



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 317 – FRIDAY 22 JUNE 2018

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

MEMBERS PRESENT: Suzanne Philip (Chair), John Gleeson, Doug Phillips, Mick Palmer and Simon Niblock

APOLOGIES: Sherry Cullen

OFFICERS PRESENT: Margaret Macintyre (Secretary), Dawn Parkes and Sarah Silva (Development Assessment Services)

COUNCIL REPRESENTATIVE: David Burrow and James Whyte

Meeting opened at 9.45 am and closed at 11.15 am

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 **CHANGE OF USE FROM SHOP TO MEDICAL CLINIC (TENANCY 4B)**
PA2018/0178 **LOT 9791 (289) TROWER ROAD, TOWN OF NIGHTCLIFF**
APPLICANT **TECON AUSTRALIA PTY LTD**

The applicant sent their apologies.

RESOLVED That, the Development Consent Authority determine to reduce the car parking
100/18 requirements pursuant to Clause 6.5.2 (Parking Requirements) of the Northern
Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*,
consent to the application to develop Lot 9791 (287) Trower Road, Town of
Nightcliff for the purpose of a change of use from shop to medical clinic (tenancy
4b), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered 2018/0178/01 to 2018/0178/05 endorsed as forming part of this permit.
2. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water, sewerage and electricity facilities to the development shown on the endorsed plans in accordance with the authority's requirements and relevant legislation at the time.
4. Before the use or occupation of the development starts, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) line marked to indicate each car space and all access lanes; and
 - (b) clearly marked to show the direction of traffic along access lanes and driveways, to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The

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

REASONS FOR THE DECISION

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

The NT Planning Scheme applies to the land. Lot 9791 Town of Nightcliff is identified within Zone C (Commercial) of the NT Planning Scheme and is surrounded by lots predominantly developed as Commercial. The primary purpose of Zone C is to provide for a range of business and community uses. As the change of use is for the benefit of members of the public it is considered that the proposal is consistent with the purpose of the zone.

2. An assessment against Clause 6.5.1 (Parking Requirements) identifies that the change of use generates a demand for 4 additional parking spaces with no additional spaces provided. A reduction to the parking required under Clause 6.5.1 (Parking Requirements), pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Scheme is suitable as:
 - the Casuarina Village provides adequate parking across the complex with many spaces located within a reasonable walking distance of the proposed medical clinic, as *Clause 6.5.2 2(b)*;
 - the site is located close to the Casuarina Bus Interchange Terminus (Public Transport Network) as *Clause 6.5.2 2(c)*;
 - the car parking demand at the site fluctuates during different peak periods. With a trend in persons 'coming and going' as oppose to parking for the entire day;
 - the proposed clinic would modernise and uplift the lot; and
 - the clinic will offer a vital service to the general public.
3. Pursuant to section 51(j) of the *Planning Act*, the consent authority must take into consideration the capability of the land to which the proposed development relates 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 site is already developed as a commercial development with a number of permitted changes in use having taken place since the development opened. The change in use proposes internal alterations only and the land is considered capable of supporting the use.

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

The land is zoned to accommodate the proposed change in use in that the proposed change is considered to meet the purpose of Zone C (Commercial) in providing for a range of business and community uses.

It was noted during assessment that the existing line marking of the car parking spaces has faded over time and therefore the Authority determined to include a condition requiring the re-line marking of the car parking spaces and access lanes, particularly given that a reduction has been granted, to ensure that the spaces available are clearly marked and can be easily identified by users.

The proposed change in use is considered to be consistent with the provisions of the zone, and therefore unlikely to have any impact on the existing or future amenity of the area.

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2018/0188
APPLICANT

SHADE STRUCTURE ADDITION TO AN EXISTING SINGLE DWELLING WITH A REDUCED FRONT SETBACK
LOT 8800 (9) HIBERNIA CRESCENT, TOWN OF NIGHTCLIFF
KAREN AVERY & DAVID AVERY

DAS tabled a further submission to the application.

Mr David and Mrs Karen Avery attended and showed the members photographs showing:

- Vegetation on the front of their property;
- Showing the boundary wall;
- Proposed tree location to screen from the east; and
- Similar type of tree that could be used to screen from the east.

RESOLVED
101/18

That, pursuant to section 53(b) of the *Planning Act*, the Development Consent Authority alter the proposed development and consent to the proposed development as altered to develop Lot 8800 (9) Hibernia Crescent, Town of Nightcliff for the purpose of a shade structure addition to an existing single dwelling with a reduced front setback 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) The maximum height of the shade structure not exceeding 2.4m;
 - (b) Lining of the roof structure to minimise glare;
 - (c) The provision of landscaping within the lot boundary on the eastern side of the shade structure; and
 - (d) Identification of the landscaping proposed within the lot boundary on the southern side of the boundary wall.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the local stormwater drainage

system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
5. The owner of land must enter into agreements with the relevant authorities for the provision of drainage and electricity services to the development shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time.
6. 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.
7. Before the use of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. City of Darwin advises that designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by the General Manager Infrastructure, City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
3. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

REASONS FOR THE DECISION

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

The subject land is within zone SD (Single Dwelling Residential). The purpose of this zone is to provide single dwellings on individual lots. Ancillary structures such as the one proposed are permitted forms of development subject to compliance with the relevant requirements of the NT Planning Scheme. The proposed shade structure does not comply with Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

The purpose of Clause 7.3 is to ensure residential buildings and ancillary structures are located so:

- they are compatible with the streetscape and surrounding development including residential buildings on the same site;
- as to minimise any adverse effects of building massing when viewed from adjoining land and the street;
- as to avoid undue overlooking of adjoining properties; and
- as to encourage breeze penetration through and between buildings.

The minimum setback required from the primary street frontage for ancillary structures without external walls is 4.5m (to the columns) and 3.6m (to the eaves). The proposed shade structure is setback 620mm (to the columns) and 310mm (to the eaves) at its closest point. It is noted that the boundary has a slight curve and therefore the setback increases slightly as the structure tapers away.

The application addressed the requirements of Clause 7.3 in detail and believes that the specifics of the location of the proposed structure and characteristics of the property provide for special circumstances in which a reduced setback is not unreasonable.

A variation to Clause 7.3 was supported by the Authority for the reasons given below.

2. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the NT Planning Scheme, the Authority may consent to the development of land that does not meet the standards set out in Parts 4 or 5 if it satisfied that special circumstances justify the giving of consent.

The Authority determined to alter and approve the proposed shade structure to require a reduction in the overall height to no more than 2.4m. This height is consistent with the existing boundary wall which the Authority considered would screen the structure in association with the additional landscaping that is required along the eastern side of the structure. It was noted that landscaping alone would only provide a temporary screening solution and therefore it was imperative that the height of the structure be reduced in line with the wall so that there was a permanent screen, with the addition of landscaping to provide further screening and softening.

The Authority considered that there was no individual special circumstance but a collection of circumstances which together gave rise to special circumstances. These circumstances included the curvature of the boundary which gives the impression of the structure being setback further than it actually is, the existing solid boundary wall which will almost completely obscure the structure, the location of the boundary wall allowing for the provision of landscaping within the lot boundary in front of the wall, and the existing two storey residence which rises above the shade structure reducing the appearance of any massing resulting from the shade structure.

The Authority were satisfied that the proposal as altered, notwithstanding its reduced setbacks, will meet the purpose of Clause 7.3 in that it is compatible with the streetscape and surrounding development including residential buildings on the same site; the boundary wall and landscaping serve to minimise any adverse effects of building massing when viewed from adjoining land and the street; it will not result in any undue overlooking of adjoining properties; and given it is an open structure and will be fully located behind an existing solid wall it is unlikely to affect existing breeze penetration through and between buildings.

3. Pursuant to section 51(e) of the *Planning Act*, 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* with respect to the proposal. Dr Jennifer Mitchell raised a number of concerns regarding the location of the proposed structure and its inconsistency with the existing streetscape. The submission raised concern in relation to breeze penetration, massing and negative impact on amenity.

The submission made reference to a planning application for a similar structure on the adjacent lot to the east which was refused by the Authority in 2014 as it was determined that the development would be likely to result in adverse impacts in terms of building massing when viewed from the street and that the reduced setbacks were incompatible with the streetscape.

The Authority discussed the issues raised in the submission at length and took these into consideration in making its decision. While compliance with the NT Planning Scheme requirements and impact on amenity is addressed within reasons 1, 2 and 4, the Authority further considered that the requirements to reduce the height of the structure, provide additional landscaping and line the roof structure to minimise glare go some way in addressing the concerns of the submitter. In relation to the application that was refused in 2014 the Authority noted that each application is assessed on its merits and in this instance they were satisfied that special circumstances justified the giving of consent.

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

The Authority determined that the requirement to reduce the height of the structure and to provide additional landscaping will ensure that there will be little to no impact on the existing or future amenity of the area in which the land is situated, as the structure will be largely obscured from neighbouring land and the street.

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

The Authority condemns retrospective applications and noted that a retrospective application should not pre-empt a favourable decision of the Authority. In this instance the application was assessed on its merits and the Authority were satisfied that special circumstances justified the giving of consent.

ACTION: Notice of Consent and Development Permit

ITEM 3 **DEMOUNTABLE ADDITION (PREPARATION KITCHEN) TO AN EXISTING**
PA2018/0193 **RESTAURANT**
APPLICANT **LOTS 518 & 519 (8 & 7) PAVONIA PLACE, TOWN OF NIGHTCLIFF**
LUCKY BAT

Mr Justin Schmidt and Mr Danny Crichton (Lucky Bat) attended.

RESOLVED That the Development Consent Authority reduce the car parking requirements
102/18 pursuant to Clause 6.5.2 (Reduction in Parking Requirements), and vary the
 requirements of Clause 6.6 (Loading Bays) of the Northern Territory Planning
 Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the
 application to develop Lots 518 (8) & 519 (7) Pavonia Place, Town of Nightcliff for
 the purpose of a demountable addition (preparation kitchen) to an existing
 restaurant, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

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

4. 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.
5. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin to the satisfaction of the consent authority.

NOTES:

1. The City of Darwin advises that any works on/over Council property shall be subject to separate approval, at no cost to Council.
2. The City of Darwin advises that notwithstanding the approved plans, all signage is subject to Council approval, at no cost to Council.
3. The development and use hereby permitted should be designed, constructed, registered and operate in accordance with the National Construction Code of Australia, the NT Public Health Act and Regulations, the *NT Food Act* and National Food Safety Standards.
4. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

REASONS FOR THE DECISION

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

The application is for a demountable addition (preparation kitchen) to an existing restaurant which is consistent with the primary purpose of Zone C (Commercial) of the Northern Territory Planning Scheme in providing for a range of business and community uses. The development is considered to be a scale and character appropriate to the service function of the commercial precinct in which it is located.

2. Clause 6.8 (Demountable Structures) of the Planning Scheme ensures that demountable structures do not detract from the visual amenity of an area. The clause requires that the authority may only consent to the placement of a demountable structure on land if it is satisfied that there will be landscaping or architectural embellishments to the demountable structure that will enhance the appearance of the structure, and that the demountable structure will be visually consistent with adjoining or nearby development. The clause also provides that the authority may consent without these requirements being satisfied given the proposed use and location of the demountable structure from public areas. During the assessment period, the applicant constructed 1.8m timber fencing on site to assist in screening views of the demountable. The development also includes a railing above the roof of the demountable to provide some screening to the air conditioning units mounted to the roof. The demountable is setback behind existing buildings when

viewed from Pavonia Place, and also setback from the site boundaries from the plaza and service lane, and is considered to provide a suitable appearance when viewed from public areas such that it is visually consistent with surrounding development.

3. An assessment against Clause 6.5.1 (Parking Requirements) identifies that the demountable addition generates a demand for 1 additional parking space with no additional spaces provided. A reduction to the parking required under Clause 6.5.1 (Parking Requirements), pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Scheme is suitable as the development comprises a minor expansion of an existing use, with the building being established at a time when on-site parking was not required, and as there is existing public car parking available in the immediate area.
4. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Planning Scheme, the consent authority may consent to a development that does not meet the standard set out in Parts 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent. Clause 6.6 (Loading Bays) provides for the loading and unloading of vehicles associated with the use of the land. The existing building was approved through Development Permit DP07/0171 with no loading bay as it was determined that loading could be undertaken in the service lane adjacent. The addition is for an increase of 14.8m² of net floor area only to the existing restaurant.
5. Pursuant to section 51(e), the consent authority must take into account 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 under section 49 for the application with the main concerns being that the planning assessment of the application is unclear due to the location of other buildings/structures on site, whether demountables are suitable for the preparation of food, and whether plumbing and electrical arrangements can be met. The planning assessment has been prepared addressing compliance with the Planning Scheme and comments from service authorities during has shown that the demountable is suitable for use as a preparation kitchen and that the demountable can be suitably serviced.

6. Pursuant to section 51(m) of the *Planning Act*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated.

Comments have been received from a number of service authorities with applicable conditions and notes included to ensure the servicing requirements of the development are met.

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

The demountable addition is situated to the rear of the existing building as viewed from Pavonia Place and is setback from the boundaries as viewed from the plaza and service lane to the rear of the site. The fencing will largely screen the demountable and is considered to achieve an acceptable level of amenity given the setbacks of the demountable from the site boundaries and as viewed from public areas.

ACTION: Notice of Consent and Development Permit

**ITEM 4
PA2017/0513
APPLICANT**

**RECONSIDERATION: SUBDIVISION TO CREATE 54 LOTS
SECTIONS 4278 & 4279 (32 & 38) BOWERLEE ROAD, HUNDRED OF BAGOT
ONE PLANNING CONSULT**

Mr Israel Kgoisemang (One Planning Consult), Mr Savvas Savvas (Architect) and landowners Mr Tony Murray-Williams and Mr Chris Gahan attended.

Mr Kgoisemang tabled three amended plans.

The submitter sent their apologies.

**RESOLVED
103/18**

That, the Development Consent Authority determine to vary the requirements of Clause 11.2.2 (Infrastructure and Community Facilities in Residential Subdivisions) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Sections 4278 and 4279, (32 and 38) Bowerlee Road, Hundred of Bagot for the purpose of subdivision to create 53 lots, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to 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 site levels and Council's 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.
2. Prior to the endorsement of plans and prior to commencement of works, a Traffic Impact Assessment Report in accordance with the "Ausroads Guide to Traffic Management Part 12: Traffic impacts of Development" is required for the proposed development. The report must detail the developments traffic generation, trip distribution, traffic operations impact, the nature and timing of impacts and recommended measures required to accommodate and or mitigate the traffic impacts of the development to the requirements of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics and the City of Darwin to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and prior to commencement of works (including site preparation) a qualified person, experienced in the investigation and assessment of contaminated land, must provide clearance that the grounds of the site are free of contaminants. This clearance will form

part of this permit and must be provided to the Northern Territory Environment Protection Authority, to the satisfaction of the consent authority.

4. Prior to the commencement of works (including site preparation), a Construction Environmental Management Plan (CEMP) for the management and operation of the use must be prepared to the requirements of an independent suitably qualified professional and submitted to and approved by the consent authority upon the advice of City of Darwin. When approved, the CEMP will be endorsed and will then form part of the permit. The use must at all times be conducted in accordance with the endorsed plan. The CEMP must include:
 - (a) waste management;
 - (b) traffic control;
 - (c) haulage routes;
 - (d) stormwater drainage;
 - (e) use of City of Darwin land; and
 - (e) day to day management requirements for the use.
5. Prior to the commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal 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, an Erosion and Sediment Control Plan (ESCP), is to be submitted to and approved by the consent authority on the advice of DENR. The ESCP is to be developed by a suitably qualified and experienced professional in erosion and sediment control planning, and in accordance with the IECA Best Practice Erosion and Sediment Control Guidelines 2008. The plan should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase. Information regarding ESCP content is available at www.austieca.com.au and the NTG website: <https://nt.gov.au/environmental?soil-land-vegetation>. The ESCP should be emailed for assessment to: DevelopmentAssessment.DENR@nt.gov.au.

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. All works recommended by the Traffic Impact Assessment Report are to be completed to the requirements of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics and the City of Darwin, to the satisfaction of the consent authority.
9. All works relating to this permit are to be undertaken in accordance with the endorsed ESCP to the requirements of the consent authority, upon the advice of the Department of Environment and Natural Resources.
10. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, and telecommunication networks to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

11. 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.
12. 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.
13. 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.
14. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin, to the satisfaction of the consent authority.
15. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, site earthworks, vehicular access, pedestrian/ cycle corridors and street scaping are to be to the technical requirements of City of Darwin and Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics to the satisfaction of the consent authority and all approved works constructed at the owner's expense.
16. Upon completion of any works within or impacting upon the Vanderlin Road road reserve, the road reserve shall be rehabilitated to the standards and requirements of Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics.
17. 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.
18. All proposed works impacting on Vanderlin Drive are to be designed, supervised and certified on completion by a practicing and registered civil engineer, and shall be in accordance with the standards and specifications of Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics. Drawings must be submitted to Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics for approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
19. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
20. The proponent must ensure that only clean fill (virgin excavated natural material) is accepted and that the inert fill has been adequately assessed as being suitable for its intended use(s).

21. The developer must implement necessary measures to ensure mosquito breeding does not occur during the construction phase of the development, to the requirements of the Department of Health, to the satisfaction of the consent authority.
22. Dust control measures must be employed throughout the construction stage of the development to the requirements of the Northern Territory Environment Protection Authority, to the satisfaction of the consent authority.
23. 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 600m² for single dwellings allow for future vehicle access via a single driveway unrestricted by street infrastructure (including any power, water, sewer or stormwater infrastructure) which demonstrates a 3.5 metre driveway can be located on each lot to ensure that the each lot's street frontage has a minimum continuous length of 6.5m, to the satisfaction of the consent authority.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. NBNCo advised that they require all developments to be registered at least 3 months before any civil works commence.
3. There are statutory obligations under the *Weeds Management Act* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment and Natural Resources.
4. 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.
5. The permit holder is advised that the proposal may have assessment implications under the *Waste Management and Pollution Control Act*, More information can be found on the Northern Territory Environment Protection Authority website at: <https://ntepa.nt.gov.au/waste-pollution>. The applicant is encouraged to contact the NT EPA on (08) 8924 4218 or ntepa@nt.gov.au.
6. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DECISION

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

The purpose of Zone MD (Multiple Dwelling Residential) is to provide for a range of housing options to a maximum height of two storeys above ground level.

The application is for the subdivision of Zone MD land which will facilitate the development of the Berrimah North area. The applicant's plans are generally in accordance with the Berrimah North Planning Principals identified by Clause 14.1.2 (Berrimah North Planning Principals).

2. Clause 2.5 (Exercise of Discretion by the Consent Authority) requires that the Authority only vary requirements specified in Part 4 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent. The proposal is assessed as non-compliant with the standards of Clause 11.2.2 (Infrastructure and Community Facilities in Residential Subdivisions) of the NT Planning Scheme.

A variation to Clause 11.2.2 (Infrastructure and Community Facilities in Residential Subdivisions) is supported in this instance, to allow for a minimum separation distance of 550m from a bus stop rather than the minimum 400m required by the NT Planning Scheme, as the site has been identified by the Berrimah North Area Plan for multiple dwelling residential development, despite not including the provision for any future bus stops that will be located closer to the subject site. The Berrimah North Area Plan does however, envision additional commercial/mixed use facilities and pedestrian/cycle networks within close proximity to the site of subdivision which, in the future, would assist in minimising the inconvenience of the additional 150m distance to the nearest bus stop.

3. Pursuant to section 51(e) of the *Planning Act*, 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* with respect to the proposal from Danny and Jane Maxwell (adjoining neighbours to the west). In summary the submission raised the following concerns;

- Increased traffic on Bowerlee Road and particularly at the intersection of Vanderlin Drive where the number of vehicles to use this intersection would increase dramatically and become dangerous. Trucks using Avanti landscaping and road trains in the area are added concerns.
- The impact on amenity including noise, dust, pollution, antisocial and security issues due to the scale of the development.
- As the natural drainage occurs in a westerly direction the development will have a major impact on drainage and concerns regarding how this will affect their property.
- Impact on the water quality of their current bore.

The submission requested that should the development proceed, the developer construct a 2.4m solid block wall as a boundary fence and also provide screening tree plantings on the 42 Bowerlee Road side of the fence to help maintain privacy, security and amenity.

In response to the issues raised, conditions precedent have been included requiring a Traffic Impact Assessment Report, Stormwater Management Plan, Erosion and Sediment Control Plan, and an Construction Environmental Management Plan prior to the commencement of any works. Standard conditions and notations have also been included in relation to dust, noise and pollution. Revised drawings have mitigated concerns also raised by City of Darwin in relation to security and anti-social behaviour. Fencing along the western boundary will be a combination of a 600mm high reinforced concrete wall with 1.8m high colour-bond fencing to provide privacy, and powder-coated pool fencing to allow for breeze penetration and stormwater management of the site.

4. Pursuant to section 51(h) of the *Planning Act*, the consent authority must take into account the merits of the proposed development as demonstrated in the application.

The statement of effect provided by the applicant notes that the provision of multiple dwelling residential accommodation within the area is consistent with the zoning for the land and promotes best practice urban planning by creating mixed-use neighbourhoods and vibrant land economic management through sustainable development. The proposed dwellings are of a size and scale expected of this type of developments within the area.

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

Conditions precedent on the development permit include the requirement for a Construction Environmental Management Plan, a Waste Management Plan, a Stormwater Management Plan; and a Traffic Impact Assessment Report. It is anticipated that these measures, combined with standard conditions relating to the connection and upgrade of utility services and the provision and treatment of easements, are expected to ensure that the land is developed in accordance with physical capabilities, to address concerns raised by service authorities, and to ensure that utility and infrastructure requirements are appropriately addressed.

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

Provided that the applicant adheres to all conditions, the proposed use is considered appropriate for the site and unlikely to have an unreasonable amenity impact on the surrounding area.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

28 June 2018