



## **DEVELOPMENT CONSENT AUTHORITY**

### **DARWIN DIVISION**

### **MINUTES**

**MEETING No. 394 – FRIDAY 5 AUGUST 2022**

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

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

**APOLOGIES:** Nil

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Ann-Marie Reynolds, Amit Magotra and Julie Hillier (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Cindy Robson, Conneil Brown and Brian Sellers

**Meeting opened at 10.15 am and closed at 12.20pm**

**ITEM 1**

**PA2022/0162 SUBDIVISION TO CREATE 63 LOTS INCLUDING 59 RESIDENTIAL LOTS, ONE PUBLIC SPACE LOT AND THREE BALANCE LOTS  
SECTIONS 4278, 4279 & 4882 (32, 38 & 25) BOWERLEE ROAD, HUNDRED OF BAGOT**

**APPLICANT** Cunningham Rosse Town Planning and Consulting

DAS tabled PWC comments on the adjacent tank site.

Applicant:- Gerard Rosse attended via videolink and attending in person on behalf of the application:- Razak Shebab (Director, QRZ), Harris Davidson (AGD Engineers), Tony Murray-Williams (one of the Landowners) and Bryden Smith (Arccos Consulting - Traffic).

Submitters:- Danny and Jane Maxwell attended.

**RESOLVED**  
44/22

That, the Development Consent Authority vary the requirements of Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Section 4278, (32) Bowerlee Road, Hundred of Bagot, Section 4279, (38) Bowerlee Road Hundred of Bagot and Section 4882, (25) Bowerlee Road, Hundred of Bagot for the purpose of subdivision to create 63 lots including 59 residential lots, one public space lot and three balance lots, 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) Good Neighbour fencing a minimum of 1.8m high to the adjoining boundary of Portion 1908 to the north, Sections 3915 and 4277 to the east and Good Neighbour fencing a minimum of 2.4m high to the adjoining boundary of Section 4280 to the west;
  - (b) location of any proposed easements demonstrating that the minimum building envelope remains in compliance for lots less than 600m<sup>2</sup>;
  - (c) proposed lot layout that excludes surrounding land, including the proposed Flight Path Road alignment;
  - (d) internal roads and the intersections designed to allow 12.5 metre rigid passenger busses to allow public passenger transport and consider special needs accessible transport to serve the development in the future, to the

requirements of Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics;

- (e) a turnaround point and associated easement (if required) can be accommodated at the end of Road 1 to provide access for a typical service vehicle (i.e. rubbish truck), to the requirements of City of Darwin;
  - (f) any development changes that result from addressing condition precedents 2 to 5.
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 to the requirements of the City of Darwin and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics (TCSD), to the satisfaction of the consent authority. The traffic impact assessment shall consider:
- a) All of the existing developments on the subject land and the impact during different stages, ultimate stage of the development and analyse it separately to understand the intersection performance and safety in the traffic report. The background traffic growth to be considered and the intersection performance analysis for 10 years horizon shall be provided to TCSD for review.
  - b) The types of existing developments and vehicle types which are currently using this intersection for the intersection safety analysis. Traffic engineering recommendations are required for the safety of the intersection in different stages of the residential development.
  - c) At what stage of the proposed development the upgrades are required at Vanderlin Drive and Bowerlee Road intersection.
  - d) Any decisions or proposals with regards to the use or upgrade of Vanderlin Drive / Bowerlee Road intersection supported by a road safety audit report.
  - e) The future plans of the Department of Infrastructure, Planning and Logistics to duplicate Vanderlin Drive between McMillan Road and Stuart Highway in the medium to long term including the anticipated restricted access movements into and out of Bowerlee Road;
  - f) any necessary upgrades to the surrounding street network, including Bowerlee Road, as a result of the implications of the development, at no cost to City of Darwin.

Note: If the subdivision is developed prior to the duplication of Vanderlin Drive, the intersection of Vanderlin Drive and Bowerlee Road shall be upgraded to include a channelized right and auxiliary left turn lanes and street lighting to meet current standards in accordance with the Austroads "Guide to Traffic Management", "Guide to Road Design", relevant Australian Standards, Department's standard specifications and policy guidelines, to the requirements of Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The intersection upgrade must accommodate the maximum size vehicle configuration that is likely to utilise the intersection. Developer shall note that the Department's medium to long term plan is to duplication Vanderlin Drive to support the growing traffic demand. As a result of this duplication project, Vanderlin Drive and Bowerlee Road intersection will be limited to LEFT-IN and

LEFT-OUT only. The developer's concept plans shall indicate provision to gain full access from the Flight Path Road and resolve whether this access is to be identified on the plans to be endorsed by the consent authority as forming part of this permit.

3. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the stormwater drainage system shall be submitted to and approved by the Land Development Unit, Department of Infrastructure, Planning and Logistics, Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics and City of Darwin to the satisfaction of the consent authority. The plan shall include details of site levels and stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system or an alternate approved connection. The documentation shall include:
  - a) Stormwater design documents as specified in Section 7 Stormwater Drainage of NT Subdivision Development Guidelines. All stormwater design must be undertaken in accordance with the NT Subdivision Development Guidelines.
  - b) Catchment plans with contours showing the full extent of pre and post development catchments for the full proposed development (all stages). Demonstration of how post development peak flow rate will be controlled to not exceed the pre-development peak flow rate into the adjacent NT Government open drain during major storm events and ensure that there is no increase of stormwater flow or risk of flooding to Lot 3915;
  - c) Assessment of the risk of erosion downstream of any proposed stormwater discharge points from the development; and
  - d) Demonstrate that Lot 63 has at least 1ha of unconstrained land in relation to localised stormwater flooding and that land from a public road is similarly unconstrained.
4. Prior to the commencement of works, detailed design documentation (IFC drawings and technical specifications) shall be submitted to and receive 'Permission to Use' from Land Development Unit, Department of Infrastructure, Planning and Logistics for all proposed works affecting existing NT easements. All designs that relate to the Crown Land Estate's asset is to be prepared and certified by a chartered professional civil engineer and comply with NT Subdivision Development Guidelines, to the requirements of Land Development Unit, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
5. Prior to the endorsement of plans and prior to the commencement of any works on site, the developer is to reach an agreement with Department of Infrastructure, Planning and Logistics and Power and Water Corporation for servicing the development with water and sewer services, to the satisfaction of the consent authority.

6. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report to the requirements of City of Darwin and Department of Infrastructure, Planning and Logistics.
7. Prior to the commencement of works, a **Type 2** Erosion and Sediment Control Plan (ESCP) must be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CPESC) to the satisfaction of the consent authority. The ESCP should be submitted for acceptance prior to the commencement of any earth disturbing activities (including clearing and early works) to Development Assessment Services via email: [das.ntg@nt.gov.au](mailto:das.ntg@nt.gov.au).
8. Prior to works commencing, a Weed Management Plan (WMP) is to be submitted to and approved by the consent authority on the advice of the Department of Environment, Parks and Water Security. The WMP must be developed and implemented so as to meet the minimum requirements declared under the *Weeds Management Act 2001* and the minimum gamba grass management requirements for the proposed parcel sizes in the **Class B Zone** area as described in the Weed Management Plan for Gamba Grass 2020-2030. The WMP should include vehicle and equipment hygiene controls in line with the key principles for weed spread prevention as outlined in the Weed Management Branch document 'Preventing weed spread is everybody's business'. The WMP should detail methods, treatments and timing for effective gamba grass management on the site during the development, so that gamba grass is satisfactorily managed at completion of works for all proposed or existing lots. Information and documents on weed management is available at [www.nt.gov.au/weeds](http://www.nt.gov.au/weeds). The WMP should be emailed to [DevelopmentAssessment.DEPWS@nt.gov.au](mailto:DevelopmentAssessment.DEPWS@nt.gov.au) for assessment.
9. 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.
10. Prior to the commencement of works (including site preparation), the applicant is to prepare a public open space plan in accordance with Section 5.2 of the Northern Territory Subdivision Development Guidelines to be submitted and approved by the City of Darwin, to the satisfaction of the consent authority.
11. Prior to commencement of works (including site preparation), the applicant is to liaise with City of Darwin Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics to determine location of and any development requirements in relation to a bus stop, to the satisfaction of the consent authority.

12. Prior to the commencement of works (including site preparation), the screen fencing identified on the endorsed plans (refer condition precedent 1) along boundary to Section 4280 must be installed to the satisfaction of the consent authority.

## GENERAL CONDITIONS

13. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
14. Before the issue of titles, the land identified for public open space is to be rezoned from Zone R (Rural) to Zone PS (Public Open Space), to the satisfaction of the consent authority.
15. Before the issue of titles, the developer is to provide written confirmation (in the form of plans or drawings) demonstrating that all lots less than 600m<sup>2</sup> for dwelling-single allow for future vehicle access via a single driveway unrestricted by street infrastructure (including any power, water, sewer, or stormwater infrastructure) which demonstrates that a 3.5m driveway can be located on each lot whilst ensuring that each lot's street frontage has a minimum continuous length of 6.5m, to the satisfaction of the consent authority.
16. 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.
17. 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 on the plan of subdivision submitted for approval by the Surveyor General.
18. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, electricity and telecommunication networks to each lot shown on the endorsed plan (other than the remnant parcel) in accordance with the authorities' requirements and relevant legislation at the time. Please refer to Notations on this permit numbered 3 to 7 for further information.
19. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the relevant Northern Territory or local government authority.
20. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Darwin and the Department of Infrastructure, Planning and Logistics to the satisfaction of the consent authority.

21. A turnaround point is to be provided at the end of Road 1 that can accommodate a typical service vehicle (i.e. rubbish truck), to the requirements of City of Darwin, to the satisfaction of the consent authority.
22. Any proposed work (including the provision or connection of services) within, or impacting upon the Northern Territory Government controlled road reserve shall be in accordance with the standards and specifications of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics. Design documents must be submitted to the Director Corridor Management, Transport and Civil Services Division for Road Agency Approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
23. The new intersection and/or new roads are subject to road safety audits in accordance with the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics policy "Road Safety Audits", to the satisfaction of the consent authority.
24. 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.
25. The owner shall:
  - a) remove disused vehicle and/ or pedestrian crossovers;
  - b) provide footpaths/ cycleways;
  - c) collect stormwater and discharge it to the drainage network; and
  - d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin and Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
26. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Land Development Unit, Department of Infrastructure, Planning and Logistics/Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics and City of Darwin, to the satisfaction of the consent authority. All works are to be:
  - a) constructed in accordance with the detailed design documentation (engineering design drawings, specification and design report) that has received 'Permission to Use' from the Land Development Unit, Department of Infrastructure, Planning and Logistics;
  - b) comply with NT Subdivision Development Guidelines;
  - c) be certified by a chartered professional civil engineer; and
  - d) be documented ('As Constructed' drawings)to the requirements of Land Development Unit, Department of Infrastructure, Planning and Logistics and at no cost to the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.



27. No sediment from the development site is to enter 42 Bowerlee Road. If it is evident that sediment has entered 42 Bowerlee Road from the site, Crown Land Estate will require that all sediment are removed at the Developer's cost.
28. Upon completion of any works infrastructure shall be rehabilitated to the standards and requirements of the City of Darwin and Department of Infrastructure, Planning and Logistics returned to the condition as documented in the dilapidation report.
29. All works relating to this permit must be undertaken in accordance with the accepted Type 2 Erosion and Sediment Control Plan (ESCP) to the requirements of the consent authority. Should the accepted Type 2 Erosion and Sediment Control Plan (ESCP) need to be amended, the revised ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CEPSC) to the satisfaction of the consent authority. The revised ESCP should be submitted for acceptance to Development Assessment Services via email: [das.ntg@nt.gov.au](mailto:das.ntg@nt.gov.au).
30. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. For further information refer to Note 8 below. At completion of works, clearance should be sought from the Department of Environment, Parks and Water Security regarding satisfactory implementation of permanent erosion and sediment control measures and site stabilisation. To arrange a clearance site inspection, email the Land Development Coordination Branch at: [DevelopmentAssessment.DENR@nt.gov.au](mailto:DevelopmentAssessment.DENR@nt.gov.au)
31. All works relating to this permit are to be undertaken in accordance with the approved Weed Management Plan (WMP) to the requirements of the consent authority on the advice of the Department of Environment, Parks and Water Security.
32. The developer shall have carried out an assessment of the development's present and predicted future exposure to road traffic noise levels by a suitably qualified person, in accordance with AS3671-1989, "Acoustics – Road Traffic Noise Intrusion – Building Siting and Construction", and where required provide appropriate noise attenuation measures to the satisfaction of the Authority. All noise attenuation works deemed necessary shall be carried out by and at the full cost of the developer and shall be wholly contained (including foundations) within the subject lot.
33. No individual property access shall be allowed onto Vanderlin Drive at any stage of the development, including temporary access for construction purposes and construction and delivery vehicles shall not be parked on the Vanderlin Drive road reserve, to the requirements of Transport and Civil



Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.

34. The loads of all trucks entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets. This includes ensuring that all wheels, tracks and body surfaces are free of mud and other contaminants before entering onto the sealed road network. Where tracked material on the road pavement becomes a potential safety issue, the developer will be obliged to sweep and clean material off the road.
35. Where unfenced, the Vanderlin Drive frontage is to be appropriately fenced in accordance with Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics standards and requirements to the satisfaction to the consent authority.
36. The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e. not flashing or variable message). The sign shall be positioned:
  - a) so as not to create sun or headlight reflection to motorists; and
  - b) be located entirely (including foundations and aerially) within the subject lot.Advertising signage, either permanent or temporary, e.g. 'A' frame, vehicle or trailer mounted shall not be erected or located within the Vanderlin Drive road reserve.
37. Before the issue of titles, screen fencing the screen fencing identified on the endorsed plans (refer condition precedent 1) on the boundary to Portion 1908 to the north and on the boundary to Sections 3915 and 4277 to the east and is to be installed to the satisfaction of the consent authority.

## Notes

1. This permit will expire if one of the following circumstances applies:
  - a) the development is not started within two years of the date of this permit;  
or
  - b) the development is not completed within *four* years of the date of this permit.The consent authority may extend the periods referred to if a request is made in writing before the permit expires.
2. The developer will need to ensure a Building Setback Plan is incorporated into Schedule 9 of the NT Planning Scheme 2020, through a planning scheme amendment.
3. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto: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.

4. A "Permit to Work Within a Road Reserve" may be required from City of Darwin and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics before commencement of any work within a road reserve.
5. Prior to the commencement of works (including site preparation), the applicant is to prepare designs and specifications for landscaping of the road reserve adjacent to the property, to the requirements of City of Darwin, to the satisfaction of the consent authority.
6. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind)
7. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>
8. Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at [www.austieca.com.au](http://www.austieca.com.au) and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
9. There are statutory obligations under the *Weeds Management Act 2001* to take all practical measures to manage weeds on the property. For advice on weed management, please contact the Department of Environment, Parks and Water Security.
10. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate, please contact the Aboriginal Areas Protection Authority.
11. 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](mailto:info@ntbuild.com.au)) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

12. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>
13. 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 website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.  
The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.
14. 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.
15. 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.
16. 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.
17. Darwin International Airport advises that there must be no site activity which would attract birds that could create a hazard for aircraft operations.
18. 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.

19. The subdivision development is adjacent to Power and Water Corporation water tank site, which is used for potable water operational activities and for laydown/storage of equipment.

## REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and subdivision of land requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(ii), and therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan 2015 and Berrimah North Planning Principles and Area Plan which are relevant to this application), Overlay Clause 3.2 (CNV - Clearing of Native Vegetation), Overlay 3.5 (LPA - Land in Proximity to Airports), Zone purpose and outcomes of Clause 4.3 (Zone LMR - Low-Medium Density Residential), Clause 4.17 (Zone PS - Public Open Space), Clause 4.21 (Zone R - Rural), 4.25 (Zone RD - Restricted Development), Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR), Clause 6.2.2 (Lots less than 600m<sup>2</sup> for Dwellings-Single), Clause 6.2.3 Site Characteristics for Subdivision in Zones LR, LMR, MR and HR), Clause 6.3.2 (Lot Size and Configuration for Subdivision in Zones RL, R and H, and Unzoned Land), Clause 6.3.3 (Site Characteristics for Subdivision for Lots of 1ha or Greater in Zones RR, RL, R and H, and Unzoned Land), Clause 6.3.4 (Infrastructure for Subdivision in Zones RL, R and Unzoned Land) and Clause 6.5.3 (Subdivision in Zone RD), need to be considered.

It is found that the proposal can comply with the relevant requirements of the Planning Scheme 2020 as conditioned, except for Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR).

The applicant, Mr Gerard Rosse, of Cunnington Rosse Town Planning and Consulting, attended the meeting remotely via Microsoft Teams and spoke to the application. Mr Rosse highlighted the current subdivision proposal is part of a two stage concept. The first stage seeks to enable commencement of development in line with the existing urban zoning, as soon as possible. The second stage requires land to be rezoned and that due to the processing time of a planning scheme amended, the developer has opted to apply for only one stage as part of the current application.

Mr Rosse indicated that a Concurrent Application is proposed to include rezoning of land currently zoned PS to Zone LMR (Low-Medium Density Residential). Mr Rosse considered the existing Zone PS land to be a

legacy of a previous subdivision concept and that the current proposal intends to provide a much larger area of park land that is more central to the residential area and school.

Mr Rosse outlined the concept is informed by detailed design considerations including the traffic impact assessment which confirmed required upgrades to Bowerlee Road and that the road network can safely accommodate the traffic; and stormwater management plans which aims to improve drainage in the area and ensure no net worsening of stormwater discharge.

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 sub-clause 6 of Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) because proposed Lots 8, 9 and 19 are not configured to enable compliance with the minimum building envelope requirement of 17m x 17m (exclusive of any boundary setbacks or service authority easements) that applies to lots with an area of 600m<sup>2</sup> or greater.

The consent authority considers a variation to this clause appropriate in this instance because:

- the proposal is consistent with the purpose of Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) in that the lots are of a size, configuration and orientation suitable for residential development allowing suitable built form consistent with the purpose of this clause and the zone purpose and outcomes; and
- significant additional area for development occurs on the balance of the lots.

The authority notes that condition precedent 1 requires revised plans to be submitted to show the location of any proposed easements demonstrating that the minimum building envelope remains in compliance with Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) for lots less than 600m<sup>2</sup> as the variation to Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR) only pertains to three lots which were greater than 600m<sup>2</sup>.

In addition, condition precedent 1 requires plans to be submitted to show the provision of screen fencing along part of the boundaries of the site which is required to demonstrate the potential land use conflicts are minimised by taking account of the visual and acoustic privacy of

residents, as required by sub-clause 11 of Clause 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR).

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.

Two submissions were received which raised concerns regarding the impact of the development on the existing rural amenity and traffic volumes in terms of road safety and congestion. Submitter, Danny Maxwell attended the meeting and spoke to his submission, reiterating concerns relating to traffic and impact on rural amenity.

The consent authority considers the proposal is generally in accordance with the Berrimah Area Plan and upgrades to the road network will be required in accordance with an approved traffic impact assessment to the requirements of the relevant service authorities.

In response to the submissions received, the consent authority has included the requirement for the developer to provide screen fencing at a height of 2.4m to 42 Bowerlee Road to take into account the privacy and amenity of the adjacent landowners. The consent authority also notes that conditions of development are included to ensure fencing is provided prior to the commencement of subdivision works.

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 considered capable of supporting the proposed development. comments received from the Department of Environment, Parks and Water Security indicate that, the land is level to gently undulating plain with well drained soils; there are no drainage features or wetlands; and the proposed site is largely cleared and has been modified with roads and other infrastructure.

The potential impact of the proposed development on other land include flooding resulting from changes to the stormwater flows. Development Permit conditions expressly require the proponent submit to the documentation to the Department of Infrastructure, Planning and Logistics and City of Darwin which ensures that stormwater design stormwater design is undertaken in accordance with the NT Subdivision Development Guidelines and demonstrate how post development peak flow rate will be controlled to not exceed the pre-development peak flow rate into the adjacent NT Government open drain during major storm events and ensure that there is no increase of stormwater flow or risk of flooding to Lot 3915.



5. 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 for that purpose.

Connection to services forms part of the conditions of the development, and whilst there are significant infrastructure upgrades required to support this development, the requirements of service authorities and local government have been addressed through the inclusion of relevant conditions and notes on the permit.

The authority notes that condition precedent 1 requires amended plans be submitted which omit surrounding land not subject to the application, including Flight Path Road, as the Department of Infrastructure, Planning and Logistics do not support this alignment. It also ensures that subdivision plans are not endorsed until detailed design for servicing each lot is finalised to the requirements of the relevant service authorities and local government to ensure.

6. 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 considers the requirement to include fencing along the boundaries of adjacent properties will limit the impact of surrounding development on the existing and future amenity of the area.

The authority notes that extensive conditions have been included to ensure that stormwater is adequately managed. Furthermore, erosion and sediment controls and a weed management plan are required to be implemented to the requirements of the Department of Environment, Parks and Water Security during construction.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:**

Notice of Consent and Development Permit

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



Suzanne Philip  
2022.08.10  
17:49:05  
+09'30'

**SUZANNE PHILIP**  
Chair

10 August 2022