



# **DEVELOPMENT CONSENT AUTHORITY**

## **DARWIN DIVISION**

### **MINUTES**

**MEETING No. 337 – FRIDAY 7 JUNE 2019**

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

**MEMBERS PRESENT:** Suzanne Philip (Chair), Marion Guppy, Mick Palmer and Sherry Cullen

**APOLOGIES:** Mark Blackburn

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Dawn Parkes, Amit Magotra, Adelle Godfrey, Richard Lloyd and Emmet Blackwell (Development Assessment Services) and David Wright (Lands Planning)

**COUNCIL REPRESENTATIVE:** James Whyte and Brian Sellars (Items 2 & 3 only)

**Meeting opened at 10.00 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**                    **CONCURRENT APPLICATION**  
**PA2019/0072**        **REZONE FROM ZONE FD (FUTURE DEVELOPMENT) TO ZONE SC**  
**(SERVICE COMMERCIAL) AND**  
**DEVELOPMENT PROPOSAL FOR THREE WAREHOUSES IN THREE SINGLE**  
**STOREY BUILDINGS, OFFICE IN A FOUR STOREY BUILDING, PLUS**  
**GROUND LEVEL CAR PARKING**  
**APPLICANT**        **PART SECTION 7349 MAKAGON ROAD, HUNDRED OF BAGOT**  
**JUNE D'ROZARIO & ASSOCIATES PTY LTD**

Ms June D'Rozario (June D'Rozario & Associates) and Mr Regan Anderson (Developments General Manager, Halikos Group) attended.

Development Assessment Services (DAS) tabled an amended plan.

**RESOLVED**        Pursuant to section 30P(1)(a), the consent authority made a preliminary decision  
**109/19**            that, if the Minister were to approve the amendment proposal to rezone Part Section  
7349 Makagon Road, Hundred of Bagot that it would be likely to determine to  
consent to the development under section 30W(1)(a) conditionally for the purpose  
of three warehouses in three single storey buildings, office in a four storey building,  
plus ground level car parking 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 and must be generally in accordance with the plans submitted with the application but modified to show:
  - a. The inclusion of a loading bay proximate to the office component;
  - b. Elevation plans showing details of the building materials and façade treatments to buildings fronting Julius Street and Stuart Highway [the details should be similar to the 3D Visualisation plans provided with the application];
  - c. Provision of covered pedestrian access to the office building from Julius Street and adjacent car parking area;
  - d. Location of bike racks; and
  - e. Any required changes resulting from the conditions precedent requirements of this permit.
  
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan for the car parking to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must be generally in accordance with the landscape concept plan and must include a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant. All species selected must provide shade to the vehicles and minimise

the expenses of pavement and car parking, to the satisfaction of the consent authority.

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant shall provide approval from the Transport and Civil Services Division (TCSD) of the Department of Infrastructure, Planning and Logistics for landscaping of Julius Street road reserve, adjacent to the property, as shown on the landscape concept plan provided with the application, to the satisfaction of the consent authority. When approved, the plan will be endorsed and will then form part of the permit.
4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant shall provide written confirmation from the Transport and Civil Services Division (TCSD) of the Department of Infrastructure, Planning and Logistics that the kerb crossovers and swept paths proposed for the development meet the technical standards of Transport and Civil Services Division (TCSD) of the 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 works (including site preparation), the applicant shall provide written confirmation from the Water Services division of the Power and Water Corporation that a water and sewer service connection can be provided to the proposed development, to the satisfaction of the consent authority.
6. Prior to the commencement of works (including site preparation), a stormwater design report shall be submitted to the satisfaction of and provided with Permission to Use by the Land Development Unit. The documentation shall demonstrate that stormwater design for the proposed development is consistent with the approved Stormwater Drainage Strategy (revision 7, 15 March 2017). If there is inconsistency with the previously approved Drainage Strategy, a list of inconsistencies must be provided for the approval of the Land Development Unit, to the satisfaction of the consent authority.
7. 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 Rangelands, Department of Environment and Natural Resources. The ESCP must be developed by a suitable qualified and experienced professional in erosion and sediment control as specified in the IECA Best Practice Erosion and Sediment Control Guidelines 2008. The ESCP should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase and that all disturbed soil surfaces must be satisfactorily stabilised against erosion at the completion of works. Information regarding erosion and sediment control and ESCP content is available online at [www.austieca.com.au](http://www.austieca.com.au) and the NT Government website <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be emailed for assessment to [developmentassessment.dnr@nt.gov.au](mailto:developmentassessment.dnr@nt.gov.au).

## CONDITIONS

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

9. All works relating to this permit are to be undertaken in accordance with the approved ESCP to the requirements of the consent authority on the advice of Rangelands, 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, electricity and telecommunication network services to the development 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.
13. All works are to be constructed in accordance with the design and documentation provided with 'Permission to Use' by the Land Development Unit, excepting as varied with the approval of the Land Development Unit. All construction works to stormwater drainage are to comply with the relevant development guidelines, be certified by Chartered Professional Civil Engineer to the satisfaction of the Land Development Unit, to the satisfaction of the consent authority.
14. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Transport and Civil Services Division (TCSD) of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
15. 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 Transport and Civil Services Division (TCSD) of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
16. Before the use or occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
  - (a) constructed;
  - (b) properly formed to such levels that they can be used in accordance with the plans;
  - (c) surfaced with an all-weather-seal coat;
  - (d) drained;
  - (e) line marked to indicate each car space and all access lanes; and
  - (f) clearly marked to show the direction of traffic along access lanes and driveways;to the satisfaction of the consent authority.  
Car spaces, access lanes and driveways must be kept available for these purposes at all times.

17. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
18. The loading and unloading of goods from vehicles must only be carried out on the land and within the designated loading bays, to the satisfaction of the consent authority.
19. No goods are to be stored or left exposed outside the buildings so as to be visible from any public street and surrounding residential areas.
20. Dust control measures must be employed throughout the construction stage of the development to the requirements of the NT EPA, to the satisfaction of the consent authority.
21. Before the occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
22. 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.
23. 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 to the requirements of the Transport and Civil Services Division (TCSD) of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
24. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority. The use of angled louvered slats for screening purposes is acceptable however, the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle, to the satisfaction of the consent authority.
25. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.

**NOTES:**

1. Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and the Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)) should be contacted via email a minimum of one month prior to construction works commencing to determine servicing requirements and the need for upgrading of infrastructure.
2. The Department of Environment and Natural Resources advises that construction work should be conducted in accordance with the Northern Territory Environment Protection Authority's Noise Guidelines for

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

3. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from the Department of Environment and Natural Resources. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.
4. The Northern Territory Environment Protection Authority has advised that the proponent must comply with their General Environmental Duty provided by section 12 of the *Waste Management and Pollution Control Act 1998*. More information can be found on the Environment Protection Authority website at: <http://ntepa.nt.gov.au/waste-pollution>, by calling (08) 8924 4218 or emailing [ntepa@nt.gov.au](mailto:ntepa@nt.gov.au).
5. 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.
6. The site is subject to the 'Defence Areas Control Regulations (DACR)'. All structures, including temporary structures, higher than 15m above ground level, including, but not limited to, additional buildings, light poles, cranes used during construction, vegetation etc., require approval from the Department of Defence.
7. The 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.
8. The Department of Defence – Estate Division, has advised that "Organic waste and/ or storage of commercial waste bins associated with the proposed development should be managed appropriately."
9. The development must be designed and constructed to comply with AS2021-2015 'Acoustics – Aircraft noise intrusion – Building siting and construction' (AS2021).
10. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.
11. 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>.

12. 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*.
13. 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.
14. The Transport and Civil Services division of the Department of Infrastructure, Planning and Logistics advises that no additional access shall be permitted from the Stuart Highway road reserve or Road 1 (Spine Road).

#### **REASONS FOR DECISION**

1. Pursuant to sections 30P(2)(a) and (b) of the *Planning Act 1999*, the consent authority must take into account any planning scheme that applies to the land to which the application relates and the amendment proposal contained within the application.

The development proposal is considered to align with the purpose of Zone SC (Service Commercial), which is to provide for commercial activities which, because of the nature of their business or size of the population catchment, require large sites. The proposed development comprised of a warehouse development of 14990m<sup>2</sup>, office floor space of 6085m<sup>2</sup> in a 4-storied building and 290 car parking space. If the amendment proposal was to be approved, the development proposal would be consistent with the purpose of Zone SC.

The development proposal is assessed as complying with the requirements of Clause 6.4 (Plot Ratios), Clause 6.5.1 (Parking Requirement) and Clause 6.5.3 (Parking Layout).

Clause 6.6 (Loading Bays) ensures developments provide for the loading and unloading of vehicles associated with the use of the land. The assessment identified that the plans did not allow for suitable loading access for the office component, and a condition precedent requiring amended plans showing 1 loading bay proximate to the office component is included on the permit.

Clause 6.9 (Land in Proximity to Airports) ensures developments occurring around airports are not affected by aircraft noise and do not impact the safe operation of an airport. The land is proximate to the Darwin International Airport (DIA), and RAAF base (approximately 4.55km south-east) and is impacted by the ANEF 20 contour which runs through the middle of the site. The assessment notes that the proposed development complies with *AS 2021 – 2000 Acoustics – Aircraft noise intrusion – Building siting and construction*.

The applicant at the hearing highlighted that the Development Assessment Services Report recommended a condition requiring the proposed development to comply with *AS 2021 – 2000 Acoustics – Aircraft noise intrusion – Building siting and construction* while the development is assessed as complying with the requirement. The Authority acknowledged the applicant's concern and the condition requiring compliance with AS2021-2015 is instead included as a notation on the permit.

Notes advising the developer that the proposed development should not prejudice the safe operation of the airport are also included on the permit.

Clause 8.2 (Commercial and Other Developments in Zone SC) ensures developments provide site-responsive designs of commercial, civic, community, recreational, tourist and mixed-use developments which are attractive and pleasant and contribute to a safe environment. The Authority noted that as per the zoning table for Zone SC, this clause applies only to the office development. The applicant at the hearing also raised similar concerns.

While acknowledging the above, the Authority also noted that the land on the southern part of the site, across Julius Street, is Zoned MR (Medium Density Residential) and Zone FD (Future Development) which will also be Zoned (MR) as per the Area Plan. Noting the warehouse component of the development, proposed on the southern side of the site, facing Julius Street, fronts the proposed residential area the Authority considered that consideration and compliance of this clause is necessary to minimise any future amenity impacts of the proposed development from surrounding residential areas.

The assessment notes that the development generally complies with the clause as the design of the building is sympathetic to surrounding development, particularly proposed residential uses across Julius Street. A condition precedent is included to provide amended plans showing details regarding building materials and façade treatments to the buildings fronting Julius Street and Stuart Highway to ensure that the development is as per the 3D visualisation images provided in the application.

The assessment also identified non-compliances with respect to; control of on-site noise sources and noise intrusion, safe and convenient movement of vehicles and pedestrians, landscaping of car parking areas and provision of bike racks. Development Assessment Services (DAS) tabled an amended plan, provided by the applicant, addressing the non-compliances related to landscaping of car parking

areas and provision of bike racks. The Authority noted that the plan tabled by DAS at the hearing lacks information on the non-compliances identified and considered that further amended plans are required to address the non-compliances. A condition precedent is included on the permit to address these requirements.

A number of conditions and notations have been included on the permit to control on-site noise sources and minimise noise intrusion.

2. Pursuant to section 30P(2)(f) of the *Planning Act 1999*, the consent authority must take into consideration any information received as a result of consultations carried out, submissions received, or evidence given at a hearing.

The application was placed on public exhibition for a period of 28 days in accordance with the requirements of the *Planning Act 1999* and advertised in the NT News on 12 April 2019 and 26 April 2019. One public submission from the Property Council of Australia was received after the expiry of the exhibition period.

While the submission was received after the expiry of the exhibition period, the Authority also noted that the email trail of the submission shows that it was first submitted on 10 May 2019 (closing date of exhibition period). It is noted that the submission was sent to an old email address ([das.dlpe@nt.gov.au](mailto:das.dlpe@nt.gov.au)) which is no longer in use by the Department and therefore the submission appears to have been delayed in the system.

The Authority believes that a reasonable attempt was made by the submitter to lodge a submission within the required timeframe and therefore considered it as a valid submission. The submission was subsequently considered at the hearing.

The applicant addressed the submission at the hearing explaining the evolution of the Berrimah Farm Planning Principles (BFPP) and Area Plan. The applicant stressed that the current FD zoning of the site is an interim zone which should be developed as per the BFPP and Area Plan. The proposed zoning aligns with the envisaged zoning of the BFPP and Area Plan. The applicant highlighted that the Department report also supports the proposed zoning of the site. The applicant further emphasised that the proposed zoning of the site will not undermine the Government's attempts to revitalise the Central Business Districts as the proposed zoning is intended for a warehouse development which is a prohibited use in Zone CB (Central Business). Also, the scale and nature of the development aligns with the proposed zoning.

The Authority carefully considered the concerns of the submitter and the applicant's response and took these into consideration in making its decision. The Authority noted that the concerns of the submitter mostly relate to the amendment proposal in the application for which the Minister for Infrastructure, Planning and Logistics is the consent authority. The Authority explained that concerns of the submitter would be provided to the Minister in the form of a report under section 30Q(3) of the *Planning Act 1999*, which will be considered by the Minister

under section 30S(f) while making a determination on the amendment proposal.

The Authority noted that the submission does not raise any concerns regarding the development proposal in the application.

3. Pursuant to section 30P(2)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to support the development proposal and the effect of the proposal on other land, and on any other land, the physical characteristics of which may be affected by the proposal.

The land is proximate to the Darwin International Airport (DIA), and approximately 4.55km south-east of RAAF base. The site is under the Conical Surface of the Obstacle Limitation Surface (OLS) and Procedures for Air Navigation-Operation (PANS-OPS). Comments received from DIA and the Department of Defence suggests that the height of buildings will not infringe the OLS and PANS-OPS requirements.

The Department of Environment and Natural Resources (DENR) raises no concerns regarding storm surge or riverine flooding. The ANEF 20 contour runs through the site which allows for commercial and industrial uses as acceptable. While no acoustic measures are required, a note is included on the permit to ensure compliance with AS2021-2015 is achieved. Appropriate notations are also included on the permit to ensure that the proposed development does not impact the safe operation of DIA and RAAF Base including approval from the Department of Defence for structures exceeding 15m.

4. Pursuant to section 30P(2)(l) 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 and any requirement for public facilities and services to be connected to the land; and facilities, infrastructure or land to be provided by the applicant.

No concerns with the provision of public utilities or infrastructure have been identified for the proposed development, and all requests by service authorities have been appropriately addressed through recommended conditions and notes to be included on any permit issued.

5. Pursuant to section 50P(2)(m) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact of the existing and future amenity of the area in which the land is situated.

Amenity under Section 3 of the Act and Clause 3 of the NTPS 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.

Further, clause 4.1 of the NTPS, provides planning principles and a land use framework map for the Northern Territory. Subclause (f) of this clause states that:

*The administration of this planning is to:*

*(f) ensure development does not unreasonably intrude on or compromise the privacy of adjoining residential uses and ensures its own **amenity is not compromised in the future.***

The land immediately to the western side of the site is Zoned GI (General Industry) and comprises various industrial uses. The adjoining land to the south-west is Zoned PS (Public Open Space) and has been developed with a public park of Northcrest subdivision (stage-1). The land on the southern part of the site, across Julius Street, is Zoned MR (Medium Density Residential), FD (Future Development) and C (Commercial). The land Zoned FD is intended to be developed in accordance with Zone MR as per the Area Plan.

The impact on amenity is considered in the context of the site and its surrounds. The Authority considered that the proposed development would potentially provide a physical buffer between proposed residential areas on the southern side of Julius Street, industrial uses occurring to the north-west of the subject site and traffic movement on the Stuart Highway.

With regard to any potential visual impact from the proposed development on the future residential development on the southern side of Julius Street, the Authority relies on the assessment which notes that the façade of the warehouse buildings presents enhanced aesthetic quality to Julius Street. The design of the office building will be consistent with buildings expected to be constructed in the Activity Centre to be developed near to the site.

The Authority also notes that the height of the proposed development fronting Julius Street is consistent with the height of future residential buildings which could be developed under Zone MR across Julius Street. Conditions precedent are included on the permit to ensure that the development occurs as per the elevation plans and 3D visualisation images provided in the application.

The Authority believes that the inclusion of conditions on any permit issued relating to; no storage of goods in open areas, loading and unloading of goods in designated loading bays and addition of landscaping to the car parking areas will ensure that the visual amenity of future residential development across Julius Street is not compromised.

**RESOLVED  
110/19**

That under section 30Q of the *Planning Act 1999*, the consent authority report to the Minister for Infrastructure, Planning and Logistics advising of the likely decision in relation to the development proposal, issues raised in the submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the amendment proposal.

**ACTION:** Report to Minister

**RESOLVED  
111/19**

That, pursuant to section 86(1) of the *Planning Act 1999*, the Development Consent Authority delegates its powers to the Chair or in the absence of the Chair any member of the Darwin Division of the Authority to:

- determine pursuant to Section 30W(1)(b) to alter the development proposal in the application in the manner it considers appropriate and consent, either conditionally or unconditionally, to the development proposal as altered after receipt of a notice under Section 30U(1) that the Minister has approved the amendment proposal contained in the application;
- issue a development permit under section 54(1) in relation to the development proposal to develop Part Section 7349 Makagon Road, Hundred of Bagot for the purpose of three warehouses in three single storey buildings, office in a four storey building, plus ground level car parking; and
- issue the relevant notices under Section 30Y.

**ITEM 2  
PA2019/0030  
  
APPLICANT**

**2 X 4 BEDROOM MULTIPLE DWELLINGS IN A 2 STOREY BUILDING WITH  
REDUCED SIDE SETBACKS  
LOT 4661 (21) BOUGAINVILIA STREET, TOWN OF NIGHTCLIFF  
ASAL DESIGNS**

DAS tabled an email from the submitter sending apologies for the meeting and reiterating comments made in their original submission.

The applicant did not attend.

Submitter - Ms Jane Thomas sent her apologies.

**RESOLVED  
112/19**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 4661 (21) Bougainvillea Street, Town of Nightcliff for the purpose of 2 x 4 bedroom multiple dwellings in a two storey building, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare a comprehensive landscape plan of the road reserve adjacent to the property. The plan shall include the location of street trees and all other infrastructure, to the requirements of City of Darwin, to the satisfaction of the consent authority.
2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels, and Council's stormwater drain connection point/s and connection details.

3. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (ECMP) to the requirements of the City of Darwin. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land during construction. The ECMP should include details of the location of the crane and any holding areas.
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. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication network services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
7. 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.
8. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both [landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au) & [powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)
9. Prior to the occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the meters within the development in accordance with the allocation. An Occupancy Permit will not be able to be granted until such time as addressing is obtained.
10. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
11. The owner shall:
  - (a) remove disused vehicle and/or pedestrian crossovers;
  - (b) provide footpaths/cycleways;
  - (c) collect stormwater and discharge it to the drainage network; and
  - (d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.

12. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
13. Soil erosion control and dust control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
14. The private open space areas of each dwelling shall be screened on each boundary by:
  - (a) the erection of a solid wall or screen fence not less than 1.8m high; or
  - (b) fenced to a height not less than 1.8m high and planted with dense vegetation.
15. Before the occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
16. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
17. 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 to the requirements of the City of Darwin, to the satisfaction of the consent authority.
18. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
19. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
20. Appropriate soil erosion, sediment and dust control measures must be effectively implemented throughout the construction stage of the development and all disturbed soil surfaces must be suitably stabilised against erosion at completion of works, to the satisfaction of the Consent Authority.

**NOTES:**

1. Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and the Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)) should be contacted via email a minimum of one month prior to construction works commencing to determine servicing requirements and the need for upgrading of infrastructure.
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.

The Authority also advises that should any off-site fill be required, only Virgin Excavated Natural Material (VENM) is accepted or if fill is to be relocated from the site, waste classification assessment must be undertaken in accordance with the *NSW EPA Waste Classification Guidelines, Part 1: Classifying Waste 2014* and associated waste classification guidelines, and such material must be disposed of at a licenced waste facility.

3. The Northern Territory Environment Protection Authority has advised that the proponent must comply with their General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act 1998*. More information can be found on the Environment Protection Authority website at: <https://ntepa.nt.gov.au/waste-pollution>, by calling (08) 8924 4218 or emailing [ntepa@nt.gov.au](mailto:ntepa@nt.gov.au).
4. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.
5. 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.
6. 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>.
7. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit, Department of Infrastructure, Planning and Logistics on (08) 8995 5354 ([surveylandrecords@nt.gov.au](mailto:surveylandrecords@nt.gov.au)).
8. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from the Department of Environment and Natural Resources. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.

## REASONS FOR THE DECISION

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

The proposal comprises the construction of 2 x 4 bedroom multiple dwellings in a two storey building on the site and is a form of development anticipated in Zone MD (Multiple Dwelling), of which the purpose is to provide for a range of housing options to a maximum height of two storeys above ground level. The proposal complies with all the relevant requirements of the NT Planning Scheme.

2. 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 or information received under section 50, in relation to the development application.

One submission was received in relation to the application with concerns regarding the proposal's description on the pink sign and also the maintenance of privacy particularly due to proposed windows facing the neighbouring property.

The pink sign details were corrected and the public submission period was extended by two weeks. Regarding the maintenance of privacy, the applicant has amended the plans to make the proposed building's setbacks compliant with the NT Planning Scheme, which means there will be a greater distance between the neighbouring buildings than previously. A solid 1.8m high colourbond fence is also proposed along the property's side and rear boundaries to provide privacy. As such, it is considered that an adequate level of privacy will be maintained for the neighbouring properties.

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

No land capability concerns were identified as part of the assessment. The proposal complies with the anticipated density in this location. The requirements of the service authorities are addressed through the conditions of consent. In particular, a condition precedent has been included concerning the landscaping of the road reserve adjacent to the site, to particularly address the issue of the street tree adjacent to the site and the proposed crossover in that location – as raised by the City of Darwin. The condition will ensure that the street tree/crossover issue is resolved prior to the endorsement of plans/construction.

4. 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 land is zoned to accommodate the proposed development, in that the land is identified for the development of multiple dwellings, and the proposal is consistent with the required dwelling density, height and building setbacks from the adjoining streets and properties. As such, no undue amenity impacts are anticipated.

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

**ITEM 3**  
**PA2019/0159**  
**APPLICANT**

**SHOWROOM SALES, WAREHOUSE, OFFICES, RESTAURANT AND SHOP IN A SINGLE STOREY BUILDING**  
**SECTION 4912 (20) BERRIMAH ROAD, HUNDRED OF BAGOT**  
**ROSSI ARCHITECTS**

Mr Desmond Robertson (Senior Project Manager, Rossi Architects) attended.

**RESOLVED**  
**113/19**

That, the Development Consent Authority vary Clauses 6.5.3 (Parking Layout) and 9.1.1 (Industrial Setbacks) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Section 4921 (20) Berrimah Road, Hundred of Bagot for the purpose of showroom sales, warehouse, offices, restaurant and shop in a single storey building, subject to the following conditions:

#### **CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to provide:
  - a. A minimum of 1.9m landscaping within the Berrimah Road road reserve to complete the full 3m width ordinarily required within the site boundary by Clauses 6.5.3 (Parking Layout) and 9.1.1 (Industrial Setbacks) of the Northern Territory Planning Scheme.
  - b. Increased landscaping along the College Road frontage to provide a minimum of 3m width or as far as possible, as required by Clauses 6.5.3 (Parking Layout) and 9.1.1 (Industrial Setbacks) of the Northern Territory Planning Scheme. This includes:
    - i. Increasing the width of landscaping to 3m behind spaces 1 – 4.
    - ii. Increasing the width of landscaping to 3m at the driveway bend near the intersection corner.
    - iii. Reducing the two-way driveway aisle width to 6m between space 8 and the intersection corner to increase the extent of landscaping along this frontage as far as possible.
    - iv. Including 3m of landscaping at the south-west corner of the site between the site boundary and car park space 49 outside of the area required for vehicle turning paths.
    - v. Reducing the 6.4m aisle width servicing spaces 5 – 8 to 6m and proportionately increasing the extent of landscaping to 3m or as far as possible.
  - c. The location of a substation to service the development or otherwise written confirmation that no substation is required, to the requirements of Power Networks, Power and Water Corporation.

2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the design of the driveways to the development are to be provided to the requirements of the City of Darwin, and Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The design is to demonstrate:
  - a. an engineer's traffic assessment detailing adequate access and sightlines for pedestrians, cyclists and vehicles for the College Road access to the requirements of the City of Darwin; and
  - b. swept path diagrams for the maximum vehicle intended to access the lot, that the access is appropriately sized, that vehicles can enter and exit the site in a forwards gear, and not impacting on Berrimah Road to the requirements of Transport and Civil Services.
3. Prior to the endorsement of plans and prior to commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin and Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The plan shall include details of site levels, and stormwater drain connection point/s and connection details.
4. Prior to the endorsement of plans and 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 and Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
5. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (ECMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land during construction.
6. Prior to the commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's Waste Management Policy 054, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.
7. 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**

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

9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage 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.
10. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
11. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
12. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, and Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
13. 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 Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
14. Before the use or occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
  - (a) constructed;
  - (b) properly formed to such levels that they can be used in accordance with the plans;
  - (c) surfaced with an all-weather-seal coat;
  - (d) drained;
  - (e) line marked to indicate each car space and all access lanes; and
  - (f) clearly marked to show the direction of traffic along access lanes and driveways;to the satisfaction of the consent authority.  
Car spaces, access lanes and driveways must be kept available for these purposes at all times.
15. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
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. Where unfenced, the Berrimah Road frontage is to be appropriately fenced in accordance with the requirements of Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction to the consent authority.

18. All proposed works impacting on the road reserves are to be designed, supervised and certified on completion by a practicing and registered civil engineer, and shall be in accordance with the standards and specifications of the City of Darwin and Transport and Civil Services, Department of Infrastructure, Planning and Logistics. Drawings must be submitted to the relevant authorities for approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
19. Upon completion of any works within or impacting upon the road reserves, the road reserves shall be rehabilitated to the standards and requirements of the City of Darwin and Transport and Civil Services, Department of Infrastructure, Planning and Logistics to the satisfaction of the consent authority.
20. The loading and unloading of goods from vehicles must only be carried out on the land and within the designated loading bays, to the satisfaction of the consent authority.
21. Before the occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
22. 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.
23. 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 to the requirements of the City of Darwin and Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
24. 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.
25. Appropriate soil erosion, sediment and dust control measures must be effectively implemented throughout the construction stage of the development and all disturbed soil surfaces must be suitably stabilised against erosion at completion of works, 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, all signage is subject to City of Darwin approval, at no cost to Council.
3. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and the Power Network

Engineering Section ([powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)) should be contacted via email a minimum of one month prior to construction works commencing to determine servicing requirements and the need for upgrading of infrastructure.

4. The Department of Environment and Natural Resources advises that construction work should be conducted in accordance with the Northern Territory Environment Protection Authority's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
5. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from the Department of Environment and Natural Resources. Information can be obtained from the IECA Best Practice Erosion and Sediment Control Guidelines 2008 available at [www.austieca.com.au](http://www.austieca.com.au) and the NTG website <https://nt.gov.au/environment/soil-land-vegetation>.
6. The 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.
7. 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.
8. Darwin International Airport advises that there must be no site activity which would attract birds and create a hazard for aircraft operations.
9. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.
10. 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>
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) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

12. Transport and Civil Services, Department of Infrastructure, Planning and Logistics advise that the loads of any trucks entering and leaving the site are to be constrained in such a manner as to prevent the dropping or tracking of materials onto the street. 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 obligated to sweep and clean material off the road.

## **REASONS FOR THE DECISION**

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

The development comprises a larger tenancy of 559m<sup>2</sup> of showroom sales, connected to a warehouse of 983m<sup>2</sup> and ancillary offices of 129m<sup>2</sup>, plus separate tenancies of a shop of 90m<sup>2</sup>, a restaurant of 161m<sup>2</sup> including an alfresco dining area, and 2 x 90m<sup>2</sup> offices, plus landscaping and car parking.

The land is located in Zone LI (Light Industry) of which the purpose is to provide for light industrial uses or development activities that will not by the nature of their operations, detrimentally affect adjoining or nearby land. The showroom sales and warehouse components of the development are consistent with the zone purpose statement as permitted uses in Zone LI.

The zone principles also require that offices are expected to primarily provide a service to the light industry in the zone and to be of a size commensurate with the service provided, and that shops are limited to those that either service the needs of the light industry in the zone or would be inappropriate in a commercial zone. The discretionary shop, office and restaurant tenancies are limited in scale and service the light industrial area in which the site is located, including the shop being within the limit provided by Clause 8.1.1 (Shops in Zones CV, CL, LI, GI, DV, OR and CN). The prominence of the development site along Berrimah Road will assist these components in servicing light industry in the broader locality.

2. The purpose of Clause 6.5.3 (Parking Layout) is to ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose. Also, the purpose of Clause 9.1.1 (Industrial Setbacks) is to ensure that buildings are sited to provide an adequate level of visual amenity in industrial zones. The car park design generally complies with the requirements of Clause 6.5.3, including providing a suitable gradient, providing separate access to every car parking space, and allowing for vehicles to enter and exit the site in a forwards gear. Also, the building setbacks comply with those required by Clause 9.1.1 including setbacks of 3m to the street frontages and at least 5m to the rear boundary.

A variation is sought to each clause however as Clause 6.5.3 requires 3m of landscaping between any road and car parking area with species designed to lessen the visual impact of the car parking area, and also as Clause 9.1.1 requires that all street frontages be landscaped to a minimum depth of 3m. A minimum depth of landscaping of 1.1m is proposed along Berrimah Road, and 1.05m along College Road which does not comply. Amended plans provided during assessed are noted as increasing the level of landscaping provided along College Road from that originally proposed, including increasing the width of landscaping from 1.05m to 2.44m along the main part of this frontage, and increasing the landscaping at the driveway curve near the intersection corner from 1.5m to 2.64m.

Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority), the consent authority may consent to a development that does not meet the standard set out in Parts 4 or 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent. The following matters are determined to be unique and lead to a set of circumstances that justify the extent of the variation sought with regard to the Berrimah Road frontage:

- The location of 2m wide landscape islands incorporating trees at regular intervals within the car parking area soften views of the car parking area and built form, and assist in creating visual interest. The design is beyond that ordinarily expected and the expanse of car parking adequately mitigated and an appropriate level of amenity achieved.
- The inclusion of landscaping within the verge to achieve the same visual effect as could occur within the site boundaries, given the wide verge present in this location.

Whilst the plans show 1.1m of landscaping within the site boundary and 1.5m within the verge along Berrimah Road, a condition precedent requires the width of landscaping be increased to 1.9m width within the verge. This completes the full 3m ordinarily required within the site boundary, and achieve the same effect as would otherwise occur.

Insufficient circumstances have been found to vary the landscaping to the College Road frontage as proposed, and amended plans are required by condition precedent to increase the extent of landscaping to the minimum 3m width required along this frontage or as far as possible. It is noted that an area adjacent to spaces 5 – 8 and towards the Berrimah/College Road intersection and space 8 still requires a variation and this is determined to be acceptable given the reasons outlined previously in relation to the Berrimah Road frontage, the limited section of the site frontage this effects, and in addition the inclusion of 5m x 3m (or larger) landscape beds adjacent to the building entrance along this frontage in providing for an acceptable level of amenity.

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

development. Also, 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.

There are no concerns with the capability of the land with respect to the development. The land is flat and cleared. The land is located outside of the 20 Australian Noise Exposure Forecast (ANEF) unit value contour. Whilst the Darwin International Airport and Department of Defence have identified that the site will still be subject to some level of aircraft noise, the range of uses proposed are determined to be acceptable in this location without requiring noise attenuation measures or similar. The building materials used are not overly reflective, the development will be required to provide lighting in accordance with the relevant Civil Aviation Safety Authority (Manual of Standards (MOS-139) Aerodromes standard for the provision of extraneous lighting, and the uses are not expected to attract birds. Notes are included which provide advice to the developer regarding any separate approvals required for cranes, plus lighting controls which will need to be met, with these being a developer responsibility.

The design includes accesses to College Road and Berrimah Road, and conditions requested by the City of Darwin and Transport and Civil Services, Department of Infrastructure Planning and Logistics with regard to demonstrating the access has been appropriately designed. Conditions are also requested by these agencies with regard to stormwater and the design of the landscaping within the road reserves.

4. 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 development will result in a change in the amenity of the area, as the land is currently undeveloped. The development is broadly consistent with the zoning, and no concerns are identified with the existing surrounding uses and anticipated future development in the area in accordance with the current zoning. Overall no undue impact on the existing and future amenity of the area is anticipated as a result of the development. The variations under Clause 6.5.3 (Parking Layout) and 9.1.1 (Industrial Setbacks) as previously discussed have also been addressed with regard to the amenity of the area.

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

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

**SUZANNE PHILIP**

**Chair**

13 June 2019