surfaced with an all-weather-seal coat;
- (d) drained;
- (e) line marked to indicate each car space and all access lanes; and
- (f) clearly marked to show the direction of traffic along access lanes and driveways;

to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.

20. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin and the Transport Infrastructure Planning Division of the Department of Infrastructure Planning and Logistics, to the satisfaction of the consent authority. The owner shall:

- (a) remove disused vehicle and/ or pedestrian crossovers;

- (b) provide footpaths/ cycleways;
- (c) collect stormwater and discharge it to the drainage network; and
- (d) undertake reinstatement works;

all to the technical requirements of and at no cost to the City of Darwin and the Transport Infrastructure Planning Division of the Department of Infrastructure Planning and Logistics, to the satisfaction of the consent authority.

21. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors/guests.

22. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.

23. 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.

24. The landscaping is to be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

25. Storage for waste bins is to be provided to the requirements of the City of Darwin to the satisfaction of the consent authority.

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

27. 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 variable message). The sign shall be positioned:

- (a) so as not to create sun or headlight reflection to motorists; and
- (b) be located entirely (including foundations and aerially) within the subject lot.

## NOTES

1. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Nomination Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Building should be contact via email ([info@ntbuild.com.au](mailto:info@ntbuild.com.au)) or by phone (08 8936 4070) to determine if the proposed works are subject to the Act.

2. This development permit does not grant "building approval" for the proposed structure. The Building Code of Australia requires that certain structures within 900mm of a boundary meets minimum fire resistance level requirements and you are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.

3. The development and use hereby permitted should be designed, constructed, registered and operate in accordance with the National Construction Code of

Australia, the *NT Public Health Act* and Regulations, the *NT Food Act* and National Food Safety Standards.

4. 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.

5. Any floodlighting or security provided on site is to be shielded in a manner to prevent the lighting being noticeable or causing nuisance to Henry Wrigley Drive and McMillans Road traffic to the requirements of Transport Infrastructure Planning Division of Department of Infrastructure Planning and Logistics to the satisfaction of the consent authority.

6. The site is subject to the 'Defence Areas Control Regulations (DACR)'. All structures, including temporary structures, higher than 15m above ground level, including, but not limited to, additional buildings, light poles, cranes used during construction, vegetation etc., require approval from the Department of Defence.

7. The Power and Water Corporation note that clearance of any related subdivision of Section 6294 Hundred of Bagot will be required prior to clearance of this permit.

## **REASONS FOR THE DECISION**

1. Pursuant to Section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The application for a tennis centre and ancillary facilities is consistent with the primary purpose of Zone OR (Organised Recreation) which is to provide areas for organised recreational activities. The development is limited to providing recreational opportunities and ancillary facilities as intended by the zoning of the land.

2. A variation to the requirements of Clause 6.1 (General Height Control) of the Northern Territory Planning Scheme is granted for the clubhouse (12.04m), show court tensile structure (18.6m), and multi-purpose court tensile structure (12.6m) which all exceed maximum height of the 8.5m allowable in Zone OR. The Marrara area is currently developed with several comparable structures that exceed 8.5m in height, and the consent authority determined that the structures would therefore be compatible with the surrounding area. The building and tensile structures are not located nearby any sensitive elements that could be negatively impacted. As such, the consent authority determined that the development will not compromise the purpose of Clause 6.1 being to ensure that the height of buildings in a zone is consistent with development provided for by that zone.

3. The development as proposed did not meet the requirements of Clause 6.5.1 (Parking Requirements), as 122 car parking spaces are provided, where 130 are required. The consent authority determined to impose a condition requiring amended plans which demonstrate the additional 8 car parking spaces to meet the requirements of this clause and comply. The consent authority noted the availability

of land at the site for the provision of additional parking spaces and comments by the applicant that this request could be accommodated.

4. The original proposal as exhibited included a landscaping plan showing trees within the car parking area however an amended landscaping plan then removed those trees. The consent authority determined to impose a condition requiring amended plans to reinstate trees within the car parking area, to meet the original intent of the proposal, and to meet the requirements of Clause 8.2 (Commercial and other Development in Zone OR) in providing landscaping to reduce the visual impact and provide shade and screening of open expanses of pavement and car parking.

5. Pursuant to Section 51 (m) of the Planning Act, 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 on the development permit.

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

**ITEM 4**  
**PA2016/0644**

**CHANGES TO THE DEVELOPMENT APPROVED BY DP15/0770 RESULTING IN 36 X 2, 36 X 3 BEDROOM MULTIPLE DWELLINGS AND 56 SERVICED APARTMENTS (DUAL-KEY) PLUS GROUND LEVEL COMMERCIAL TENANCIES IN A 17 STOREY BUILDING WITH 3 LEVELS OF ABOVE GROUND CAR PARKING LOT 2446 (13) DALY STREET, TOWN OF DARWIN**  
**APPLICANT** **ASHFORD GROUP ARCHITECTS**

Mr Randal Ashford from Ashford Group Architects attended with Mr Brad Cunnington from Northern Planning Consultants Pty Ltd. The applicant tabled revised demonstrative plans. Submitters Mr Michael Scott and Ms Laurie Palfy attended. Ms Debbie Brown was an apology.

**RESOLVED**  
**230/16**

That, the Development Consent Authority vary the requirements of Clauses 6.3.2 (Volumetric Controls in Central Darwin), 6.6 (Loading Bays) and 7.5 (Private Open Space) of the Northern Territory Planning Scheme, and pursuant to section 53(b) of the Planning Act, alter the proposed development and consent to the proposed development as altered to develop Lot 2446 (13) Daly Street, Town of Darwin for the purpose of changes to the development approved by DP15/0770 resulting in 36 x 2, 36 x 3 bedroom multiple dwellings and 56 serviced apartments (dual-key) plus ground level commercial tenancies in a 17 storey building with 3 levels of above ground car parking, subject to the following conditions:

#### **CONDITIONS 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) recessed air conditioning units and screens at Tier 2 to comply with the minimum setbacks;
- (b) the location of a doorway for the Type B serviced apartment on level 7 in the northern corner of the building;
- (c) the siting of on-site service infrastructure on the advice of the Power and Water Corporation;
- (d) confirmation of the varied façade materials (including screening for balconies) and the 'painted pattern' used to screen the above ground car parking levels at Tier 1 and demonstration of an adequate level of screening to the car parking area being achieved;
- (e) screening between the balconies to units 2 and 3 on level 8;
- (f) a plan showing any services to be located on the rooftop are appropriately screened; and
- (g) end of trip facilities on the ground floor for staff.

2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscaping management plan prepared by a suitably qualified person must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and must be generally in accordance with the submitted landscape concepts, except that the plan must show:

- (a) 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; and
- (b) the provision of an irrigation system to all landscaped areas.

All species selected must be to the satisfaction of the consent authority.

In addition to the above, the landscaping management plan is to address the health and management of all plant species, including growing conditions to demonstrate that the landscaping will be maintained for the life of the development.

3. Prior to the endorsement of plans and prior to commencement of works (including site preparation), in principle approval is required for the provision of awnings to the street frontages to the requirements of the City of Darwin, Power and Water Corporation and the Transport Infrastructure Planning Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The awnings are to be generally in accordance with the submitted plans, and shall not reduce the achievement of active frontages below 75% of the total length of the site boundary to the street.

4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval is required from the City of Darwin for any element of the building (separate to awnings) that is designed to be constructed or installed over the City of Darwin road reserve, to the satisfaction of the consent authority.

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

6. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact assessment is to be prepared by a suitably qualified traffic engineer with attention to vehicular, pedestrian, cyclist and public transport issues, including swept paths for waste collection vehicles, identifying path treatment across the porte cochere that designate priority for pedestrians and cyclists and identifying any necessary upgrades to the surrounding street network to the requirements of the Transport Infrastructure Planning Division of the Department of Infrastructure, Planning and Logistics and the City of Darwin, to the satisfaction of the consent authority. The traffic impact assessment is also to address the location of driveway crossovers to the site from both road frontages.

7. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare a waste management plan to the requirements of the City of Darwin, to the satisfaction of the consent authority. The waste management plan is required to confirm waste collection will occur wholly on site.

8. Prior to the commencement of works (including site preparation), a qualified person experienced in the investigation and assessment of contaminated land, must provide clearance that the grounds of the site are free of contaminants. This clearance will form part of this permit and must be provided to the Northern Territory Environment Protection Authority, to the satisfaction of the consent authority.

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

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

## **GENERAL CONDITIONS**

11. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

12. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Darwin and the Transport Infrastructure Planning Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.

13. The owner of land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities, and



telecommunication networks to the development shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time.

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. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement of site is to be created.

16. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Darwin to the satisfaction of the consent authority. The owner shall:

- a) remove disused vehicle and/or pedestrian crossovers;
- b) provide footpaths/cycleways;
- c) collect stormwater and discharge it to the drainage network; and
- d) undertake reinstatement works;

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

17. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.

18. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.

19. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.

20. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.

21. All roof top plant equipment (such as vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).

22. 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.

23. 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. Detail 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.
24. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for unit/street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the doors and meters within the development in accordance with the allocation. An Occupancy Permit will not be able to be granted until such time as addressing is obtained.
25. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional (being the Licensed Surveyor in most instances) confirming that all new UTS number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both [landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au) and [powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au).
26. Before the occupation of the development starts, the areas set aside for the parking of vehicles and access lanes shown on the endorsed plans must be:
- a) constructed;
  - b) properly formed to such levels that they can be used in accordance with the plans;
  - c) surfaced with an all-weather seal coat;
  - d) drained;
  - e) line marked to indicate each car space and all access lanes; and
  - f) clearly marked to show the direction of traffic along access lanes and driveways;
- to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.
27. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
28. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
29. Before the 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.
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.

31. Soil erosion control and dust control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
32. A Compliance Certificate under the Swimming Pool Safety Act issued by the Swimming Pool Safety Authority is required for the swimming pool/s prior to the commencement of the use/development to the satisfaction of the consent authority.
33. Each dual key serviced apartment is to remain within the one unit entity (single ownership/single title) in the event that the development is unit titled.

## NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5362 ([surveylandrecords@nt.gov.au](mailto:surveylandrecords@nt.gov.au)). The consent authority noted as part of this determination that any future unit titling should retain each dual-key serviced apartment on one title.
3. A "Permit to Work Within a Road Reserve" is required from the Transport and Civil Services Division – Department of Infrastructure, Planning and Logistics and the City of Darwin before commencement of any work within the road reserve.
4. The Environment Protection Authority of the Department of Lands, Planning and the Environment advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
5. This development permit does not grant "building approval". The Building Code of Australia requires that certain structures within 900mm of a boundary meet minimum fire resistance level requirements and you are advised to contact a registered private building certifier to ensure that you have attained all necessary approvals before commencing works.
6. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost of Council.
7. Notwithstanding the approved plans, any proposed works (including landscaping and awnings) within the City of Darwin's road reserve is subject to approval and shall meet all requirements to the satisfaction of the City of Darwin, at no cost to the relevant agency.



8. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Nomination Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Building should be contact via email ([info@ntbuild.com.au](mailto:info@ntbuild.com.au)) or by phone (08 8936 4070) to determine if the proposed works are subject to the Act.
9. An application must be submitted to the Department of Defence for any cranes used during construction that will infringe on the Defence (Areas Control) Regulations surfaces for Darwin Airport.
10. The development has the potential to cause environmental impacts that may be considered an offence under the Waste Management and Pollution Control Act. For advice please contact the Northern Territory Environment Protection Authority.
11. The Environment Protection Authority advises that during the excavation, the basement may fill with turbid sediment laden stormwater, and there are obligations under section 16 of the Water Act for water to not become polluted.

## REASONS FOR THE DECISION

1. Pursuant to Section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The application proposes changes to the development approved through Development Permit DP15/0770 being a mixed use development, and comprises commercial uses and multiple dwellings which is consistent with the primary purpose of Zone CB (Central Business) in providing for a diversity of activities including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities with a commitment to the separation of incompatible activities. The changes include substantially reducing the overall height of the building from 29 to 17 storeys.
2. Clause 2.5 (Exercise of Discretion by the Consent Authority) requires that the consent authority only vary requirements specified in Part 4 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent. The development is assessed as being non-compliant with the standards of Clauses 6.3.2 (Volumetric Controls in Central Darwin), and varies the setbacks required to both Tiers 1 and Tier 2, including setbacks to balconies and rooms designed for at Tier 1 accommodation, the setbacks to levels 7 & 8 which form part of Tier 2, and the inclusion of various building design elements as part of the tower at Tier 2 which are located within the minimum building setbacks. Overall compared to that previously approved, the development is noted as being slightly more compliant with various elements of the volumetric controls.

The application is considered to demonstrate that special circumstances exist as a result of the ability of the design to increase the extent of views beyond that which would ordinarily be achieved by a compliant design by providing permeable corners, and by maintaining views through the permeable components of the building which extent within the setback area, and given the open nature of the structures are unlikely to affect breeze penetration or daylight. Although a number of architectural features of the building are located within the setback, these features are recognised

as contributing to the overall design. A condition is included on the permit to recess the air conditioning units and screens consistent with that previously included on DP15/0770 as these components are not considered to add to the design of the building and limited justification was provided in support of those elements.

The building includes components at the podium level which should be setback in accordance with Tier 2, including to the Smith Street, north-west and south-west boundaries. This component of the building is largely consistent with that previously approved with the consent authority noting the extent to which the penetration of daylight and breeze circulation between buildings is increased compared to a compliant building design due to the significant void spaces provided by the increased setbacks to levels 4 – 6 which provide an improved outcome to the adjoining site. The design is noting as being considerate of the privacy of residents of adjoining properties including developments reasonably anticipated through the inclusion of extended blade walls, and screening treatments including landscaping.

The consent authority noted that whilst some components of the building had been removed from the approved design including the double height landscaped voids and the covered roof terrace, the majority of other features have been retained including the varied façade materials used to screen the above ground car parking levels including the use of vertical gardens, the 6m void to levels 4 – 6 which may otherwise be fully developed in a compliant building design, to the Smith Street frontage the provision of two different treatments including screens and blockwork being separated by an increased setback to the central corridor to establish two different building components, and variations in the treatment to the north-western and south-western boundaries Tier 1 which assist in alleviating the overall massing of the building as viewed from these properties. Also, the building has maintained the use of upper level planter boxes, screening elements, and the extent of glass balustrading to each elevation. The development is still considered to be consistent with the broader intent of Zone CB including the overall height and scale proposed.

A variation to Clause 7.5 (Private Open Space) for balconies of between 8m<sup>2</sup> and 9.2m<sup>2</sup> (12m<sup>2</sup> ordinarily required) is granted as the total provision (21%) and quality of the communal open space areas are noted, including landscaped decks, plus 2 pools and 2 gymnasiums, in excess of the 15% of the site area ordinarily required by Clause 7.6 (Communal Open Space). It is noted that the changes to the development reduce the overall amount of communal open space than what was previously approved however the area provided will still enable occupants to extend their recreation activities outside of their units. The consent authority also noted that despite the reductions to the overall communal open space area provided from the original approval, the total number of dwellings and serviced apartments was also reduced considerably and that the reduction to the quantity of communal open space is considered proportionately to this.

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

Comments from the City of Darwin requested the application be deferred to address the volumetric controls, the loss of favourable architectural elements, the need to provide a landscape plan, and that a traffic impact assessment is required upfront so that the full impact of the development is understood. The consent authority considered the changes to the design of the development as outlined in reasons above and notes that the development is of substantially less scale of that already approved. The matters raised by the City of Darwin have been addressed to the satisfaction of the consent authority as described above, with the exception of the traffic impact assessment which is required as a condition prior to commencing works on the site. Conditions previously requested by the City of Darwin and included on DP15/0770 are reflected accordingly. The authority notes that the length of the porte cochere may need to be reduced to meet the requirements of the City of Darwin, and that a reduced length must not change its overall function.

It is anticipated that the conditions included on the permit, including those relating to the connection and upgrade of utility services and the provision and treatment of easements, are expected to ensure that the land is developed in accordance with physical capabilities, to address concerns raised by service authorities, and to ensure that utility and infrastructure requirements are appropriately addressed.

4. Pursuant to Section 51(n) of the *Planning Act*, 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 land is zoned to accommodate the proposed mixed use development. The development is considered to meet the purpose of Zone CB (Central Business) in that it provides for a diversity of activities including commercial and residential uses. The non-compliances associated with the proposal are not considered to exacerbate the potential impact on the existing or future amenity of the area as considered against the requirements of Clause 6.3.2. Despite the setback reductions, it is noted that the development is generally consistent with the broader intent of Zone CB and is smaller in scale than the development previously approved.

5. Pursuant to section 51(e) of the *Planning Act*, the consent authority must take into consideration any submissions received under section 50, and any other evidence or information under section 50, in relation to the development application. The application was publically exhibited for a period of 14 days in accordance with the requirements of the *Planning Act*. A total of 3 submissions were received during the exhibition period. Key concerns raised in the submissions included the traffic impacts of the development, the oversupply of serviced apartments, compliance with the Planning Scheme requirements and consideration of the *Darwin City Master Plan*, access to visitor parking bays, and providing natural light and ventilation. Conditions on the permit require a traffic impact assessment addressing access to the site including to address safety concerns, with the level of compliance with the Planning Scheme including the building design considered in detail by the authority. Market considerations or feasibility are not a consideration by the consent authority under the *Planning Act*. The applicant confirmed at the hearing that the visitor parking spaces would be managed with controlled and time limited access, with secure access provided for resident parking.

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

Mr Mark Bell attended with Mr Jimmy Lay and Mr Paul Winter.

**RESOLVED**  
**231/16**

That, pursuant to section 53(a) of the *Planning Act*, the Development Consent Authority vary the requirements of Clauses 6.6 (Loading Bays) and 8.3 (Setbacks for Commercial Uses Adjacent to Land in Zone ...MD...), and consent to the application to develop Lot 9240 (348 Bagot Road), Town of Nightcliff, for the purpose of showroom sales and offices in 2 x 3 storey buildings in 3 stages, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:

- (a) confirmation of building façade treatments to minimise the extent of blank walls to the eastern and southern boundaries;
- (b) the provision of 1 additional loading bay of 7.5m x 3.5m dimensions, with clearance of 4m and having access that is adequate for its purpose;
- (c) confirmation that the existing boundary fencing plus any retaining walls to the eastern and southern boundaries are a minimum height of 1.8m;
- (d) driveway access to the requirements of the City of Darwin; and
- (e) any changes required so that the plans are consistent with the landscape plan required by condition precedent 2.

2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare a landscape plan to the satisfaction of the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscape plan must be generally in accordance with the landscape concept plan prepared by Atelier Mark Bell, except that the plan must show:

- (a) a planting schedule of all proposed trees, shrubs and ground covers, including within all open areas of the site;
- (b) a minimum of 3m of landscaping along the full length of the eastern boundary to achieve a visual screen to the adjacent residential zoned land;
- (c) the provision of climbing plants to screen the rear wall of the buildings at ground level adjacent the eastern and southern boundaries; and
- (d) the provision of an in ground irrigation system to all landscaped areas.

3. Prior to endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental Construction Management Plan (ECMP) to the requirements of the City of Darwin and the Transport Infrastructure Planning Division of the Department of Infrastructure Planning and Logistics, to the satisfaction of the consent authority. The ECMP is to

address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land including the landscaping of road verges.

4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), an updated traffic impact assessment is to be prepared by a suitably qualified traffic engineer, to the requirements of the City of Darwin and the Transport Infrastructure Planning Division of the Department of Infrastructure Planning and Logistics, to the satisfaction of the consent authority. The Report must detail the development's traffic generation, trip distribution, traffic operation impact, the nature and timing of impacts, and recommended measures required to accommodate and / or mitigate the traffic impacts of the development, including construction traffic and addressing Council's comments regarding the location of the eastern entry point.

5. Prior to the commencement of works, an Erosion and Sediment Control Plan (ESCP), is to be submitted to and approved by the consent authority on the advice of the Department of Environment and Natural Resources (DENR). All works relating to this permit are to be undertaken in accordance with the endorsed ESCP to the requirements of the Consent authority, on advice from DENR. The ESCP should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase. The IECA Best Practice Erosion and Sediment Control Guidelines 2008 may be referenced as a guide to the type of information, detail and data that should be included in an ESCP. Information regarding erosion and sediment control and ESCP content is available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website: <https://nt.gov.au/environment/soil-land-vegetation>.

6. Prior to the commencement of works (including site preparation), a waste management plan in accordance with the City of Darwin's waste management policy is required to be submitted to the requirements of the City of Darwin, to the satisfaction of the consent authority.

7. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the 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 stormwater drain connection point/s and shall also indicate how stormwater will be collected on the site and connected underground to system.

## **CONDITIONS**

8. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.



10. 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.

11. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.

12. Any developments works identified in the traffic impact assessment shall be carried out to the requirements of the relevant service authorities to the satisfaction of the consent authority.

13. All works relating to this permit are to be undertaken in accordance with the endorsed ESCP to the requirements of the consent authority, upon the advice of the Department of Environment and Natural Resources.

14. All proposed works related to intersection, road upgrades and work impacting on Bagot Road are to be designed, supervised and certified on completion by a practicing and registered civil engineer, and shall be in accordance with the standards and specifications of the Transport Infrastructure Planning Division of the Department of Infrastructure Planning and Logistics. Drawings must be submitted to the Transport Infrastructure Planning Division for approval and no works are to commence prior to gaining approval and receipt of a "Permit to Work Within a Road Reserve".

15. 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. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s).

16. The area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

- (a) constructed;
- (b) properly formed to such levels that they can be used in accordance with the plans;
- (c) surfaced with an all-weather-seal coat;
- (d) drained;
- (e) line marked to indicate each car space and all access lanes; and
- (f) clearly marked to show the direction of traffic along access lanes and driveways;

to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.

17. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin and the Transport Infrastructure Planning Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The owner shall:

- (a) remove disused vehicle and/ or pedestrian crossovers;
- (b) provide footpaths/cycleways;

- (c) collect stormwater and discharge it to the drainage network; and
- (d) undertake reinstatement works;

All to the technical requirements of and at no cost to the relevant agencies, to the satisfaction of the consent authority.

18. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.

19. 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.

20. The landscaping is to be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

21. Storage for waste bins is to be provided to the requirements of the 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 ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. A "Permit to Work Within a Road Reserve" is required from City of Darwin or the Transport Infrastructure Planning Division of Department of Infrastructure, Planning and Logistics before commencement of any work within the road reserve.

3. This development permit does not grant "building approval" for the proposed structure. The Building Code of Australia requires that certain structures within 900mm of a boundary meets minimum fire resistance level requirements and you are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.

4. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email ([info@ntbuild.com.au](mailto:info@ntbuild.com.au)) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

5. 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 variable message). The sign shall be positioned:

- (a) so as not to create sun or headlight reflection to motorists; and

(b) be located entirely (including foundations and aerially) within the subject lot.

Temporary advertising signage e.g. 'A' frame, vehicle or trailer mounted shall not be erected within the Bagot Road reserve.

6. Any floodlighting or security lighting provided on site should be shielded in a manner to prevent the lighting being noticeable or causing nuisance to Bagot Road traffic.

## REASONS FOR THE DECISION

1. Pursuant to Section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The application is for the development of showroom sales and offices in 2 x 3 storey buildings in Zone C (Commercial). The primary purpose of Zone C is to provide for a range of business and community uses, with the development consistent with this zone purpose. The consent authority must also take into consideration under Section 51(n) of the *Planning Act* the potential impact on the existing and future amenity of the area in which the land is situated.

The site abuts residential land to the east and the south and the consent authority considered the design of the development in being satisfied this land is not adversely affected by the development. Clause 8.3 (Setbacks for Commercial uses Adjacent to Land in Zones ....MD...) requires that the use or development be setback 5m from the adjacent residential land, including landscaping to provide a visual screen to the adjacent land for a minimum depth of 3m and a solid screen fence of a minimum height of 1.8m.

The requirement for the 3m of landscaping to provide a visual screen is a non-discretionary component and amended plans are required by condition demonstrating that the 3m of landscaping is provided for the full length of the eastern boundary. Amended plans are also required demonstrating the height of the existing fencing to these boundaries is 1.8m minimum.

The application includes a variation to the 5m setback for the use or development, with the ground level of the buildings alongside the eastern and southern boundaries setback a minimum of 3m where adjacent to the residential zoned land. The setback to the upper levels of the buildings comply. In considering the reduced setbacks at ground level, the applicant outlined that the development is internally facing, including all areas of activity and vehicle and pedestrian areas where noise could be generated being located away from the adjacent residential land. The applicant demonstrated to the consent authority that although the location of air conditioning units on the roof of the ground level are proximate to the adjacent residential boundaries to the east and south and within the 5m setback, the units will be screened by a 1.6m blockwork wall extension above the plant servicing platform which is determined to provide both a visual and acoustic barrier. A condition is imposed to reduce the extent of blank walls to the adjoining boundaries as required by Clause 8.2.

The consent authority also noted the requirement for screen fencing and landscaping along the adjoining residential boundaries, and the proposed treatment of indian

mast trees which are expected to provide visual separation between the commercial and adjacent residential uses. The applicant offered to also include the provision of climbing plants to the building along the ground floor where adjacent to the residential zones with the consent authority requiring amending plans demonstrating this. A landscaping plan is requested confirming the location of all landscaping and also in ground irrigation to all landscaped areas. Overall an appropriate treatment to the adjacent residential zones is expected to be achieved and the potential effect on the existing and future amenity of the adjoining Zone MD (Multiple Dwelling Residential) land is minimised.

Amended plans are also required for the provision of 1 additional loading bay to increase the level of compliance with Clause 6.6 (Loading Bays) to provide for the development. Overall this will allow the provision of 3 loading bays to service the new components of the development. Whilst 8 loading bays would normally be required, the authority determined that the provision of 3 loading bays would likely meet the loading and unloading requirements of the site as the loading bays are located to be accessible via covered walkways and footpaths between each of the tenancies which provides for a convenient arrangement. The variation to Clause 6.6 is unlikely to neither effect the surrounding development nor result in any issues that are incapable of being managed on the site.

2. Pursuant to Section 51 (m) of the Planning Act, 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 has been circulated to the relevant service authorities for comment and no issues have been identified that are unable to be addressed through the conditions included on the development permit. The consent authority noted that the City of Darwin objected to the eastern driveway to Fitzgerald Street with the driveway location to be resolved through a condition of the permit.

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

<b>ITEM 6</b> <b>PA2016/0627</b>	<b>ADDITION OF 21 X 2 BEDROOM MULTIPLE DWELLINGS IN A 4 STOREY BUILDING TO EXISTING 12 X 2 BEDROOM MULTIPLE DWELLINGS IN 2 X 3 STOREY BUILDINGS</b>
<b>APPLICANT</b>	<b>LOT 10473 (140) DICK WARD DRIVE, TOWN OF NIGHTCLIFF</b> <b>GEORGE SAVVAS</b>

Mr George Savvas attended. Submitters present included Mr Colin West and Mr Brian Duncan.

<b>RESOLVED</b> <b>232/16</b>	That, the Development Consent Authority vary the requirements of Clauses 6.5.3 (Parking Layout) and 7.3.1 (Additional Setback Requirements for Residential Buildings Longer than 18m and for Residential Buildings over 4 Storeys in Height) of the Northern Territory Planning Scheme, and pursuant to Section 53(a) of the <i>Planning Act</i> , consent to the application to develop Lot 10473 (140) Dick Ward Drive, Town of Darwin for the purpose of the addition of 21 x 2 bedroom multiple dwellings in a 4
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storey building to existing 12 x 2 bedroom multiple dwellings in 2 x 3 storey buildings, subject to the following conditions:

#### **CONDITIONS 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:

- car parking bays 9, 10 as 'small car bays'; and
- car parking bays 37 and 38 as 'visitor parking'.

2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the 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 stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected to the underground system.

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (ECMP) to the requirements of the City of Darwin. The ECMP is to address waste management, traffic control, haulage routes, and the use of Council land during construction, to the satisfaction of the consent authority.

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

5. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is engage an engineer to prepare a traffic report detailing access site lines and the expected impact due to the increase in vehicle numbers to the site, to the requirements of the City of Darwin, to the satisfaction of the consent authority.

#### **GENERAL CONDITIONS**

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities and telecommunication services to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

8. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
9. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
10. Building materials must be selected so as to not create reflective glare for aircraft operations, to the satisfaction of the consent authority.
11. The development must be designed and constructed to comply with AS2021-2000 'Acoustics – Aircraft noise intrusion – building siting and construction' (AS2021), and a statement from a suitably qualified acoustic engineer confirming compliance with AS2021-2000 must be submitted prior to occupation of the development, to the satisfaction of the consent authority.
12. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Darwin, to the satisfaction of the consent authority. The owner shall:
- a) remove disused vehicle and/ or pedestrian crossovers;
  - b) provide footpaths/ cycleways;
  - c) collect stormwater and discharge it to the drainage network; and
  - d) undertake reinstatement works;
- all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
13. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
14. A Compliance Certificate under the Swimming Pool Safety Act issued by the Swimming Pool Safety Authority is required for the swimming pools prior to the commencement of the use to the satisfaction of the consent authority.
15. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for unit/street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the doors and meters within the development in accordance with the allocation. A Certificate of Compliance will not be able to be granted until such time as addressing is obtained.
16. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional (being the Licensed Surveyor in most instances) confirming that all new UTS number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both [landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au) and [powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au).

17. Before the 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.
18. 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.
19. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
20. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
21. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.
22. All balconies are to be internally drained and discharged is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
23. Soil erosion control and dust control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.

## NOTES

1. This development permit does not grant building approval. You are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
3. A permit to work within a road reserve may be required from the City of Darwin before commencement of any work within the road reserve.
4. Notwithstanding the approved plans, any proposed works (including landscaping) within the road reserve is subject to approval and shall meet all requirements of the City of Darwin, and at no cost to the City of Darwin.
5. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise



Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

6. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from Department of Environment and Natural Resources.

7. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email ([info@ntbuild.com.au](mailto:info@ntbuild.com.au)) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

8. You are advised to contact NBN Co prior to commencing construction to determine if your development is in an NBN-eligible area. This will help identify the relevant telecommunication network servicing requirements for the development. To register, please complete the pre-qualification forms located at [www.nbnco.com.au/newdevelopments](http://www.nbnco.com.au/newdevelopments). For more information, please contact the NBN Co New Developments Team on 1800 687 626 or email [newdevelopments@nbnco.com.au](mailto:newdevelopments@nbnco.com.au).

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

## REASONS FOR THE DECISION

1. Pursuant to Section 51(a) of the Planning Act, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The primary purpose of Zone MR (Medium Density Residential) of the Northern Territory Planning Scheme is to provide for a range of housing options to a maximum height of four storeys above ground level. The development is for multiple dwellings within a four storey building. The site is located along Dickward Drive, within close proximity to schools, shops, public transport links and other community facilities. There are two existing three storey buildings located on the same site that are to be retained.

The development varies Clause 6.5.3 (Parking Layout) of the Planning Scheme. The purpose of this clause is to ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose. The majority of the design meets the minimum dimensions required, with the exception of bays 9 and 10 located at the end of a drive way row, which project a further 0.6m, rather than the 1m required. Amended plans are required by condition, nominating bays 9, 10 as 'small car bays'.

The development also varies Clauses 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and 7.3.1 (Additional Setback Requirements for Residential Buildings Longer than 18m and for Residential Buildings Over 4 Storeys in Height).



The purpose of Clause 7.3 is to ensure that residential buildings and ancillary structures are located so they are compatible with the streetscape and surrounding development including residential buildings on the same site, as to minimise any adverse effects of building masses when viewed from adjoining land and the street, as to avoid undue overlooking of adjoining properties, and as to encourage breeze penetration through and between buildings. The purpose of Clause 7.3.1 is to ensure that residential buildings respond to the potential adverse effects of building massing and visual bulk when viewed from adjoining land and the street.

The development includes a front setback of 7m to Dickward Drive frontage when 7.5m is required by Clause 7.3, and 10.5m is required by Clause 7.3.1 due to the overall building length to this frontage. A variation to the front setback is granted for the following reasons:

- Horizontal blades positioned between the ground and first level, and also as window awnings assist in breaking up the building wall. The balcony railings are to be of glass construction which will also assist in reducing the overall visual bulk of the building;
- With the exception of two resident carparking spaces, the carparking areas are to be screened from the road using a combination of blockwork walls and horizontal awnings. The use of the awnings at ground level will ensure that breezes can penetrate the central communal area;
- The inclusion of large shade trees at the front of the site will provide softening of the affected elevation; and
- The reduced front setback allows for greater separation between the proposed building and the two existing buildings to the rear and will maximise the amenity of the common communal open space between the buildings on-site.

Overall and despite the reductions, the purpose of both clauses is determined to be achieved.

The side setbacks to the meeting achieve the minimum setbacks required by Clause 7.3, but require an additional setback due to the overall building length to these frontages. A variation to the side setbacks is granted for the following reasons:

- Only the balconies of the rear units encroach upon the minimum 4.5m required to the north and south boundaries and the rest of the building complies. With the exception of a solid wall encompassing the air-conditioning condensers on these balconies, the solid residential wall is set away a minimum of 5.4m; 1.1m in excess of that required by Clause 7.3.1;
- The balcony railings are to be of glass construction and the uses of varying materials and paint treatments ensure that these balcony areas do not look overly bulky or otherwise visually obtrusive;
- The activation of the area along the northern side boundary will increase the level of passive surveillance towards the car parking area on the adjacent Lot 10473; and
- The northern balconies predominantly overlook the adjoining car parking area on Lot 10473. There is well established vegetation along the southern boundary and the plans indicate that this vegetation will be retained where possible to provide screening to the adjoining neighbours. For these reasons it is considered that the potential for overlooking will be minimised.

2. Pursuant to Section 51(j) of the Planning Act, the consent authority must take into consideration the capability of the land to which the proposed development relates, 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 assessment and the site is predominantly not affected by riverine or storm surge flooding, or any heritage constraints.

A small section of the south-western corner of the site appears to be located within a Secondary Storm Surge Area, however no development is proposed within this area.

Approximately one third of the site is situated within the 20 – 25 ANEF contour. AS2021:2000 states that the siting of a house, home unit, flat or caravan park within the 20 – 25 ANEF contour is conditionally acceptable. Lighting associated with development on land within flight approach paths is not to prejudice the safe operation of an airport. Use or development of land is not to be of a nature that attracts birds or bats to an extent that prejudices the safe operation of an airport and a statement from a suitably qualified acoustic engineer is required by condition to ensure noise attenuation strategies are appropriate.

The site also appears to be generally flat and should not prevent the proposed development. The site and surrounding area has already been developed. The proposal is very similar to the anticipated density in this location. Conditions on the development permit require submission of a construction management plan, a stormwater management plan, traffic report, and a dilapidation report as requested by the City of Darwin.

3. Pursuant to Section 51(n) of the Planning Act, 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.

Despite the reduced side and front setbacks, the consent authority has concluded that the scale of the development, including the height and built form is consistent with that reasonably anticipated in this location. Whilst the front setback of 10.5m and side setback (to the rear balconies) of 4.5m is not achieved, various architectural treatments and the addition of landscaping have been identified which lessen the overall impact of these façades. For these reasons the development is determined to be compatible with the streetscape and surrounding development.

4. Pursuant to section 51(e) of the *Planning Act*, the consent authority must take into consideration any submissions received under section 50, and any other evidence or information under section 50, in relation to the development application. The application was publically exhibited for a period of 14 days in accordance with the requirements of the *Planning Act*. A total of 3 submissions were received during the exhibition period. Key concerns raised in the submissions included overdevelopment of the site and compliance with the Planning Scheme requirements. The level of compliance with the Planning Scheme including the building design was considered in detail by the authority at the hearing. It was determined that the development complied with the intent of Zone MR (Medium Density Residential). The applicant confirmed at the hearing that the building had been designed to

minimise balconies facing adjoining residences and that the front setback proposed was to maximise the quality of the centrally located communal open space on site and to maximise the setback to the existing dwellings located at the rear of the site.

**ACTION:** Notice of Determination

**ITEM 7**  
**PA2016/0593**  
**21 STOREY BUILDING COMPRISING 48 X 2 AND 63 X 3 BEDROOM MULTIPLE DWELLINGS WITH GROUND LEVEL COMMERCIAL TENANCIES AND 4 LEVELS OF ABOVE GROUND CARPARKING**  
**LOT 10563 (91) WOODS STREET, TOWN OF DARWIN**  
**APPLICANT** **NORTHERN PLANNING CONSULTANTS PTY LTD**

Mr Brad Cunnington from Northern Planning Consultants Pty Ltd was present. Submitters present were Mr David Hibbert, who tabled two documents to support his submission; Mr Guy Bennetts, Manager of City Gardens Apartments; and Ms Vicki Potter.

**RESOLVED**  
**233/16**  
That, the Development Consent Authority vary the requirements of Clauses 6.3.2 (Volumetric Control in Central Darwin), 6.3.3 (Urban Design Requirements in Central Darwin), 6.5.3 (Parking Layout), and 7.5 (Private Open Space) of the Northern Territory Planning Scheme, and pursuant to Section 53(a) of the *Planning Act*, consent to the application to develop Lot 10563 (91) Woods Street, Town of Darwin for the purpose of a 21 storey building comprising 48 x 2 and 63 x 3 bedroom multiple dwellings with ground level commercial tenancies and 4 levels of above ground carparking, subject to the following conditions:

#### **CONDITIONS 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) bicycle storage facilities at ground level;
- (b) the fire booster doors opening within the property boundary; and
- (c) separation treatments to ensure privacy is maintained between private and communal areas at Level 5 (Podium);

2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), in principle approval is required for the provision of awnings to the street frontages to the requirements of City of Darwin and the Power and Water Corporation. The awnings are to be generally in accordance with the submitted plans, and shall not reduce the achievement of active frontages below 66.2% of the total length of the site boundary to the street. The plans should adequately demonstrate that the planting and growth of mature trees can be accommodated within the road reserve and co-exist with the proposed structure, to the satisfaction of the consent authority.

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval is required by the City of Darwin for any element of the building (separate to awnings) that is designed to be constructed or installed over the City of Darwin road reserve, to the satisfaction of the consent authority.
4. Prior to the endorsement of plans and prior to the commencement of works, in principle approval for the water and sewer servicing of the development is required to the requirements of the Power and Water Corporation to the satisfaction of the consent authority.
5. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval is required by the City of Darwin for any element of the building (separate to awnings) that is designed to be constructed or installed over the City of Darwin road reserve, to the satisfaction of the consent authority.
6. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the underground 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 stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected to the underground system.
7. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact assessment report is to be prepared by a suitably qualified traffic engineer with attention to vehicular, pedestrian, cyclist and public transport issues, including swept paths for waste collection vehicles, identifying any necessary upgrades to the surrounding street network and resolving the driveway access locations, to the requirements of the City of Darwin, to the satisfaction of the consent authority.
8. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to provide in principle approval from the Power and Water Corporation for the proposed landscaping works within the sewer easement at the rear of the site to the satisfaction of the consent authority.
9. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare a waste management plan to the requirements of the City of Darwin, to the satisfaction of the consent authority. The waste management plan is required to confirm waste collection will occur wholly on site.
10. Prior to the commencement of works (including site preparation), the applicant is to prepare an environmental and construction management plan to the requirements of the City of Darwin, to the satisfaction of the consent authority. The plan is to address construction access, haulage routes, public access, waste management, and the use of Council land during construction.

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

## GENERAL CONDITIONS

12. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.

13. 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.

14. Before the use commences the owner/developer must, in accordance with section 70(3) of the *Planning Act*, confirm the loss of any on-street parking bays within Woods Street as a result of the proposed access points. In accordance with section 70(5) of the *Planning Act*, the subject parking bays may be provided through the payment of a monetary contribution to the City of Darwin. The contribution is to be calculated in accordance with the requirements of section 70(6) of the *Planning Act*.

15. Before the use commences the owner must, in accordance with Part 6 of the *Planning Act*, pay a monetary contribution to the City of Darwin for the upgrade of local stormwater infrastructure, in accordance with its Development Contribution Plan, to the satisfaction of the consent authority.

16. The owner of land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities, and telecommunication networks to the development shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time.

17. 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.

18. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement of site is to be created.

19. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Darwin to the satisfaction of the consent authority. The owner shall:

- a) remove disused vehicle and/or pedestrian crossovers;
- b) provide footpaths/cycleways;
- c) collect stormwater and discharge it to the drainage network; and
- d) undertake reinstatement works;

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

20. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.

21. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
22. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.
23. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.
24. All roof top plant equipment (such as vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).
25. 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.
26. 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. Detail 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.
27. Before the occupation of the development starts, the areas set aside for the parking of vehicles and access lanes shown on the endorsed plans must be:
- a) constructed;
  - b) properly formed to such levels that they can be used in accordance with the plans;
  - c) surfaced with an all-weather seal coat;
  - d) drained;
  - e) line marked to indicate each car space and all access lanes; and
  - f) clearly marked to show the direction of traffic along access lanes and driveways;
- to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.
28. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.

29. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
30. Before the 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.
31. 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.
32. Soil erosion control and dust control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
33. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional (being the Licensed Surveyor in most instances) confirming that all new UTS number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both [landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au) and [powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au).
34. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for unit/street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the doors and meters within the development in accordance with the allocation. An Occupancy Permit will not be able to be granted until such time as addressing is obtained.
35. A Compliance Certificate under the Swimming Pool Safety Act issued by the Swimming Pool Safety Authority is required for the swimming pool/s prior to the commencement of the use/development to the satisfaction of the consent authority.

## NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. A "Permit to Work Within a Road Reserve" is required from the City of Darwin before commencement of any work within the road reserve.
3. Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.



4. This development permit does not grant “building approval”. The Building Code of Australia requires that certain structures within 900mm of a boundary meet minimum fire resistance level requirements and you are advised to contact a registered private building certifier to ensure that you have attained all necessary approvals before commencing works.
5. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost of Council.
6. Notwithstanding the approved plans, any proposed works (including landscaping and awnings) within the City of Darwin’s road reserve is subject to approval and shall meet all requirements to the satisfaction of the City of Darwin, at no cost to the relevant agency.
7. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Nomination Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Building should be contact via email ([info@ntbuild.com.au](mailto:info@ntbuild.com.au)) or by phone (08 8936 4070) to determine if the proposed works are subject to the Act.
8. An application must be submitted to the Department of Defence for any cranes used during construction that will infringe on the Defence (Areas Control) Regulations surfaces for Darwin Airport.
9. The Environment Protection Authority advise that during the excavation, the basement may fill with turbid sediment laden stormwater, and there are obligations under section 16 of the Water Act for water to not become polluted.
10. You are advised to contact NBN Co prior to commencing construction to determine if you development is in an NBN-eligible area. This will help identify the relevant telecommunication network servicing requirements for the development. To register, please complete the pre-qualification forms located at [www.nbnco.com.au/newdevelopments](http://www.nbnco.com.au/newdevelopments). For more information, please contact the NBN Co New Developments Team on 1800 687 626 or email [newdevelopments@nbnco.com.au](mailto:newdevelopments@nbnco.com.au).
11. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5362 ([surveylandrecords@nt.gov.au](mailto:surveylandrecords@nt.gov.au)).
12. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from Department of Environment and Natural Resources.

## REASONS FOR THE DECISION

1. Pursuant to Section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates. The application is for a mixed use development comprising



commercial uses and multiple dwellings which is consistent with the primary purpose of Zone CB (Central Business) in providing for a diversity of activities including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities with a commitment to the separation of incompatible activities.

2. Clause 2.5 (Exercise of Discretion by the Consent Authority) requires that the Authority only vary requirements specified in Part 4 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent. The development varies the requirements of Clauses 6.3.2 (Volumetric Control in Central Darwin), 6.3.3 (Urban Design Requirements in Central Darwin), 6.5.3 (Parking Layout), and 7.5 (Private Open Space) of the NT Planning Scheme.

The purpose of Clause 6.3.2 (Volumetric Controls in Central Darwin) is to ensure that the siting and mass of buildings within Central Darwin promotes a built form that maximises the potential for view corridors to Darwin harbour, the penetration of daylight and breeze circulation between buildings, privacy for residents of adjoining properties, and a built form that reasonably anticipates the future development of adjoining sites.

In relation to Tier 1, the development includes reduced setbacks to the communal and private terraces, as assessed against Clause 6.3.2 (Volumetric Controls in Central Darwin) and should be considered in terms of privacy for adjacent sites. Generally the overlooking of habitable spaces from future developments reasonably anticipated is avoided by the use of screen fencing and planter boxes. It is noted that, in response to public concerns raised, the plans were amended to increase the level and detail of landscaping at podium level, in order to ensure that the level of screening to the adjoining land is sufficient.

In relation to Tier 2, when considering the solid building elements only, the building length is equivalent to 75.6% of the south-eastern boundary and 73.5% of the north-western boundary. The Tier 2 element of the building exceeds all setbacks requirements, with the exception of minor window sunscreen projections which will encroach into the 6 metre setback (for area by up to 900mm. The additional features of the building which intrude within the 6m setback are permeable, including glass balustrades in selected areas, and other horizontal elements including sunshades, which are considered minor architectural features only and unlikely to compromise the achievement of the Clause 6.3.2 objectives.

The purpose of Clause 6.3.3 (Urban Design Requirements in Central Darwin) is to promote exemplary urban design in Central Darwin. A variation to Clause 6.3.3, to allow an active frontage of 21.26m in length (or 66.2%) rather than the minimum 24.07m (75%), is granted due to the minimal frontage of the subject land to Woods Street of 32.1 metres.

Service equipment is limited to that required by service agencies, with the equipment grouped in order to minimise their exposure to the Woods Street frontage. The vehicle entry / exit point has been separated to minimise the expanse of a double driveway, with the width of the respective entry and exit driveways reduced as low as possible whilst retaining a safe and function access / egress arrangement. The split driveway allows the fire control room and fire escape stairs to be 'stacked' behind the

booster. The substation is located towards the rear of the ground floor with the location accepted in principle by the Power and Water Corporation. As such, the extent of services, or 'inactive' frontage is limited to that required. For these reasons, it is determined that the building has maximised the extent of the active frontage as far as is practical.

The purpose of Clause 6.5.3 (Parking Layout) is to ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose. The majority of the car park is appropriately designed, with the exception of Bays 1, 23, 37, 59 (at Level 1); 1, 23, 38 and 60 (at Level 2 - 4) which are located at the end of a driveway row and are not either 3.5m wide or have a 1m aisle extension, which does not comply. Furthermore, in order to accommodate planter boxes on the side facades of the building and stairwells throughout the car parking levels, 7 'short car bays are nominated at Level 1, 8 at Levels 2-3, and 6 at Level 4.

A variation to clause 6.5.3 is granted in this instance, as the subject bays are located at the end of a driveway row are located perpendicular to driveways and there is sufficient reversing space available to allow effective manoeuvrability of a car on-site. In relation to the 16 'short' carparking bays, the development still provides a surplus of 33 parking bays, even after removing the 'short' bays.

The purpose of Clause 7.5 (Private Open Space) includes to ensure that each dwelling has private open space that is of an adequate size to provide for domestic purposes. All dwellings achieve the minimum area of 12m<sup>2</sup> required however the following dwellings types at Levels 6-20 do not comply with the minimum dimension requirements:

- Dwelling type B2A – balconies have dimensions of 2.7m x 4.25m (a total of 15 units); and
- Dwelling types B3A and B3B – due to the tapered design, balconies have minimum dimensions of 3.75m x 2.57m (a total of 60 units).

A variation to clause 7.5 is granted as the proposed dimensions are due to the acute balcony dimensions and correspond with the internal apartment layout. All balconies provide useable, functional dimensions and avoid narrow private open space areas. The provision of private open space allows all balconies to function as a direct extension of the indoor living areas, and creates the perception of additional space. The development accords with the objectives of Clause 7.5 in that private open space is appropriately located within each apartment, and is of an adequate size to provide for domestic purposes and is considered to complement the extensive communal open space provided at Level 5.

The total provision and quality of the communal open space areas are noted, including slightly exceeding the minimum 15% ordinarily required by Clause 7.6 (Communal Open Space) (by 1.76%) and providing a pool, gymnasium, barbeque area and an internal and external children's play area. Despite the variations sought, the usability of the private open space provided is also improved by the location air conditioning equipment outside of the balcony areas.

A number of the private terraces directly abut the communal open space areas. The separation treatments to ensure privacy is maintained between private and communal areas are unclear from the plans provided. Further information and amended plans

are requested by condition in relation to the privacy treatments to separate these areas.

3. Pursuant to section 51(m) of the *Planning Act*, the consent authority must take into account the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose. Conditions on the development permit require consent for the proposed awnings within the road reserve, a construction management plan, a waste management plan, a stormwater management plan; a traffic impact assessment, and a dilapidation report. A stormwater contribution was also sought by the City of Darwin and has been included as a condition on the permit. It is anticipated that these measures, combined with standard conditions relating to the connection and upgrade of utility services and the provision and treatment of easements, are expected to ensure that the land is developed in accordance with physical capabilities, to address concerns raised by service authorities, and to ensure that utility and infrastructure requirements are appropriately addressed.

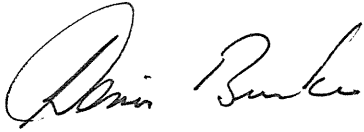
4. Pursuant to Section 51(n) of the *Planning Act*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated. The land is zoned to accommodate the proposed mixed use development. The development is considered to meet the purpose of Zone CB (Central Business) in that it provides for a diversity of activities including commercial and residential. The non-compliances associated with the proposal are not considered to exacerbate the potential impact on the existing or future amenity of the area as considered against the requirements of Clause 6.3.2. Despite the setback reductions, it is noted that the development is generally consistent with the broader intent of Zone CB including the overall height and scale proposed.

5. Pursuant to section 51(e) of the *Planning Act*, the consent authority must take into consideration any submissions received under section 50, and any other evidence or information under section 50, in relation to the development application. The application was publically exhibited for a period of 14 days in accordance with the requirements of the *Planning Act*. A total of 10 submissions were received during the exhibition period. Key concerns raised in the submissions included the traffic impacts of the development, the oversupply of dwellings, compliance with the Planning Scheme requirements, stormwater issues experienced within the area, construction noise and dust, and access to visitor parking bays. The issues relating to stormwater, traffic, access and the construction phase of the development are addressed via conditions of development. The level of compliance with the Planning Scheme including the building (in particular podium (Tier 1) design) was considered in detail by the authority at the hearing, with amended plans provided through the assessment of the application which reduced the extent of blank walls substantially. The development has a surplus of 49 parking bays (including short bays). Market considerations or feasibility are not a consideration by the consent authority under the *Planning Act*. The applicant confirmed at the hearing a commitment to provide copies of the Construction Environmental Management Plan (CEMP) and dilapidation report to neighbours at Lot 274 (93) Woods Street (City Gardens).

**ACTION:**

Notice of Consent and Development Permit

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

A handwritten signature in black ink, appearing to read "Denis Burke". The signature is fluid and cursive, with the first name "Denis" and last name "Burke" clearly distinguishable.

**DENIS BURKE**  
Chairman

8 /12/16