



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 383 – FRIDAY 22 OCTOBER 2021

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

MEMBERS PRESENT: Suzanne Philp (Chair), Marion Guppy, Simon Niblock
Mark Blackburn and Peter Pangquee (Items 2-4 only)

APOLOGIES: Nil

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Ann-Marie Reynolds, Richard Lloyd,
Amit Magotra (Items 1, 3 & 4 only), and Elissa Gee (Development
Assessment Services)

COUNCIL REPRESENTATIVE: Brian Sellers and Conneil Brown

Meeting opened at 10.15 am and closed at 1.30 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

PA2021/0286 ADDITION OF 2 X 12M HIGH LIGHTING POLES TO AN EXISTING CLUB (DARWIN TRAILER BOAT CLUB)

LOT 5748 (71) EAST POINT ROAD, FANNIE BAY, TOWN OF DARWIN

APPLICANTS Nicola Bell, Alexander Ehrlich & Merv Nelms

Pursuant to section 97 of the *Planning Act 1999*, Mark Blackburn and Peter Pangquee members of the Darwin Division, Development Consent Authority disclosed an interest and were not present during, contributed to or took part in the deliberation or decision of the Division on this item.

Alexander Ehrlich (General Manager, Darwin Trailer Boat Club) attended.

Mr Ehrlich tabled photos – one showing City of Darwin street light on East Point Road and one showing the current light poles at the Trailer Boat Club.

**RESOLVED
89/21**

That, the Development Consent Authority vary the requirements of Clause 5.2.1 (General Height Control) of the Northern Territory Planning Scheme 2020 (NTPS 2020), and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 5478 (71) East Point Road, Town of Darwin for the purpose of addition of 2 x 12m high lighting poles to an existing club (Darwin Trailer Boat Club) for the subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
3. The use and development as shown on the endorsed plan must not be altered without the further consent of the consent authority.

NOTES

1. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek the necessary building approvals as required by the Northern Territory *Building Act 1993*.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 (NTPS 2020) applies to the land. The subject land is located within Zone OR (Organised Recreation) of the NTPS 2020. The primary use of the land as a 'club' is a *Merit Assessable* use in the zone. The proposal is for two lighting towers additions within the boat parking area located on the northern side of the existing club. The proposed lighting towers are also treated as *Merit Assessable*, and therefore the strategic framework (Part 2 of the Scheme, including Darwin Inner Suburbs Area Plan, which is relevant to this application), zone purpose and outcomes of Clause 4.18 (Zone OR – Organised Recreation), and Clauses 5.2.1 (General Height Control), 5.2.4 (Vehicle Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.5.3 (Commercial and other developments in Zone OR....) and 5.8.3 (Club), need to be considered.

These clauses have been considered, and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.2.1 (General Height Control).

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

The proposal has been found not to be in accordance with Clause 5.2.1 (General Height Control), as the highest point of the light poles are 12m, which exceeds the height limit by 3.5m.

The Authority noted the Development Assessment Services (DAS) assessment on Clause 5.2.1 (General Height Control), which concludes that the variation is appropriate because the proposal is not anticipated to interfere with the zone outcomes of Zone OR (Organised Recreation) and Clause 5.2.1 (General Height Control) as no change in the built-form of the existing development is proposed. Furthermore, the 'slim' nature of the lighting poles ensures the character of existing buildings is not compromised. Notwithstanding the light poles are a visible inclusion in the landscape, they are interspaced on site, and given the bulk and mass of the light poles is minimal compared to a building, this is considered to be a small addition to the existing landscape of the broader locality. The Authority further notes that the height of the lighting poles is lower than other lighting poles installed at other OR Zoned sites in Darwin, including the 32m lighting poles recently installed at the Gardens Oval located approximately 2km from the subject site.

Regarding amenity impacts on the surrounding locality, particularly to the residential area across East Point Road, the Authority finds that the residential properties are located 8m-10m above the ground surface of the subject site. This level difference, along with the existence of landscaping on the escarpment, largely acts to soften the impact of the lighting towers on the existing and future amenity of the locality.

Regarding the light spill on the surrounding residential areas, the Authority notes that the light fittings attached to the poles are facing downwards to the parking area, such that no direct upward light occurs.

Mr Alexander Ehrlich (General Manager, Darwin Trailer Boat Club) attended the meeting and spoke regarding the retrospective nature of the application. Mr Ehrlich advised the Authority that the two lighting poles were recently installed by using the NT Government business renovation grant. Mr Ehrlich mentioned that the lighting poles replaced six old lighting poles in the poor physical condition previously existing in the boat parking area. The 12m height for the lighting poles provide superior lighting and improved illumination to the boat parking, which was not achieved by the previous lighting poles installed in the boat parking area. Mr Ehrlich further added that he was not aware of the height regulations existing for the land under the NTPS 2020 when installing the lighting poles.

The Authority has taken all comments into account and concludes that the variation is appropriate as the proposal is not anticipated to interfere with the zone outcomes of Zone OR (Organised Recreation) and Clause 5.2.1 (General Height Control). The Authority notes that the height restriction in Clause 5.2.1 is a broad restriction that applies to Zone OR and the extent of built form impact from two light poles, despite the additional height, is not comparable to the built and mass of a building of a similar height.

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

The application was advertised from 27 August 2021 for a period of two weeks. However, it was advertised for a further two weeks period starting from 17 September 2021, as the Development Assessment Services (DAS) identified that adequate signage was not provided on site during the first advertising period. The signs were posted correctly during the second advertising period. Two (2) public submissions were received during the second advertising period under section 49(1) of the *Planning Act 1999*. The submission raised concerns regarding the impact on views of adjoining properties overlooking the harbour, safety concerns for excessive caballing not meeting the industry standards and visual impact on East Point Road traffic.

Regarding the impact on views of adjoining properties, the Authority notes that the light poles' bulk and mass is minimal compared to a building (as discussed above in reason 2). Notwithstanding the light poles are a notable addition to the road users as they are located along the East Point Road boundary of the site, the Authority notes it is not the first intrusion given the existing streetlights, traffic lights and electricity poles along East Point Road. The Authority further notes that the City of Darwin (controlling agency for East Point Road) has not raised any concerns regarding the proposals impact on East Point road.

Mr Ehrlich, at the hearing, tabled two photos - one illustrating the City of Darwin street light on East Point Road and one illustrating the current light poles at the Trailer Boat Club. Mr Ehrlich submitted that the light spill from the lighting poles is less obtrusive than the lighting for the surrounding residents from the street lights on East Point Road. Furthermore, the luminaries attached to the poles shine more downwards than outwards to cover the boat parking area effectively. Mr Ehrlich further added that the extra height of the poles contribute to the improved illumination levels of the boat parking area and therefore enhances the safety conditions and security for its members and their boats.

The Authority has taken all comments into account and carefully considered the concerns of the submitters. In relation to the potential impact on amenity as a result of any light spill/glare and impact on views of adjoining properties overlooking the harbour, the Authority relies on its reasons listed in reason 2 above, which concludes that the extent of built form impact from two light poles, despite the additional height, is not comparable to the built and mass of a building of a similar height. The Authority also noted that the light fittings attached to the poles are facing downwards to the parking area, such that no direct upward light occurs.

Regarding safety concerns raised by the submitter, a note is recommended on the permit to comply with the requirements of the *Building Act 1993*.

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

Amenity under Section 3 of the Act is defined as:

“amenity” in relation to a locality or building means any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.

The potential impact amenity (including privacy) by the proposed development is considered in two components. Firstly, the visual impact of the structures (the light poles and luminaires), and secondly, any impact (such as glare or light spill) from the operation of the luminaires.

Both the components have been considered and discussed in reasons 2 and 3 above, which concludes that the visual effect of the light poles would be negligible on the adjoining properties. It is considered that the development promotes the general purpose of Zone OR by way of facilitating use. The lighting towers are located and orientated away from adjacent residential uses. The existing vegetation between the development area and adjacent residential area acts to soften the impact of the lighting towers and the effect of the development on the existing and future amenity of the locality. The luminaires located on top of the lighting poles are facing downwards to the parking area, such that no direct upward light occurs.

- (g) dimensioned floor plans of all proposed structures, including demountable classrooms, covered assembly area and walkways, offices, amenities buildings, library and tuckshop;
 - (h) dimensioned elevations of all proposed structures, including demountable classrooms, covered assembly area and walkways, offices, amenities buildings, library and tuckshop; and
 - (i) A 2.1m high screen fence in 'monument grey' along the boundary of Section 4280 (42) Bowerlee Rd, Berrimah, Hundred of Bagot.
2. 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 shall be submitted to, and approved by the City of Darwin and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The traffic impact assessment report should take into consideration that City of Darwin has no plans to provide a footpath along Bowerlee Road, the extensive likely catchment area for the school and should identify any necessary upgrades to the surrounding street network.
 3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, 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.
 4. 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 commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's waste standards, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.
 6. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.

GENERAL CONDITIONS

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

8. The use of land for the purpose of an education establishment must cease 3 years from the date of issue of this development permit.
9. 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.
10. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities, and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
11. 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 Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
12. The kerb crossings 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.
13. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Darwin and the Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
14. Before the occupation of the development starts, the area 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; and
 - (d) drained;to the satisfaction of the consent authority.
Car spaces, access lanes and driveways must be kept available for these purposes at all times.
15. 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.
16. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
17. The development must be designed and constructed to comply with AS2021-2015 'Acoustics – Aircraft noise intrusion – Building siting and construction' (AS2021), and a statement from a suitably qualified acoustic engineer confirming compliance with AS2021-2015 must be submitted prior to occupation of the development, to the satisfaction of the consent authority.

18. 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.
19. 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.

NOTES

1. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
2. 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.
3. Stormwater connections to City of Darwin stormwater system shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
4. Darwin International Airport advises that separate requests for assessment and approval must be submitted to Darwin International Airport and the Department of Defence for any cranes used during construction that will infringe on either the Obstacle Limitation Surfaces (OLS) or Procedures for Air Navigation Services – Operations (PANS-OPS) surfaces for Darwin Airport.
5. 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.
6. The applicant is advised that the provision of lighting at the site is required to be consistent with the CASA Manual of Standards (MOS-139) Aerodromes to minimise the potential for conflict with aircraft operations. The design of lighting is a developer responsibility and if it is later found that lights or glare endangers the safety of aircraft operations, the Department of Defence or the Civil Aviation Safety Authority may require the lighting to be extinguished or suitably modified.
7. The Department of Defence recommends that the proposed development be constructed of non-reflective building materials.
8. Darwin International Airport advises that there must be no site activity which would attract birds that could create a hazard for aircraft operations.

9. The Department of Defence has advised that organic waste and/ or storage of commercial waste bins associated with the proposed development might be attractive to vermin and/or birds and will potentially increase the risk of bird strike for aircraft, therefore organic waste should be managed appropriately.
10. Any new on-site wastewater system to be installed must be carried out by a qualified licensed Self-Certifying Plumber and must comply with the NT Code of Practice for Small On-site Sewage and Sullage Treatment Systems and the Disposal or Reuse of Sewage Effluent (The Code).
11. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
12. The Power and Water Corporation advises that full lot fire coverage cannot be achieved from existing hydrants. Internal firefighting arrangements must be made to the satisfaction of NT Fire and Rescue Service.
13. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.
14. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* 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) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
15. Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics advises that no new access from Vanderlin Drive to the site is permitted.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 (NTPS 2020) applies to the land and the proposal is within Zone R (Rural). An education establishment requires consent under Clause 1.8 (When development consent is required) and is identified as *Impact Assessable* under Clause 1.8(1)(c)(i). Therefore, the strategic framework (Part 2 of the Scheme, including the Berrimah North Area Plan, which is relevant to this application), zone purpose and outcomes of Clause 3.5 (LPA – Land in Proximity to Airports) and Clauses 5.2.1 (General Height Control),

5.2.4 (Vehicle Parking), 5.2.6 (Landscaping) and 5.8.2 (Education Establishment), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clauses 5.2.4.4 (Parking Layout) and 5.8.2 (Education Establishment).

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

The proposal has been found not to be in accordance with Clause 5.2.4.4 (Parking Layout), because the proposal will result in an unsealed carpark and no additional landscaping provided in the setback between the car parking area and the road frontage. The proposal has also been found not to be in accordance with Clause 5.8.2 (Education Establishment), because the proposal is not located to maximise access by public transport or safe walking and cycling routes.

The Authority considers a variation to Clause 5.2.4.4 (Parking Layout) and Clause 5.8.2 (Education Establishment) is appropriate in this instance because:

- (a) The purpose of Clause 5.2.4.4 (Parking Layout) is to ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose. Administratively, the consent authority may consent to a car parking area that is not in accordance with sub-clause 4 if it is satisfied the non-compliance will not result in adverse impacts on the local road network or internal functionality of the car parking area, and unreasonably impact on the amenity of the surrounding locality.

Subject to sub-clause 5, dust suppression may be an acceptable alternative to sealed surfaces in non-urban areas. The Authority considers that proposed the crushed rock surface for the carpark and driveway was appropriate method of dust suppression due to the site being within Zone R (Rural). However, the Authority does not consider the width of the existing driveway to be adequate for two-way traffic and included a condition requiring the driveway to be widened to 6m.

The Authority does not consider that additional landscaping is required to screen the car parking area as it is proposed to be set back approximately 28m from Bowerlee Road and will not be immediately visible from the street. While the carpark is considered to be adequately set back from the street, in response to Mr Maxwell's concerns regarding dust and privacy issued associated with the location of the driveway, the Authority considers it necessary to include a condition

requiring the construction of a screen fence along the boundary with 42 Bowerlee Road.

The proposal is consistent with the purpose of Clause 5.8.2 (Education Establishment) in that the proposal is for a temporary education establishment that meets the needs of students and staff and will not impact on the amenity of the locality. Administratively, the consent authority may consent to an education establishment that is not located to maximise access by public transport or safe walking and cycling routes if it is satisfied it is consistent with the purpose of the clause and the zone purpose and outcomes, and is appropriate to the site having regard to such matters as its location, nature, scale and impact on surrounding amenity.

At the meeting the applicant confirmed that students will be dropped to the school by parents in private vehicles or be picked up and dropped off in two school owned minibuses. The applicant advised that it was not anticipated that any students and parents will utilise the public bus system, as the closest bus stop is approximately 800m from the proposed school, which is a long walk in the Darwin heat.

The Authority considered it necessary to include a condition precedent requiring the preparation of a traffic impact assessment to demonstrate that the proposal will not unreasonably interfere with the safe and efficient operation of Bowerlee Road and Vanderlin Drive. The traffic impact assessment is likely to consider the probable catchments of the school and the direction in which vehicles travel along Vanderlin Drive to turn into Bowerlee Road to access the site.

A three year time limit has been included on the development permit to ensure that if the proposed location of the school was to become permanent, a new application would need to be submitted and the consent authority could require the upgrade of infrastructure along Bowerlee Road if necessary. The Authority considers the current site for an education establishment is only appropriate due to the temporary nature of the use and that if it was intended that the site become permanent, it was preferable that the site be rezoned to a more appropriate zone to accommodate an education establishment.

- (b) The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 5.2.4.4 (Parking Layout) and Clause 5.8.2 (Education Establishment), as identified above.
3. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

The application was placed on public exhibition from 3 September 2021 for a period of two weeks. Two (2) public submissions were received under section 49(1) of the *Planning Act 1999*.

One submission was made by Ms Sophia Ferozkhan, who submitted endorsement forms on behalf of 84 members of Darwin's Islamic community, expressing their intention to send their children to the proposed school. Ms Ferozkhan, Shakil Ahmad, Ibru Syed Ebrahim and Achmadun Jawas attended the meeting in support of the application, but did not speak to their submission.

The second submission was made by Danny Maxwell, who lives immediately adjacent to the site at 42 Bowerlee Road, Berrimah. The submission detailed concerns with the proposal in relation to increased traffic, Bowerlee Road / Vanderlin Drive intersection safety, pedestrian safety, inconsistency with rural zoning and Berrimah North Area Plan, lack of infrastructure, increased stormwater, wastewater treatment, noise impacts, fire safety and visual amenity.

At the meeting Mr Maxwell spoke to his submission and explained that he was most concerned about the safety issues arising from increased traffic associated with the school. He spoke about the dangerous nature of the Bowerlee Road / Vanderlin Drive intersection, which has had multiple recent accidents and his own numerous near misses. Mr Maxwell explained that Vanderlin Drive is an 80km straight stretch of road with no turning lanes, he advised that northbound traffic turning left into Bowerlee Road was particularly dangerous often needing to utilise the road margin to allow impatient vehicles behind to pass.

Mr Maxwell also raised concerns regarding the ability of the existing open stormwater drain that runs along the northern boundary of the site being able to accommodate the additional stormwater resulting from the education establishment. He advised that the drain often overflows in the wet season and floods the southern portion of his property, including his driveway access. City of Darwin were made aware of the existing drainage issue at the meeting.

Mr Maxwell raised concerns that the driveway and proposed carpark was only approximately 15m from his southern boundary. This would impact on his privacy, animals kept on the property and may increase dust in the dry season due to the unsealed nature of the driveway and carpark. He advised that 2.1m high screen fencing had been provided along his northern and western boundaries when adjacent lots were being developed. The Authority questioned Mr Maxwell on whether the provision of a boundary screen fence would address his concerns on privacy and dust. Mr Maxwell confirmed that a 2.1m colourbond fence in 'monument grey' would be preferred.

The Authority has taken all comments into account and carefully considered the concerns of the submitter. In relation to the traffic safety concerns raised by Mr Maxwell, a condition requiring the preparation of a traffic impact assessment has been included on the development permit. This condition also addresses the concerns and requirements of City of Darwin and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics. Prior to the development proceeding, a traffic impact assessment will need to conclude that the site can safely accommodate the proposal. A general condition has also been included to ensure that any works required by

the traffic impact assessment are completed to the requirements of City of Darwin and the Civil Services Division of the Department of Infrastructure, Planning and Logistics.

Regarding stormwater, the Authority has included a condition precedent requiring an engineered stormwater plan to the requirements of City of Darwin and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics. Regarding privacy and dust concerns, the Authority has included a condition requiring the provision of a 2.1m high screen fence in 'monument grey' along the boundary of 42 Bowerlee Road.

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

The land is flat and currently developed with a dwelling-single and mango plantation. The site is connected to reticulated water, but is not connected to reticulated sewer. A note has been included on the development permit advising that an on-site wastewater management system must be installed by a self-certifying plumber.

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

The Authority notes that the proposed education establishment is located well within the subject site, with the proposed buildings set back approximately 56m from the closest residential boundary. The proposal will not be visible from Vanderlin Drive and will only be partially visible from Bowerlee Road.

The education establishment will accommodate approximately 50 primary school children and 6.5 full-time equivalent staff, which is considered small in comparison to most schools in the locality. Noise associated with the development would be limited to regular school hours on weekdays, with most noise anticipated to be associated with children playing outdoors at recess and lunchtime. This is not considered to be unreasonable when considering the site is identified for light industrial uses in the Berrimah North Area Plan. The Authority considers that the addition of a 2.1m high boundary fence along the boundary with the residential property at 42 Bowerlee Road will limit any adverse amenity impacts associated with overlooking, dust and noise.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Determination

ITEM 3
PA2021/0308

DWELLING-SINGLE WITH REDUCED SIDE SETBACK
LOT 6345 (8) BRADHURST COURT, BAYVIEW, TOWN OF DARWIN

APPLICANT

Irma Lamaya

Irma Lamaya (COLab Architects), Keith and Sandra Timms (landowners) attended.

Ms Lamaya tabled information on stormwater disposal and proposed preliminary civil works.

Submitter Peter Poole attended.

RESOLVED
91/21

That, the Development Consent Authority vary the requirements of Clause 5.4.3 (Building Setbacks for Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 6345 (8) Bradhurst Court, Town of Darwin, for the purpose of a dwelling-single with a reduced side setback subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the commencement of works (including site preparation), a schematic plan 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 surface flow direction, downpipe direction and Council's stormwater drain connection points.
2. Prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.
3. 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 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.
4. 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

5. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
6. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.

7. The 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.
8. 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.
The owner shall:
 - (a) remove disused vehicle and/ or pedestrian crossovers;
 - (b) provide footpaths/cycleways;
 - (c) collect stormwater and discharge it to the drainage network; and
 - (d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
9. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
10. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the *Northern Territory Building Act 1993* before commencing any demolition or construction works.
3. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
4. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 (NTPS 2020) applies, and the land is in Zone LR (Low Density Residential). Clause 1.8 (When development consent is required) sub-clause (b)(ii)(2) states that consent is required where the use or development of land is shown as Permitted on the relevant assessment table in Part 4, but does not comply with the relevant development requirements as set out in Part 5 of the NTPS 2020. The application is *Merit Assessable* as variation is sought for the side setback under Part 5.

2. Clause 1.10 (Exercise of Discretion by the Consent Authority) requires the consent authority in considering an application under Clause 1.8(b)(ii)(2) to consider the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements. Variation is sought to Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

The development proposes to incorporate the existing retaining wall to form part of the dwelling to maximise separation from the developed adjacent lots, structural efficiency, reduce construction costs, and make the best use of the site where it is already level. As a result, the garage does not comply with Clause 5.4.3 because it is proposed to be set back up to 0.5m from the side boundary (adjoining Lot 6162) where the required setback under the clause (sub-clause 5) is 1.5m, resulting in a variation of 1m.

It is considered that a variation to this clause is appropriate in this instance, given the lot is an unusual shape in that it is narrow at the front and increases in width to the rear near the water. The staggering of the side elevation provides articulation to minimise any adverse effects of building massing when viewed from adjoining land and encourage breeze penetration through and between buildings. Furthermore, the non-compliant setback to the garage along the southern boundary only exists for 9m of the entire 44m southern boundary, which is 20% of the overall boundary length. The remaining portion of the southern boundary exceeds the minimum requirement of 1.5m. Therefore the effects of building massing from adjoining lots will likely be minimal. Also, the non-compliance garage structure is partly obscured by the existing retaining wall, and no openings are proposed to the garage wall above the retaining wall.

The Authority notes that the dwelling has been carefully designed around the slope of the land; its appearance to both the street and the marina; and the neighbouring lots. The Authority further noted that that the extreme slope of the land is an unusual circumstance and requires a different design approach to what may be the norm when developing relatively flat sites.

The Authority notes that the setback variation comply with the purpose of the clause in being compatible with the streetscape and surrounding development, minimising adverse effects of building massing, avoiding undue overlooking, and avoiding any impact on breeze penetration.

The Authority further notes that the proposal is also consistent with Zone LR purpose and objectives, specifically in providing for individual homes compatible with residential amenity and including a building design that is sympathetic and considerate of privacy to neighbouring properties. The Authority considers that, in this instance, the topography of the site is considered an unusual circumstance and warrants a different design approach that seeks dispensation from the usual requirements of the NTPS 2020.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development. Also, pursuant to section 51(1)(m) of the *Planning Act 1999*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated, 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.

The lot is relatively flat but slopes quite considerably towards the rear of the site as it approaches the water. The construction of the dwelling will fill in a vacant 'gap' in the Bradhurst Court streetscape and the marina-scape, and is of a form and physical appearance which is characteristic of Bayview Estate. No constraints have been identified that would otherwise prevent the development, with all requirements of service authorities being addressed through conditions of the development permit.

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

One public submission was received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal. The submission was lodged by Northern Planning Consultants Pty Ltd (NPC) on behalf of the landowner of Lot 6344 (JNE Paspaley Nominees Pty Ltd as trustee of the Bayview Development Unit Trust). The submission was later withdrawn by the submitter as the amended plans and additional information adequately addressed the concerns raised in its submission.

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

The Authority notes that the development of the currently vacant site will improve the area's amenity through increased surveillance and activation; importantly, it will fill in a vacant 'gap' in the Bradhurst Court streetscape and the marina scape. The Authority found that the development will generally remain consistent with the surrounding area despite the setback variation sought, and the proposed development

is considered to be generally reflective of the style and scale of dwellings already developed or reasonably anticipated in the Bayview area.

6. Pursuant to section 51(1)(t) of the *Planning Act 1999*, the consent authority must take into consideration other matters it thinks fit.

One public submission was received after the exhibition period had ended. The submission was received from Mr Peter Poole, the landowner of the neighbouring property to the south, Lot 6312. Additional comments were also received from the submitter in response to amended plan and additional information provided by the applicant.

The submission concerns primarily relate to the potential impacts on his property as a result of lowering of ground level adjacent to the retaining wall to allow for stormwater to drain towards the marina. The submission states that the runoff path along the retaining wall should be engineered to avoid eroding into Lot 6162. Also, the temporary fencing erected along the common boundary should be replaced with permanent fencing. In reply to the applicant's amend plans and additional information, the submitter reiterated his concerns regarding runoff path treatments proposed back of retaining wall.

Mr Poole attended the meeting and spoke further to his submission. Mr Poole reiterated his concerns regarding stormwater drainage issues at the back of the retaining wall and impacts on his property.

At the hearing, Ms Irma Lamaya (COLab Architects) spoke further regarding concerns raised by Mr Poole. Ms Lamaya tabled a set of plans showing stormwater flow treatment along the rear of the retaining wall. Ms Lamaya further mentioned that the stormwater flows along the rear of the retaining wall will be designed in consultation with a qualified civil engineer to minimise any impacts on the neighbouring lots (Lot 6312).

The Authority has taken all comments into account and carefully considered the concerns of the submitter. The Authority noted that a dwelling-single is permissible in Zone LR (Low Density Residential), except where it does not comply with the relevant development requirements set out in Part 5 of the NTPS 2020. The proposal only seeks a variation to Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

The Authority notes that the NTPS 2020 and the relevant Area Plan does not provide any guidance for stormwater management as it is typically to the requirements of the relevant service authority (City of Darwin in this instance). Conditions are included on the permit to comply with the requirements of the City of Darwin for stormwater management.

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

ITEM 4
PA2021/0262

**RESIDENTIAL CARE FACILITY IN A THREE-STOREY BUILDING WITH
GROUND LEVEL CAR PARKING
LOT 1401 (32) SERGISON CIRCUIT, RAPID CREEK, TOWN OF
NIGHTCLIFF**

APPLICANT Northern Planning Consultants

Mr Brad Cunnington (Northern Planning Consultants) attended.

Submitters in attendance:- John and Gill Wicks, Ynes Sanz and via phone Graham Chadwick.

RESOLVED
92/21

That, pursuant to section 53(c) the Development Consent Authority *Planning Act 1999*, the Development Consent Authority refuse to consent to the application to develop Lot 1401 (32) Sergison Circuit, Town of Nightcliff for the purpose of a residential care facility in a three-storey building with ground level car parking for the following reasons:

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 (NTPS 2020) applies to the land and a residential care facility requires consent within Zone MR (Medium Density Residential) under Clause 1.8 (When development consent is required) sub-clause 1(c), as an *Impact Assessable* development.

The strategic framework (Part 2 of the Scheme, including the Darwin Mid-Suburbs Area Plan 2016), zone purpose and outcomes of Zone MR must be considered for an *Impact Assessable* use.

NTPS 2020 states that the purpose of Zone MR is to ‘*provide for a range of mid-rise housing options close to community facilities, commercial uses, public transport or open space, where reticulated services can support medium density residential development.*’

The relevant zone outcomes state that ‘*Residential care facilities are of a scale and operated in a way that is compatible with the character and amenity associated with medium residential development.*’ (Zone Outcome 3), and ‘*Building design, site layout and landscaping provide a sympathetic interface to the adjoining public spaces and to adjoining lots, and provides privacy and attractive outdoor spaces.*’ (Zone Outcome 5).

Additionally, the purpose of the NTPS 2020 clause specifically relating to a residential care facility (Clause 5.4.15 – Residential Care Facility) is to ‘*ensure that a residential care facility is established in an appropriate location to meet the needs of its residents and is operated in a manner that: (a) adequately supports persons in care, staff and visitors; (b) does not unreasonably impact on the amenity of adjoining and nearby property; and (c) is commensurate with the scale of utilities and transport infrastructure provided in the locality.*’

Mr Brad Cunnington (the applicant) spoke to the application and advised the Authority that the residential care facility would be used for adults with mobility issues most of which were wheelchair reliant, with a staff member on site at all times. Mr Cunnington also advised that the nature of the facility allows dignified independent living whilst ensuring support, rehabilitation and medical services are provided in accordance with residents specific needs.

While the Authority notes the necessity of providing such a facility and the proposed facilities to be provided onsite including an internal community use area, hydrotherapy pool and an outdoor entertaining area at ground level, it considers that, in this instance, the facility lacks appropriate social infrastructure and is not in close proximity to community facilities, commercial uses (with the exception of the Beachfront Hotel), or public transport (700m to the nearest bus stop), and that in order to access the nearby open space (coastal reserve), the residents would need to cross both Sergison Circuit and Casuarina Drive. The Authority noted the oral submissions of Mr Wicks who spoke to the difficulties for anyone who was reliant on a wheelchair in traversing Sergison Circuit generally or accessing public transport or other facilities.

Both the relevant zone outcomes and the specific provisions of Clause 5.4.15 direct the Authority to consider the appropriateness of the locality and the method of operation of a proposed residential care facility in terms of the *the character and amenity associated with medium residential development and to meet the needs of its residents*. Given this and the mobility issues the residents will likely have, the Authority does not consider the facility is in an appropriate location to meet the needs of its future residents.

2. Clause 1.10.5 provides that the consent authority may consent to a proposed use or development that is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - a) the purpose and administration clauses of the requirement; and
 - b) the considerations listed under Clause 1.10(3) or 1.10(4).

In relation to Clause 1.10(4) the relevant zone outcomes state that *'Residential care facilities are of a scale and operated in a way that is compatible with the character and amenity associated with medium residential development.'* (Zone Outcome 3), and *'Building design, site layout and landscaping provide a sympathetic interface to the adjoining public spaces and to adjoining lots, and provides privacy and attractive outdoor spaces.'* (Zone Outcome 5).

The application is not in accordance with the following development requirements of Part 5 of NTPS 2020: Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), Clause 5.4.3.1 (Additional Building Setback Requirements for Residential Buildings Longer than 18 metres and for Residential Buildings over 4 storeys in Height), and Clause 5.2.4.4 (Parking Layout).

The application seeks reductions to the setback requirements under Clause 5.4.3 and 5.4.3.1, which the Authority considers excessive particularly given Sergison Circuit along the whole frontage of the site (northern and western), is the 'primary street' for the purpose of the setback requirements.

The Authority acknowledges, however, that there may be reasonable argument for the street frontage along the western boundary of the site to be considered as though it were a secondary street for the purposes of assessing compliance with Clause 5.4.3. This is particularly because the existing setback of the building to the south of the site (Lot 1400), reflects a setback more akin to a secondary street setback. Nevertheless, even if the setbacks associated with a secondary street were applied to the western frontage, the proposal is still non-compliant, albeit to a lesser extent when compared to the setback requirements for a primary street (proposed 3m setback vs the required 7m setback for a primary street and 2.5m setback for a secondary street).

In addition, the application seeks variations to Clause 5.4.3.1 (Additional Building Setback Requirements for Residential Buildings Longer than 18 metres and for Residential Buildings over 4 storeys in Height), along the eastern and western sides of the site where the building is 32 metres in length. Such a length requires additional setbacks of 2.5m to the setbacks required under Clause 5.4.3. The non-compliance for the setback along the western side of the site (if taken as a secondary street) is 2m (with 5m required and 3m proposed), and along the east side of the site is 2.5m (with 5.5m required for a side setback and 3m proposed).

The Authority considers the setback reductions sought are significant. The Authority particularly notes the relevance of a decision by the (then) Lands Planning and Mining Tribunal, dated 13 April 2012 (Buntine and McLeod V DCA). The Tribunal considered in relation to a proposed setback reduction, which it found represented a very significant and grave departure in degree from the relevant planning control, *'Minimum planning requirements, such as setbacks, set a bare minimum standard for residential and non-residential buildings...'* and *'minimum setback requirements are designed to ensure orderly and appropriate development...'* The Tribunal further considered *'The greater the departure or variation from those minimum requirements the greater the negative effect on orderly and appropriate development under the relevant planning scheme.'*

The applicant's reasons for the reduced setbacks under Clause 5.4.3.1 include *'The reduction of building height from four storeys (maximum allowable) to three storeys, thereby minimising visual bulk and massing impacts. Whilst it is acknowledged that four storeys is the maximum height, development to the maximum height potential occurs in Zone MR to the extent that it is generally expected, thus any reduction reasonably constitutes a minimisation.'*

The Authority does not concur with this reasoning. It considers that the impacts need to be assessed on what is proposed rather than what is anticipated. It acknowledges that the Zone MR allows for four storey developments but such development can only necessarily be expected where a building is fully compliant with NTPS2020. In this case the proposal is not compliant with the setbacks required under Clause 5.4.3.1.

The applicant also considers that the use of projections, varied colours and finishes, voids and fenestration all serve to minimise adverse impacts of visual bulk and building massing.

The Authority acknowledges that this reasoning may have some merit for the western side of the building facing Sergison Circuit, given also that the street provides width and space to the properties across the street. However, with the eastern side of the site, it immediately adjoins Lot 1402 (34 Sergison Cct), which comprises four single storey units, with a narrow driveway between them and the boundary of the subject site. Given the proximity of the single storey units to the site, the Authority considers that despite the varied projections of the building along its eastern side, the visual bulk and building massing when viewed from the single storey units is adverse, particularly given its proximity to the boundary. In terms of the relevant zone outcomes, it does not consider that the Building design or site layout provide a sympathetic interface to the adjoining lots.

Noting the Lands Planning and Mining Tribunal consideration of reduced setbacks described above, and considering the substantial reduced side setback proposed in this application under Clause 5.4.3.1 in particular, the Authority considers that to reduce the negative effect the building may have from the reduced setback, the proposal should strive to meet the minimum setback requirements under Clause 5.4.3.1, particularly along the eastern boundary.

Under Clause 5.2.4.4 (Parking Layout), the parking layout meets the requirements of the clause except that the parking bay lengths are 5.4m as opposed to the required 5.5m. The plans however show that there is a 6.2m driveway (where 6m is required) for cars to reverse into. With this, it is considered that a variation to this clause is reasonable as the movement of vehicles within the parking area should not be unduly compromised.

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

13 submissions were made under section 49 of the Act in relation to the application during the exhibition period. The key issues raised principally relate to parking and traffic on Sergison Circuit, scale of the proposed development and impact on amenity, appropriateness of the proposed development in the area, a previous rezoning to increase residential density in the locality being refused, and fence and landscaping along the boundary with 34 Sergison Circuit.

The Authority considers each of these matters below:

Parking and traffic on Sergison Circuit

- The proposal complies with the car parking requirements under NTPS 2020.
- The existing on-street parking and traffic issues should be raised with City of Darwin as the controlling agency responsible for Sergison Circuit. Given the proposal complies with the NTPS2020 parking requirements, it is not anticipated that the proposal will have an impact on parking on Sergison Circuit. It is also noted that City of Darwin has not raised parking or traffic issues in its submission to the proposal.

Scale of the proposed development and impact on amenity

- The proposal is considered to comply with NTPS 2020 apart from setbacks and parking layout. The Authority considers the minimum setback requirements of NTPS 2020 should be complied with, as detailed in section 2 above.

Appropriateness of the proposed development in the area

- The Authority considers that the proposed facility is not in an appropriate location, as detailed in section 1 above.

A previous rezoning to increase residential density in the locality being refused

- The rezoning request or Planning Scheme Amendment (PSA) for 25-27 Sergison Cct from Zone MD (Multiple Dwelling Residential - now known as Zone LMR) to Zone MR, which was refused in 2015, is not relevant to this development application. A PSA allows for certain land-uses to occur in an area and is considered by the Minister for Infrastructure, Planning and Logistics, while development applications detail particular land-uses such as, in this case, a residential care facility which are permitted with consent in a zone and are considered by the consent authority, in this case the Darwin division of the Development Consent Authority.
- It is however noted that the PSA considered in 2015 would have allowed for increased density on Sergison Circuit; its refusal indicates that any further increase in density in the area through a PSA was, at the time, considered undesirable.

Fence and landscaping along the boundary with 34 Sergison Circuit

- The applicant has responded to the issues raised about side fencing and landscape species with the adjoining property (34 Sergison Cct), stating that the proponent is willing to discuss these issues with the adjoining property owners. Any changes proposed would need to be reflected on the plans and included as a condition precedent on any permit issued.

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

The application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of conditions and/or notations on the development permit as required. It is noted that City of Darwin raised no issues regarding vehicle parking for the development. It is also noted that Power and Water raised no issues regarding existing infrastructure provision for power and water.

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

The Authority considers that the proposal will have a negative impact on the amenity of the area in this instance, due to the setbacks proposed which would likely result in building massing when viewed from adjoining land.

FOR: 1

AGAINST: 4

ABSTAIN: 0

ACTION: Notice of Refusal

NOTE

Authority member, Mr Mark Blackburn, did not raise any concerns and was supportive of the development as proposed.

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

SUZANNE PHILIP
Chair

03 November 2021