



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 351 – FRIDAY 6 MARCH 2020

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

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

APOLOGIES: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Dawn Parkes, Amit Magotra and Emmet Blackwell, (Development Assessment Services)

COUNCIL REPRESENTATIVE: Conneil Brown and Brian Sellers

Meeting opened at 10.30 am and closed at 12 noon

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

ITEM 1

PA2020/0009 HOTEL (CONTAINER BAR, 2 X FOOD VANS AND ALFRESCO DINING) WITH ANCILLARY LEISURE AND RECREATION LOT 2328 (33) CAVENAGH STREET, DARWIN CITY, TOWN OF DARWIN
APPLICANT/S Gwelo Investments Pty Ltd

Mr Vince Albertoni (Gwelo Investments) and Mr Shane Ortis (Ruby G's) attended.

**RESOLVED
38/20**

That, the Development Consent Authority vary Clause 6.6 (Loading Bays) of the Northern Territory Planning Scheme and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 2328 (33) Cavenagh Street, Town of Darwin for the purpose of Hotel (container bar, 2 x food vans and alfresco dining) with ancillary leisure and recreation, 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) car parking layout to be compliant with the requirements of Clause 6.5.3 (Parking Layout);
 - (b) bicycle storage facilities;
 - (c) loading bay previously approved under development permits DP15/0398 & DP15/0398A;
 - (c) design of the shipping container doors of the pedestrian entry/exit onto Austin Lane, so as not to open outwards into the road reserve, or an alternative design to the requirements of the City of Darwin; and
 - (d) the extent of the declared heritage area, to the requirements of the Heritage Branch, Department of Tourism, Sport and Culture.
2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels, and Council's stormwater drain connection point/s and connection details.
3. Prior to the commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's Waste Management Policy 054, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.

4. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.
5. Prior to 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

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 to the development 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. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
11. 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.
12. Before the use or occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and

- (f) clearly marked to show the direction of traffic along access lanes and driveways;
to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.
13. 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.
14. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
15. 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.
16. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES:

1. Notwithstanding the approved plans, any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin Policy Number 42 – Outdoor Advertising Signs Code.
2. All works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
3. Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and the Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of one month prior to construction works commencing to determine servicing requirements and the need for upgrading of infrastructure.
4. Part of the subject site is a declared heritage place, and no work is to be carried out within the declared heritage place without following appropriate processes under the terms of the *Heritage Act 2011*.
5. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority (NT EPA) website at <https://ntepa.nt.gov.au/wastepollution/guidelines/guidelines>.

The proponent is advised to take notice of the attached Schedule of Environmental Considerations provided by DENR.

The Act, administered by the NT EPA, is separate to and not reduced or affected in any way by other legislation administered by other departments or authorities. The Environmental Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

6. The development and use hereby permitted should be designed, constructed, registered and operate in accordance with the National Construction Code of Australia, the *Public and Environmental Health Act 2011* and Regulations, the *Food Act 2004* and National Food Safety Standards.

REASONS FOR THE DECISION

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

The Northern Territory Planning Scheme (NTPS) applies to the land. The land is located in Zone CB (Central Business) of which the purpose of Zone CB is to provide 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 proposed development will bring additional entertainment and cultural activities into the Darwin CBD. The proposal will further activate the section of Austin Lane between Knuckey Street and Edmunds Street, which already contains a number of restaurants and small bars. The proposed development is therefore considered to be aligned with the purpose of the CB zone.

2. Clause 2.7 (Reference to Policy) of the NTPS states that the interpretation of the Planning Scheme and the determinations of a consent authority must have regard to the policies and planning concepts expressed in those documents appearing in Part 8 or Schedule 2 and ensure that a use or development or proposed use or development is consistent with them.

The Central Darwin Area Plan (CDAP) provides a framework to guide progressive growth and development within central Darwin. The subject site is located within the CDAP study area. The site is broadly classified as being mixed use (Commercial, Civic, Residential, Education, Tourism, Recreation and Retail) and also included within focus area A1 (City Centre – Core). The proposal for a Hotel (container bar, 2 x food vans and alfresco dining) with ancillary leisure and recreation is considered consistent with the purpose of the zone, with the CDAP objectives for the Mixed Use area, as well as the A1 focus area (City-Centre Core).

The existing building located along the Cavenagh street frontage of the subject site known both as the 'Stone House' and the 'Sue Wah Chin' building is also recognised within CDAP as a declared heritage place. CDAP's section on its Culture and Heritage Theme requires the recognition, protection, conservation, management and revitalisation of cultural and heritage places. The proposed development is located

in the rear western corner of the subject site, separated from the heritage building by at least 15 metres, thereby compliant with the heritage protection objectives and requirements of CDAP.

In consultation with the Heritage Branch, a condition precedent has however been included on the development permit to ensure that the proposed works are outside of the declared heritage area, as well as a notation referring to the *Heritage Act 2011*.

3. Pursuant to Clause 6.5.1 (Parking Requirements) the proposal requires the addition of three parking spaces and three spaces are provided. In addition, the four spaces associated with the previously approved Stone House Wine Bar (DP15/0398) also remain on site. It is noted that a number of surplus spaces are also shown on the proposed plan. A number of non-compliances with Clause 6.5.3 (Parking Layout) exist with the proposed parking layout. As only seven spaces are currently required in association with approved developments on the site, a condition precedent is included on the development permit to submit amended plans showing a parking layout in compliance with Clause 6.5.3.
4. Pursuant to Clause 6.8 (Demountable Structures) the placement of a demountable structure on land in Zone CB require consent. The purpose of the clause is to ensure that demountable structures do not detract from the visual amenity of an area.

In total, five demountable structures are proposed as part of this application - 2 x 40ft demountables for use as outdoor seating, 1 x 20ft demountable for use as a cool room, 1 x 20ft demountable for use as a wet area/bar and a small demountable for use as a toilet block.

Clause 6.8 requires that *the consent authority may only consent to the placement of a demountable structure on land if it is satisfied that:*

- (a) there will be landscaping or architectural embellishments to the demountable structure that will enhance the appearance of the structure; and*
- (b) the demountable structure will be visually consistent with adjoining or nearby development.*

The Authority noted that comments made by Development Assessment Services in the Technical Assessment which state that “the application indicates that the modified shipping containers proposed as part of the development are to be painted in a ‘street art’ style which is consistent with the existing Austin Lane streetscape which has become a showcase of high level street art in the Darwin CBD. The containers will also have landscaping draping down the sides of the structures facing the street, with the plants located in planter boxes located at the top of the containers, as per the landscaping plan.”

The Authority was satisfied that the proposed embellishments and landscaping will enhance the appearance of the structures and that they will be visually consistent with adjoining or nearby development and will not detract from the amenity of the area.

5. The application seeks a variation to Clause 6.6 (Loading Bays) of the NTPS. The purpose of this clause is to provide for the loading and unloading of vehicles associated with the use of land.

Clause 6.6 (Loading Bays) of the NTPS requires a hotel of up to 10,000m² to provide one loading bay for each occupation of the site. The subject site is less than 10,000m² and therefore requires the addition of one additional loading bay. Two large existing loading zones have been identified, located adjacent to the subject site's rear and side entrances, along both Austin Lane and Spain Place. These loading zones are capable of accommodating small or large trucks. Also the existing Stone House Wine Bar loading bay may be shared. On this basis, a variation to Clause 6.6 in the form of no additional formalised loading bay being provided on-site is considered acceptable.

The existing loading bay located at the rear of Stone House Wine Bar was previously approved under DP15/0398, as is shown on the endorsed plans associated with that permit. The plans provided as part of this application do not include this loading bay. A condition precedent is therefore included on the development permit to include the existing loading bay on amended plans.

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

There are no concerns about the capability of the land to accommodate the proposed development. The site is situated above the 1% AEP flood event and allows for the anticipated access, stormwater and servicing requirements for the land.

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

The site is currently an underutilised car park. It is considered that the proposed development will enhance the amenity of the surrounding area by providing revitalisation, activation and passive surveillance to Austin Lane and Spain Place. The landscaping and artworks incorporated as part of the proposal will ensure that the development is unlikely to adversely impact the amenity of the locality.

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2019/0371

**VARIATION – TO DP19/0301 FOR THE PURPOSE OF STAGING THE DEVELOPMENT AND ADDITION OF TWO TEMPORARY DEMOUNTABLE ABLUTION BLOCKS
LOT 5672 (56) WOODS STREET, DARWIN CITY, TOWN OF DARWIN**

APPLICANT/S Bennett Design Pty Ltd

Mr Noah Lee (Bennett Design), Mr Chris Grumelart and Mr Russell Taylor (DIPL) and Mr Peter Stephenson (DLGHCD) attended.

RESOLVED
39/20

That, pursuant to section 57(5) of the *Planning Act 1999*, the Development Consent Authority refuse the application to vary condition 4 of DP19/0301 for the purpose of staging the development and addition of two temporary demountable ablution blocks, for the following reasons:

REASONS FOR THE DECISION

Development Permit DP19/0301 was issued on 18 November 2019 for the purpose of a Community Centre (the proposed community centre is intended to provide hygiene and laundry amenities, meal service and other facilities to rough sleepers in the Darwin CBD and surrounding areas). Condition 4 of DP19/0301 requires that 'the works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit'. The applicant seeks a variation to complete the development in three stages, and for the addition of two temporary demountable ablution blocks in the parking area adjacent to Building B.

Pursuant to section 57(3) of the Planning Act 1999 (the Act), the consent authority may, in writing, vary a condition of a development permit if:

- (a) the proposed variation will not alter a measurable aspect of the development by a margin greater than 5% and, in the opinion of the consent authority, will not materially affect the amenity of adjoining or nearby land or premises; or*
- (b) in the opinion of the consent authority, the alteration resulting from the proposed variation is not conveniently measurable and the proposed variation will not materially affect the amenity of adjoining or nearby land or premises.*

The power to vary granted by Section 57(3) is discretionary, provided that either of the conditions (a) or (b) are met. The only restriction placed upon the exercise of that discretion is a requirement in subsection (5) that, if refused, reasons must be provided.

Variation to the measurable aspect of the development

The Authority considers that the test to a measurable aspect of the development, as a result of the variation, is to determine whether each stage is able to operate completely independently and is compliant with the performance criteria of the Northern Territory Planning Scheme (NTPS) if any of the remaining stages did not go ahead.

The Authority notes the assessment of the Development Assessment Services (DAS) which concludes that the proposed staging and

temporary ablution block additions is generally consistent with the performance criteria of the NTPS due to the following:

- No change to the use of the building, car park layout or building design previously approved under DP19/0301 is proposed;
- No change to the height of the building is proposed. The demountable ablution blocks are entirely within Tier 1;
- Bike racks are provided within stage 1 of the development for the visitors; and
- Appropriate landscaping is provided within each stage of the development.

The Authority further notes that the DAS assessment on Clause 6.5.3 (Parking Requirements) also concludes that the encroachment of the demountable ablution blocks upon 6 car parking spaces (male ablutions encroach upon 4 car parking spaces, and the female ablutions restrict access to 2 car parking spaces) does not create non-compliance with the Clause as the development has a surplus of 11 car parking spaces.

[Note: D19/0301 assessed that the development requires 15 car parking spaces and 26 spaces are provided on site].

The Authority is satisfied that the proposed staging and the addition of two temporary demountable ablution blocks does not alter a measurable aspect of the development by a margin greater than 5%.

Impact on the amenity of adjoining or nearby land premises

The second threshold requirement provided by Section 57(3)(a), is that the Consent Authority must consider that the proposed variation “*will not materially affect the amenity of adjoining or nearby land or premises.*”

The definition of ‘amenity’ in relation to a locality or building as provided by the NTPS means *any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.*

The subject site is surrounded by the recently constructed Garramilla Boulevard to the north-west, Woods Street to the south-west and McMinn Street to the north-east. The surrounding land uses in the immediate area includes a mixture of residential and office uses to the south-east, car parking to the south-west (across Woods Street) and Frogs Hollow Park to the north-west (across Garramilla Boulevard). The Authority considers that impact on the amenity of the adjoining land and premises located along the south-east boundary are particularly relevant to the proposed variation.

The DAS assessment concludes that the staging of the development will not materially affect the amenity of adjoining or nearby land or premises due to the following:

- Landscaping works are proposed within each stage to enhance the amenity of the area.

- Dense landscaping and solid colorbond fencing are proposed as part of stage 1 of the development to protect the amenity of the adjoining residential areas.
- Future stages are proposed to be secured and fenced to restrict the use and also to maintain separation between the public and construction areas going forward.

The Authority notes the DAS assessment on staging and its effect on the amenity of adjoining or nearby land or premises. The Authority however considers that, in this particular application, the threshold question is whether the addition of two temporary demountable ablution blocks satisfies the amenity test in Section 57(3)(a) above.

While a variation application does not require public exhibition under the requirements of the Act, the application was circulated to the submitters who had identified an interest in the original application, with no further comments being received.

The original application was advertised in the NT News in September 2019 and placed on public exhibition in accordance with the requirements of the Act. 14 public submissions, under section 49(1) of the Act, were received during the exhibition period with 9 people in support and 5 in opposition to the application.

One of the submitters opposing the previous application, Mr Kelly, represented both himself and the Body Corporate of 41 McMinn Street located on the southeast boundary of the subject site. Mr Kelly attended the meeting and spoke to the concerns of the Body Corporate in relation to the impact on amenity and noise. At all times, in considering the impact of the proposed development, the Authority was presented with a community centre use, incorporating public toilets, parenting rooms, shower facilities and storage for personal belongings, that *“will utilise an existing building, with only minor internal modifications and some changes to external doorway widths”*. At no time was there any suggestion that ablution facilities would be housed, even temporarily, outside of the existing building.

The Authority, taking account of the specific use of the community centre, cannot be satisfied that the location of the ablutions facilities away from the main building would not materially affect the amenity of the premises adjoining the south-east boundary through the potential for increased noise and activity.

The DAS report notes that the proposed used is temporary, and the DAS report recommends a condition on the permit to remove the demountable ablution blocks from the site within a certain time period. The Authority acknowledges that the length of time may influence the degree of materiality and a temporary interference with amenity may be less material than a permanent one.

According to the evidence of the applicant, the use of demountable ablution blocks, is tied directly to the proposed staging of the project, there being no ablution facilities in Stage 1 of the development. The applicant advised that it proposes to complete the three stages by the

end of June 2020 (4 months), with stage 1 to be completed in early May and stages 2 and 3 to be completed in early June and end of June respectively. A time limit of 4 months for the use of the temporary ablation facilities was proposed.

The Authority was addressed at length by Mr Noah Lee (Bennett Design), Mr Chris Grumelart and Mr Russell Taylor (DIPL) (referred to from hereon in collectively as the 'applicant'). In response to questions regarding the proposed staging and requirements for temporary ablations, the applicant explained that staging of the development is proposed to facilitate the delivery of the project as early as possible. The applicant clarified that the ablation blocks are required in stage 1 as there are no ablutions within the stage 1 building. Once the buildings within stages 2 and 3 are complete, these buildings will contain sufficient facilities and the temporary ablation blocks can be removed from the site. The applicant explained that staging of the development was not originally envisaged but it became apparent during the detailed design phase that additional works would be required to get the buildings ready for occupancy. The applicant advised that the works are ready to go ahead and are expected to be completed within the stipulated timeframe and therefore the temporary demountable ablation blocks are only required for a short timeframe and will then be removed. However, when questioned, the applicant advised that no contracts for the carrying out of the work had been finalised. The Authority notes that the DAS report indicates that there are no endorsed plans and the applicant indicated that no works had been undertaken under the existing permit to date as it was in the design phase.

Given the short timeframe proposed for all three stages to be completed, the Authority questioned both the viability of the proposed time frame and the necessity to stage the development thus requiring temporary ablations, suggesting that it would be easier to complete the development without having a portion of the site occupied. The applicant acknowledged the short timeframe but stressed that staging the development as proposed would allow the building to be occupied and an essential service offered as quickly as possible.

The Authority noted that the difficulty with staging the development and approving temporary ablation facilities, is that each stage is independent. There are no time constraints on completing a stage over and above the life of the permit. Further, there is no necessity, to complete the remaining stages. While the intent may be to have these demountables as temporary facilities, given the nature of construction projects and the difficulties in working with older buildings, there are no guarantees that the works will be completed in a 4 month time frame. If the Authority was to impose a 4 month limit of the use of the demountables, it is not assured that there will not be further applications for extension of that time going forward. Further, once approval for the use of demountables is given, and, the community centre commences operation, it will be very difficult for the Authority to refuse such extensions, given such refusal would force closure of the operation. As a result, the Authority is not convinced that the suggested

temporary nature of the use of demountables mitigates the material impact on the amenity of the adjoining property.

Further and in the alternative, even if the amenity of the adjoining property is not materially affected, the Authority retains discretion to refuse the variation application under section 57(3). In such a case, the Authority has determined that it would refuse consent based on a number of other concerns.

The applicant's stated intention is to occupy Stage 1 as soon as possible and provide a drop-in day centre to support rough sleepers by offering laundry, toilet and shower facilities and basic meal services. That Stage is intended to operate while construction takes place on the remaining stages. Acknowledging the desire to complete those stages as quickly as possible, the applicant indicated that the site would be "flooded with workers". The applicant also indicated that there was a great deal of asbestos present on site.

The Authority expressed concerns relating to the suitability of operating such a facility for very vulnerable people on a site where high levels of construction activity was taking place. This was further exacerbated by the provision of a major element of the services being offered in temporary demountables.

In response to the Authority's concern regarding the security of the site and the day to day management of the facility, and in particular the demountable ablution blocks being within the car park area, Mr Stephenson clarified that as part of the contract terms issued to the service provider, they are required to provide adequate security arrangements to manage the facility. However, Mr Stephenson acknowledged that no such provider had been finalised and details of security arrangements around the use of the ablution facilities could not be provided.

While acknowledging the measures that would be in place to manage the facility, the Authority considered that the provision of temporary ablution blocks, detached from the main building, will generate more noise and activity compared to the original proposal where ablutions were wholly within the main building.

The Authority questioned the provision of ablution facilities for the disabled during stage 1 as well as the provision of any pedestrian links from the building to the temporary ablution blocks. The applicant explained that there is one toilet within the stage 1 building which shall be made available as an ambulant facility and that if required, a covered walkway could be provided between the stage 1 building and the ablution blocks to provide protection to the users from rain and heat.

In response to the Authority's concerns regarding construction traffic and the potential for conflict once the site is partly occupied, the applicant stated that additional access shall be provided to the site from McMinn Street for construction vehicles and that each stage is securely fenced to restrict access and maintain separation between occupied

and construction areas going forward. While the applicant's comments are noted, the Authority is mindful that a condition was placed on DP19/0301 at the request of the Transport and Civil Services Division stating that no vehicle access shall be permitted to the subject lot from Garramilla Boulevard and McMinn Street.

The Authority noted the applicant's responses to questions raised and other comments made at the hearing, but was not satisfied that the information provided addressed its initial consideration that the location of the ablutions away from the main building would materially affect the amenity of the premises adjoining the south-east boundary through increased noise and activity.

The Authority also noted that the main concerns of the submitters objecting to the original proposal was the impact on amenity. Due to the proposed addition of two temporary demountable ablution blocks within the car park area the Authority considers that a substantial change has occurred and is not satisfied that the amenity of those objectors, and other residents of the adjoining premises, will not be materially impacted.

In addition to the amenity test outlined in section 57(3) of the Act, Clause 6.8 (Demountable Structures) of the NTPS applies to the proposal and its purpose is to ensure that demountable structures do not detract from the visual amenity of an area. The Authority noted that there are no landscaping treatments or architectural embellishments proposed to the exterior of the demountable ablution blocks to enhance the visual appearance as required by subclause 4. Notwithstanding that the ablution blocks are located more than 20m from the front and side boundaries and that a 3m high colorbond fence is proposed to be constructed along the southern side boundary within stage 1, the Authority concluded that the demountable ablution blocks will detract from the visual amenity of the area.

ACTION: Notice of Refusal

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

SUZANNE PHILIP
Chair
11 March 2020