



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 422-FRIDAY 7 JUNE 2024

AGORA ROOM
HUDSON BERRIMAH
4 BERRIMAH ROAD
BERRIMAH

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

APOLOGIES: Nil

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Amit Magotra and David Burrow (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 10.30 am and closed at 12 noon

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

ITEM 1 LEISURE AND RECREATION (GOLF COURSE) AND CLUB ADDITION TO AN
PA2023/0340 EXISTING CARAVAN PARK IN FOUR STAGES
LOT 9461 (20) BUFFALO CREEK ROAD & PART LOT 9289 (622) LEE POINT ROAD,
LEE POINT, TOWN OF NIGHTCLIFF

APPLICANT Savage Architecture PM P/L

Applicant: Keith Savage (Savage Architecture PM P/L) and Colette Pascoe (Morandini Group) attended.

Submitters in attendance: David Percival, Andris Bergs (Friends of Casuarina Coastal Reserve Inc), Ian Redmond and Gayle Laidlaw (Friends of Lee Point) and Graham Kirby.

Submitters who sent their apologies: Cunnington Rosse Town Planning and Consulting who lodged a submission on behalf of DHA.

DAS tabled comments from Cunnington Rosse Town Planning and Consulting, who lodged a submission on behalf of DHA regarding the Development Assessment Services' recommendation in the report.

Mr Bergs tabled information on Friends of Casuarina Coastal Reserve Inc.

RESOLVED
36/24

That, the Development Consent Authority vary the requirements of Clause 5.2.4.1 (Car Parking Spaces) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 9461 (20) Buffalo Creek Road and Part Lot 9289 (622) Lee Point Road, Town of Nightcliff for the purpose of Leisure And Recreation (Golf Course) and club addition to an existing caravan park in four stages 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 locations of all roof top plant equipment, equipment relating to the operation of the lift, aerials, ventilation equipment and ducting and any other equipment that will be placed on the rooftop of the development. The equipment shall be appropriately screened or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated); and

- (b) A lighting design plan for the development prepared by a qualified person, showing details of all external lighting. *[Note: Any external lighting within the defined flight path area in the HLSSI Overlay Map - Amendment No. 92 must not project upwards or have coloured or flashing lights, which could increase the risk to the helicopter using the landing site of strategic importance (landing site for Royal Darwin Hospital)].*
 - (c) A staging plan identifying relevant stages.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan 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) Details (including botanical names) of all existing trees to be retained and/or removed;
 - (b) details of surface finishes of pathways and driveways;
 - (c) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - (d) landscaping and planting within all open areas of the site; (specify number) canopy trees; and
 - (e) provision of an in ground irrigation system to all landscaped areas.
- The landscape plan should consider the planting of native grass food species for the retention and provision of habitat for species that occur within or immediately adjacent to the area. All species selected must be to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), confirmation is required from the City of Darwin that the shoulder width at both access points is adequate for all types of vehicles intended, including heavy vehicles during the construction using the Lee Point Road is adequate. Details regarding the turn path diagram simultaneous right turning heavy vehicles and thorough vehicles on Lee Point Road shall be provided to the City of Darwin, to the satisfaction of the consent authority.
4. 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 City of Darwin stormwater drainage system (if any) 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 or an alternate approved connection.
5. Prior to the commencement of works, a Type 2 Erosion and Sediment Control Plan (ESCP) must be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP

must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CPESC) to the satisfaction of the consent authority. The ESCP should be submitted for acceptance prior to the commencement of any earth disturbing activities (including clearing and early works) to Development Assessment Services via email: das.ntg@nt.gov.au .

6. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.
7. 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 Guidelines, shall be submitted to and approved by 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 development must proceed in the order of stages as shown on the endorsed plan unless otherwise agreed in writing by the consent authority.
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 networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
Please refer to notations 1, 2 and 3 for further information.
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 relating to this permit must be undertaken in accordance with the accepted Type 2 Erosion and Sediment Control Plan (ESCP) to the requirements of the consent authority. Should the accepted Type 2 Erosion and Sediment Control Plan (ESCP) need to be amended, the revised ESCP must be developed and/or certified by a Certified Professional in Erosion and Sediment Control (CEPSC) to the satisfaction of the consent authority. The

revised ESCP should be submitted for acceptance to Development Assessment Services via email: das.ntg@nt.gov.au .

14. All reasonable and practicable measures must be undertaken to prevent: erosion occurring onsite, sediment leaving the site, and runoff from the site causing erosion offsite. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. For further information refer to Note 4 below. At completion of works, clearance should be sought from the Department of Environment, Parks and Water Security regarding satisfactory implementation of permanent erosion and sediment control measures and site stabilisation. To arrange a clearance site inspection, email the Land Development Coordination Branch at: DevelopmentAssessment.DENR@nt.gov.au
15. The proponent should implement necessary measures to ensure mosquito breeding does not occur during the construction phase of the development, to the requirements of the Medical Entomology, Department of Health, to the satisfaction of the consent authority.
16. 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.
17. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
18. 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) 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 parking spaces, access lanes and driveways must be kept available for these purposes at all times.
19. The car parking shown on the endorsed plan(s) must be available at all times for the exclusive use of the occupants of the development and their (visitors/ clients).
20. 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.

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21. 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.
22. 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.
23. 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.
24. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building.
25. Any external lighting within the defined flight path area in the HLSSI Overlay Map - Amendment No. 92 must not project upwards or have coloured or flashing lights, which could increase the risk to a helicopter using the landing site of strategic importance (landing site for Royal Darwin Hospital). A statement from a suitably qualified professional confirming the external lighting within the HLSSI Overlay area does not pose a risk to the safe operations of helicopters must be submitted prior to occupation of the development to the satisfaction of the consent authority. If it is later found that the lighting provided poses a risk to the safe operations of helicopters, the Department of Infrastructure Planning and Logistics may require the lighting to be extinguished or modified to ensure that it does not compromise the ability of helicopters to use the Royal Darwin Hospital helicopter landing site.
26. Prior to the development's use/occupation starting, a right-of-way easement in favour of Lot 9461 Town of Nightcliff is to be registered on Lot 9289 Town of Nightcliff to achieve uninterrupted access to the development on Lot 9461 and 148 car parking spaces for the development on Lot 9461 identified on Lot 9289.
27. Part Lot 9281, Town of Nightcliff must be consolidated with Lot 9461, Town of Nightcliff and a new title issued for the consolidated lot. Please refer to Note 10 for advice related to the National Construction Code (NCC).

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit www.infrastructure.gov.au/tind
3. 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>
4. Information regarding erosion and sediment control can be obtained from the IECA Best Practice Erosion and Sediment Control 2008 books available at www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
5. All land in the Northern Territory is subject to the *Weeds Management Act 2001* (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection. Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to weedinfo@nt.gov.au.
6. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.

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The proponent is advised to take notice of the environmental considerations provided by DENR in their comments letter dated 16 November 2023. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

7. Use of any herbicide and fertiliser application should be minimised and timed appropriately so as to avoid contaminated runoff into sensitive habitats and migratory shorebirds. Products should also be biocompatible
8. All fill imported or generated and exported as part of the activity, must either be certified virgin excavated natural material (VENM) or be sampled and tested in line with the most relevant guideline listed below and be shown to meet the applicable standards. All imported fill material must be accompanied by details of its nature, origin, volume, testing and transportation details. All records must be retained and made available to (DEPaWS), upon request.
9. The Parks and Wildlife Division of the Department of Environment, Parks and Water Security (DEPaWS) has advised that the proponent must consider the following:
 - (a) a fire management plan, incorporating an internal perimeter firebreak on the eastern side of the allotment adjoining the Buffalo Creek Management Area; and
 - (b) A stormwater management plan with details on measures to avoid nutrient runoff to the Buffalo Creek Management Area or the Casuarina Coastal Reserve Lee Point) during construction and operational stage of the development.
10. The Department of Environment, Parks and Water Security (DEPaWS) has advised that, if the site is contaminated, a contaminated land assessment may be required in accordance with the *National Environment Protection (Assessment for Site Contamination) Measure (ASC NEPM)*. Any suspected contamination should be reported to the Northern Territory Environmental Protection Authority (NT EPA).
11. During construction and ongoing use of the site, the Applicant is advised to consider and adopt the findings and recommendation of the Environment Management Plan, prepared by AECOM Australia Pty Ltd, dated 13 September 2023, submitted with the application.
12. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
13. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993*

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before commencing any demolition or construction works. Due to provisions in the National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued.

14. 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.
15. A “Permit to Work Within a Road Reserve” may be required from City of Darwin before commencement of any work within the road reserve.
16. Any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin Policy 042 – Outdoor Advertising Signs Code.
17. The development and use hereby permitted must be in accordance with Northern Territory legislation including (but not limited to) the *Building Act 1993*, the *Public and Environmental Health Act 2011* and the *Food Act 2004*.
18. 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.
19. The site is subject to the ‘HLSSI – Land in proximity to Helicopter Landing Sites of Strategic Importance’ Overlay. All structures, including temporary structures, higher than 8.5m above ground level, including, but not limited to, construction equipment and cranes used during construction within the area impacted by the Overlay, are to be notified to the Lands Planning Division of the Department of Infrastructure Planning and Logistics prior to construction works commencing. The notification should include the information to understand the possible impact on helicopters using landing sites of strategic importance, such as:
 - (a) A brief description of the construction equipment.
 - (b) The street address and legal description of the subject site.
 - (c) A plan showing the construction equipment location in relation to the property boundaries and natural ground levels.
 - (d) Details of the construction equipment showing the maximum height, intended duration (including hours of operation) and description of any activity that could affect the airspace above the site.

The above information will need to be emailed to lands.planning@nt.gov.au minimum one month prior to construction works commencing. For details on the Overlay, refer to Clause 3.14 of the NT Planning Scheme 2020 and HLSSI Overlay Map available at https://nt.gov.au/_data/assets/pdf_file/0007/1297915/amendment-92.pdf

REASONS FOR THE DECISION

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

The present application relates to Lot 9461 (20) Buffalo Creek Road, and Lot 9289 (622) Lee Point Road, Lee Point, Town of Nightcliff (the site). The application proposes the construction and use of the subject land for the purpose of a leisure and recreation facility (golf course) and club to be owned and operated in addition to the existing caravan park on Lot 9289. The golf course comprises 12 holes (with space for 6 more holes), a driving range (with platform), a practice putting green, and a mini-golf area comprising 18 holes, to be developed over 4 stages. The site has a combined area of 115.38 hectares, with Lot 9461 having an area of 85.79 hectares, and Lot 9289 having an area of 29.59 hectares. The proposed development is primarily located within Lot 9461, except for the clubhouse and other golf course facilities, including associated car parking which is situated in the northeast corner of Lot 9289. The site is partly affected by overlays LSSS (Land Subject to Storm Surge) and HLSSI (Land in Proximity to Helicopter Landing Sites of Strategic Importance).

The proposed development comprising Leisure and Recreation (Golf Course) and club addition to an existing caravan park in four stages requires consent under Clause 1.8 (When development consent is required). It is identified as *Merit Assessable* under Clause 4.18-Zone OR. However, by virtue of being affected by Overlays (Clauses 3.7 LSSS – Land Subject to Storm Surge and 3.14 HLSSI – Land in proximity to Helicopter Landing Sites of Strategic Importance), and pursuant to Clause 3.1(4)(b) it is *Impact Assessable* of the NTPS2020. The exercise of discretion by the consent authority that applies is clause 1.10(4) of the NTPS2020 as below:

Pursuant to Clause 1.10(4) (Exercise of Discretion by Consent Authority), in considering an application for a use or development identified as Impact Assessable the consent authority must take into account all of the following:

- (a) *The relevant requirements, including the purpose of the requirements, as set out in Part 5 or 6;*
- (b) *Any Overlays and associated requirements in Part 3 that apply to the land;*
- (c) *The guidance provided by the relevant zone purpose and outcomes in Part 4 or Schedule 4.1 Specific Use Zones; and*
- (d) *Any component of the Strategic Framework relevant to the land as set out in Part 2.*

Part 2 - Strategic Framework

Darwin Regional Land Use Plan

The site is located within the area identified by the Darwin Regional Land Use Plan 2015. The site is located within an area identified as 'Open Space / Natural Area.'

The Key Open Space Objectives include:

- Retain the region's natural landscapes, vegetation and habitats where compatibility with appropriate urban and rural development can be maintained.
- Minimise the impact of development on the natural environment during the construction phase and ongoing use.
- Recognise and promote Darwin Harbour as the region's most valuable natural asset, minimising detrimental impacts from development in the harbour catchment and on its foreshore.
- Provide appropriate open space reserves for the conservation of natural environment and heritage features, and for resident and visitor recreation in active and passive activities.
- Recognise the role of remnant vegetation corridors in providing interconnectivity of open space and protecting amenity.
- Recognise the role of urban green space in reducing urban heat impacts and providing community amenity.

The application is accompanied by an Environment Management Plan (EMP), which summarises the vegetation as predominately regrowth *Eucalyptus* open woodland to low woodland to a maximum of 25 years old. Dominant native species on site include *Eucalyptus tetrodonta*, *Terminalia ferdinandiana*, *Acacia lysiphloia* and *Pandanus spiralis*. The site has a mixed grassland understorey that ranges from sparse to dense, with the dominant species being *Andropogon gyanus* (Gamba Grass), which is a declared weed. The EMP sets out the need for the proposed development to reduce the spread of exotic weeds, limit the consumption of water, maintain the water quality of Buffalo Creek, and improve the habitat for threatened native species.

The Authority has taken into account the comments from the Park and Wildlife Division of the Department of Environment, Parks, and Water Security, which have identified measures that the proponent needs to implement to minimize the impact of development on the natural environment during both the construction phase and ongoing use. These measures have been included as conditions and notes on the approval. Provided the development proceeds in accordance with the conditions and notes included on the permit, it will satisfy the objectives of the Darwin Regional Land Use Plan.

Part 3 - Overlays

Clause 3.7 LSSS – Land Subject to Storm Surge

The site is affected by an identified Primary Storm Surge Area (PSSA) and Secondary Storm Surge Area (SSSA). Clause 3.7 LSSS – Land Subject to Storm Surge applies to land subject to the PSSA and the SSSA. *The purpose of the Overlay is to identify areas with a known risk of inundation from primary or secondary storm surges and ensure that development in these areas demonstrates adequate measures to minimise the associated the risk to people, damage to property and costs to the general community caused by storm surge.*

Sub-clauses 8, 9 and 10 of Clause 3.7 require that development in the PSSA should be limited to uses such as open space, recreation, non-essential public

facilities (wastewater treatment works excepted) and short-stay tourist camping/ caravan areas. Development within the SSSA should be confined to those uses permitted in the PSSA, as well as industrial and commercial land uses. Furthermore, residential uses and strategic and community services (such as power generation, defence installations, schools, hospitals, public shelters and major transport links) should be avoided in the PSSA and the SSSA.

The land is Zoned OR (Organised Recreation), and the proposed development is for a golf course. The Authority considered that the proposed development of a golf course aligns with open space and recreation uses that are accepted within the PSSA. The Authority further notes that despite the proposed development being an acceptable use within the PSSA, the ancillary uses, such as the clubhouse, shop and food premises-restaurant associated with the golf course, are located outside the PSSA or SSSA.

Clause 3.14 HLSSI – Land in proximity to Helicopter Landing Sites of Strategic Importance

The site is affected by this Overlay that seeks to ensure that development does not compromise the ability of helicopters using landing sites of strategic importance. The Overlay affects the area proposed for the mini golf, practice putting green, driving range, storage, clubhouse, kiosk, pro-shop and car park. The Overlay requires that development does not increase risk to helicopters using the landing site of strategic importance. The relevant Administration of the clause restricts the development within the overlay over 8.5m high and prohibits the use of external lighting that projects upwards, coloured or flashing lighting.

The Authority notes that the application has been amended to ensure that no structure will exceed 8.5m in height. The requirement to comply with the Overlay for cranes and other construction equipment is addressed by a note on the permit.

Regarding lighting, the applicant clarifies that any external lighting will be “generally directed downwards, not involve coloured or flashing lights and will be of generally low intensity/ brightness such as not to affect aerial visibility at night time and in inclement weather.” Top diffuses will be installed on lighting for driving ranges “to focus lighting down along the driving range.” The Authority notes the applicant’s response and a condition is included, requiring amended plans to be submitted to show any external lighting and its details, as well as ongoing compliance with the Overlay requirement.

Part 4 – Zone Purpose and Outcomes (Clause 4.18 Zone OR – Organised Recreation)

The Authority noted that the site is situated within Zone OR and Zone CV (Caravan Park) of the NT Planning Scheme 2020 (NTPS2020); however, the proposed development is entirely within Zone OR. The purpose of Zone OR is to *provide for the development of community and commercial facilities for organised recreation activities*. The Zone Outcomes encourage development primarily for sports and recreation, leisure activities, and other uses that serve

the organized active recreation needs of the community. It may also allow for other developments, such as amenities blocks, car parks, clubs, food premises (restaurants), and shops that complement and support organized recreational activities, as long as they do not conflict with the primary use of the land.

The Authority considered that the proposed development is consistent with the purpose of Zone OR as it is for recreation/sport in the form of golf. In addition, the proposed development is consistent with the zone outcomes, as its design and landscaping is acceptable, it minimises any impact/conflict on any surrounding land/developments, has existing access to Lee Point Road, and provides adequate space for safe and convenient active transport. The Authority notes that the application is accompanied by detailed Environment Management Plan (EMP) that details the environmental management measures and controls to avoid, reduce and mitigate the potential environmental impacts from development of a golf course on surrounding locality.

During the hearing, Ms Colette Pascoe, representing Morandini Group, and Mr Keith Savage from Savage Architecture PM P/L as the applicant, provided an overview of the proposed development and details about various environmental studies and considerations to minimise the impacts of the development on the environment and habitat. Ms Pascoe explained that the project has been evolving since they first began working on it in 1992. Ms Pascoe noted that there have been particularly relevant comments made since the current application was submitted in 2023, and these have been considered in the more recent amendments. Ms Pascoe acknowledges that the land where the golf course is to be developed has been degraded over time due to various earthworks occurring on the site and also by the fire with the Gamba grass, and the development of the site will allow for landscaping and maintenance. Ms Pascoe further stated that that the provision of the proposed golf course facilities and the environmental measures that would be implemented during construction and ongoing use would have a positive impact on the Lee Point area and enhance the amenity of the area.

PART 5 - Development Requirements

The proposed development, comprising Leisure and Recreation (Golf Course) and club addition to an existing caravan park in four stages, is *Impact Assessable* under Clause 4.18 Zone OR (Organised Recreation), therefore; Clauses 5.2.1 (General Height Control), 5.2.4 (Vehicle Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.5.3 (General Building and Site Design), 5.8.5 Leisure and Recreation, 5.5.11 (Food Premises), 5.8.9 (Excavation and Fill), 5.5.3 (General Building and Site Design) and 5.8.3 (Club), need to be considered.

The Authority notes the assessment of the Development Assessment Services (DAS), which concludes that the development complies with all relevant requirements except for Clause 5.2.4.1 (Car Parking Spaces). The Authority further notes that DAS identified issues relating to the height of the porte cochère, loading bay design, and bin location in the original application, which have been resolved in the amended application.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NTPS2020, *the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Part 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:*
- (a) The purpose and administration clauses of the requirement; and*
 - (b) The considerations listed under Clause 1.10(3) of 1.10(4).*

As discussed above, the relevant requirements set out in Part 5 of the NTPS2020 have been considered and it is found that the proposed development complies with all relevant requirements except for Clause 5.2.4.1 (Car Parking Spaces).

Clause 5.2.4.1 (Car Parking Spaces)

The purpose of this clause is to ensure that sufficient off-street car parking, constructed to a standard and conveniently located, are provided to service the proposed use of a site. The proposed development is for the construction and establishment of a leisure and recreation (golf course) and club addition with an ancillary office and shop. The Authority has taken note of the DAS's assessment, which indicates that based on Table to Clause 5.2.4.1 (Minimum number of required parking spaces), the proposed development requires 221 car parking spaces (220.5 rounded).

The application proposes the provision of 145 car parking spaces within the main car park and an additional 3 parking spaces in proximity to the maintenance shed. Subsequently, the proposal incurs a shortfall of 73 car parking spaces.

The Authority noted that the application's assessment, based on assumptions from a Traffic Impact Assessment prepared by SJ Traffic Consulting, dated 02/04/2024, which concludes that a total car parking requirement of 144 spaces, with 141 in the main parking area and 3 at the maintenance shed, to be sufficient for the proposed use.

Administratively, under sub-clause 2 of Clause 5.2.4.1, *the consent authority may consent to a use or development that is not in accordance with sub-clause 4 if it is satisfied a reduction of the number of car parking spaces is appropriate with regard to:*

- (a) the zoning of the land, the use or development or proposed use or development of the land, and the possible future use or development of the land;*
- (b) the provision of car parking spaces in the vicinity of the land;*
- (c) the availability of public transport in the vicinity of the land; and*
- (d) the potential impact on the surrounding road network and the amenity of the locality and adjoining property;*

or if the use or development relates to a heritage place and the Minister responsible for the administration of the Heritage Act 2011 supports the reduced provision of car parking spaces in the interest of preserving the significance of the heritage place.

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The Authority notes the assessment of DAS on the above criteria, which concludes that:

- The proposed use of the land is primarily for a golf course, which will require a large number of car parking spaces. The total parking required for the golf course, clubhouse, and office is calculated to be 147 spaces (120 for the golf course, 17 for the clubhouse, and 10 for the office). Additional ancillary uses such as the pro-shop, cart storage, and locker room are not expected to significantly increase the demand for parking.
- A public transport route is planned for Lee Point Road in accordance with the Lee Point Planning Principles and Area Plan. This route will provide public transport options for the golf course users.
- The proposed development includes a porte cochere capable of accommodating taxis and tour buses, which are used to transport guests to and from the existing accommodation.

At the hearing, Ms. Pascoe reiterated that the application considered the requirement of 4 car parking spaces per hole excessive for mini-golf, and that the locker room, cart storage and maintenance shed were all ancillary to the needs of a golf course, and unlikely increase the need for car parking spaces.

The Authority has taken all comments into account and carefully considered the material provided with the application. In reaching its determination with respect to the car parking reduction, the Authority has also taken into account the various calculations made by DAS and criteria under Administration sub-clause 2 of Clause 5.2.4.1. The Authority determined that the provision of 147 car parking spaces are adequate to meet the practical requirements of the proposed development due to the cross utilisation of different but complimentary use. The Authority considers that any benefit gained by providing more car parking on site would be disproportionate to the loss of land that might otherwise be developed for organised recreation purposes to allow for its highest and best use.

The Authority also notes the City of Darwin has not raised any concerns with the parking shortfall and has informed DAS that they do not anticipate a significant traffic increase during peak hours following construction, which would impact the proposed access for this development from Lee Point Road.

The Authority has also evaluated Clause 5.8.5 concerning Leisure and Recreation to confirm that the intended use is suitable and meets all the necessary criteria specified in the clause. This is discussed in detail below:

Clause 5.8.5 – Leisure and Recreation

The purpose of the clause is to ensure leisure and recreation use and development: (a) is established in appropriate locations to meet the needs of users; (b) provides convenient vehicle access and does not interfere with the safe or efficient operation of the local road and footpath network; (c) incorporates appropriate building and landscape design to ensure that there is no unreasonable loss of amenity for adjoining and nearby property; and (d) is operated to be considerate of the amenity of adjoining and nearby property.

The requirements listed under subclause 2 to 6 are:

- (1) *The use or development is suitable to meet the needs of users, having regard to the scale and nature of the use.*
- (2) *Any mechanical plant and equipment and storage areas associated with the use are designed and screened to minimise adverse amenity impacts when viewed from adjoining streets and on adjoining properties.*
- (3) *Any structure associated with the use does not result in a significant loss of amenity for surrounding development, having regard to:*
 - a. the extent and duration of lighting and overshadowing;*
 - b. privacy and overlooking impacts; and*
 - c. the scale of the structure relative to its surroundings.*
- (4) *Demonstrate that the surrounding road network is capable of accommodating the additional traffic generated without adverse impacts.*
- (5) *The operation of the use or development must take into account the amenity of the surrounding locality having regard to:*
 - a. hours of operation;*
 - b. maximum capacity of patrons; and*
 - c. other relevant aspects of the day-to-day operations of the use or development*

The Authority determined that the proposed development is consistent with the performance criteria above due to the following:

- The proposed development is established in an appropriate location on vacant land with zoning that supports the proposed use.
- The use is generally consistent with the strategic framework's intention and the zone's purpose and requirements, as discussed previously.
- The amended proposal utilises an existing access from Lee Point Road, with no additional crossovers have been proposed. City of Darwin has also advised that they do not anticipate any significant increase in traffic during peak hours following construction, which would impact the proposed access for this development from Lee Point Road.
- Any screening of plant equipment to minimise adverse amenity impacts when viewed from adjoining streets and on adjoining properties, can be achieved via condition on the permit.
- The use and development are suitable to meet users' needs, given the scale and nature of the use.
- The maintenance shed and cart storage located along the northern boundary, adjacent to a crown land allotment, will be partially screened by vegetation.
- The height of structures is commensurate with the height permitted in Zone PS, located to the north, and future residential development expected to occur on the land to the south (Zoned FD).

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

The application was advertised between 13 October 2023 and 27 October 2023, pursuant to Section 47 of the *Planning Act 1999*. 47 public submissions

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were received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal.

Of the total submissions received within the exhibition period, 37 submitters expressed an objection to the application, 7 expressed support for the proposal subject to comments and recommendations, and 3 did not indicate a position but provided comments and recommendations.

The applicant provided a written response to the comments and concerns raised by public submitters during the exhibition period. The response to submitters, along with amended plans and documentation were circulated, with an opportunity for responses between 24 April 2024 and 08 May 2024. Three responses from previous submitters were received.

Due to the number of submissions received, the comments and concerns were summarised. The main comments and concerns included:

- Concerns that the proposed development of a golf course was incompatible with nature based activities.
- Concerns that the environmental values of the site and greater Lee Point area would be degraded by the proposal. Specific reference to the use of appropriate flora in any landscaping, and the preservation of 'wildlife corridor.'
- A request for a "comprehensive Area Plan" for the greater Lee Point area to be undertaken prior to the issuing of a Development Permit on the site.
- Concerns that water would be allocated to the golf course at the expense of the existing environment.
- A request of the application to demonstrate the need for a golf course within the Greater Darwin Region.
- Concerns that the land will no longer be publically accessible and that the current leaseholder has not undertaken the lease effectively or in 'good faith.'
- Concerns that the Traditional Owners, identified as Larrakia Nation, have not been consulted early enough.

Other/specific comments and concerns include:

- Comments about the presence of biting insects.
- Concerns about a potential increase in cane toads around existing and proposed dams.
- Concerns about the identified presence of asbestos within an existing dam wall within the south western corner of Lot 9461.
- Request that the existing dam within the south western corner of Lot 9461 be preserved as habitat for the Gouldian Finch species.
- Concerns about the staging of the proposed development and the developer's intent or ability to complete it.
- Concerns of increased traffic due to both the proposed development and approved residential subdivision, if developed.

At the hearing, the Authority, clarified that the consent authority cannot consider the commercial need for a golf course and must assess the application as submitted. The Authority also noted that there appeared to be a misconception that the subject land was public, and explained that part

of the site was Crown land, and while it may be notionally a public asset, it is not public land, and that this is subject to a Crown Lease Term with a grant of exclusive possession.

Nature based activities and environmental values

At the hearing, Ms. Pascoe advised that the application intends for the vegetation to be native, with existing trees to be retained wherever possible within the site and surrounds. The applicant is prepared to redesign the golf course to retain the existing trees. The applicant intends to allow the undeveloped area (last 6-hole golf course area) to be revegetated. Ms. Pascoe thanked the Friends of Lee Point and the Friends of Casuarina Coastal Reserve for reminding the applicant that they should consider understorey vegetation and grasses, not just trees, within any revegetation program. Ms. Pascoe noted that the applicant had an imperative to use a native landscape due to the shortage of water. However, the species selection will need to be based on what is available at the time. The rain forest area within the south-eastern corner of the site is to be retained and protected.

Andris Bergs spoke as a representative of the Friends of Casuarina Coastal Reserve (FoCCR), established 2 years ago to advocate for the protection and enhancement of the values of the Casuarina Coastal Reserve and surrounds. FoCCR have met a few times with the applicant. FoCCR would have preferred that the Lot had remained vacant and not been altered. However, their support for the proposed development is driven by pragmatism. FoCCR believe that a good outcome can be achieved through appropriate fairway design and local plants for revegetation to showcase the beauty of Lee Point. Mr Bergs, strongly disagreed the DAS report's statement that there are no known natural values on the site or in the immediate surrounding area, and referred to the Casuarina Coastal Reserve, Buffalo Creek, and the 'wet areas' to the east. Mr Bergs, noted that the amended plans and documentation had incorporated some of the suggestions raised in the FoCCR's original submission, including; the protection of existing vegetation; the revegetation of cleared areas and the inclusion of shrubs and grasses; minimising the use of barbed wire; creating water features as habitats for animals; weed and feral animal management; and a greater encouragement of local access to the golf course, including schools and special interest groups. Mr Bergs recommended that some of these environmental intents should be conditioned. The FoCCR, remain concerned about what will happen with the final 6 holes, estimated at 20% of the site and noted that the crown lease was dependent on 18 holes whereas the proposal is for 12 holes. Subsequently, the FoCCR would prefer to have the remaining 6 holes included within the submission. However, the FoCCR provided broad, conditional, supports the proposal, as it is a degraded site.

Graeme Kirby representing Wildlife Care NT, considered the development to be very ambitious and complex. Mr Kirby, raised concerns about cane toads given that the golf course will become damp and wet with irrigation. Mr Kirby, suggested working with volunteer groups to have 'Toad Busting' events to help keep the numbers down. Mr Kirby, also reiterated concerns about the presence of barbed wire and its effect on local wildlife.

Ian Redmond representing Friends of Lee Point, noted that there had been a lot of work involved in this proposal and supported the changes to the plans to increase the retention of existing vegetation within the site.

David Percival indicated that he was pleased to hear that the exiting vegetation (native trees) would be retained and more trees planted. Mr Percival, considered Lee Point to be an environmental hot spot, and noted that the dam has a lot of species inhabiting the embankments, and urged caution with regard to any changes to the existing dam.

Ms. Pascoe, took on board the cane toad concern and thought the 'toad busting' suggestion was good. Ms. Pascoe noted that the recent reports indicated that the upper bank of the existing dam was identified as being not ideal for water retention, but that there are no plans for removing dirt at this time, and that the bottom half of the dam remains fine. The dam is only operating at half its capacity at the moment, but the intention is to leave the dam as is, at this time. The remainder of the site will retain existing trees where possible and revegetate wherever possible.

The Authority acknowledged the concerns raised by the submitters and the work done by the applicant to adapt the proposed development to their concerns and any environmental values once identified. The Authority determined that the proposed development of leisure and recreation (golf course) appeared to be an opportunity to rehabilitate degraded land, whilst providing recreation in accordance with previous strategies and approvals. The Environmental Management Plan submitted by the applicant was considered to be adequate in providing an understanding of the environmental measures that were needed to be undertaken, along with the plans submitted. The potential development of the remaining area, or amendment and redevelopment of any portion of the proposed development, would require a separate planning application.

Comprehensive Area Plan

Mr Redmond, reiterated that a comprehensive Area Plan for the whole of Lee Point should be developed before any further development commences, but noted that this was not within the remit of the Development Consent Authority (DCA).

The Authority, reiterated that it was not within their statutory power to enforce the provision of an Area Plan prior to issuing a Development Permit for the application.

Water allocation

Ms. Pascoe discussed the topics of water allocation/provision, indicating that there is plenty of rainfall but also evaporation. The decision to reduce the number of holes from 18 to 12, and the decision use more drought tolerant grasses was due to water allocation concerns.

Mr Redmond, raised concerns about the availability of water and requested greater certainty on the provision of water.

Ms. Pascoe, noted that there remain some concerns about managing water across the dry season, and that the implementation of a water management plan is important to the applicant. However, noted that there would be 'dead water' (water below the pipe for irrigation) that wildlife could use.

The Authority, in this instance, considered the provision of water to be at the applicant's risk, and that reticulated water was available. The Authority noted that the cost of using of reticulated water for irrigating a golf course was likely be sufficient encouragement to reuse water collected on-site. It was also noted that staged development of the site, may give the applicant sufficient opportunity to understand the true availability of water.

Asbestos containing materials

Ms. Pascoe, acknowledged the discovery of asbestos containing materials on the embankment of the existing dam, as identified within the Defence Housing Australia (DHA) submission. The applicant has since undertaken an assessment of the area with options for further assessment and/or disposal. Mr Savage indicated that the owner/lease holder is eager for the application to be approved subject to conditions being placed on any subsequent Development Permit to rectify the situation, rather than the planning application be deferred.

The Authority noted the absence of any issues raised by the relevant environmental division of the Northern Territory Department of Environment and Water Security (DEPaWS) within its comments. The remediation of contaminated land would require consideration by DEPaWS who had not raised concerns regarding the issuing of a Development Permit and has advised that, if the site is contaminated, a contaminated land assessment may be required in accordance with the National Environment Protection (Assessment for Site Contamination) Measure (ASC NEPM) and any suspected contamination should be reported to the Northern Territory Environmental Protection Authority (NT EPA). A requirement for an ASC NEPM is made under the *National Environmental Protection Council Act 1994*. The relevant legislation of the Northern Territory is the *Waste Management and Pollution Control Act (WMPC Act) 1998*. Any suspected contamination should be reported to the Northern Territory Environmental Protection Authority (NT EPA). A note to this effect is included on the Development Permit, to inform the proponent of the relevant legislation and requirements.

The Authority considers the presence of asbestos containing materials to be a matter for the applicant to address separately and pursuant to the relevant legislation.

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

The site is within Zone OR (Organised Recreation), and is identified for 'Open Space / Natural Area,' within the Darwin Regional Land Use Plan 2015. The site is predominantly cleared with a dam and 'sewerage lagoons.' The land slopes down to the south east. Some previous earthworks have been undertaken as preparation for a golf course. The site is partly affected by and Land in Proximity to Helicopter Landing Sites of Strategic Importance Overlay and Land Subject to Storm Surge Overlay, however, the majority of the site remains unaffected by these overlays.

The Authority noted that the observance of potential contamination in the form of asbestos containing materials (ACM) was not raised as a concern by the Department of Environment, Parks and Water Security (DEPaWS), and is a matter for the applicant to address separately and pursuant to the relevant legislation.

5. Pursuant to Section 51(1)(m) of the *Planning Act 1999*, the consent authority must consider the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The application was circulated to the relevant authorities, and comments received from these authorities are addressed by including conditions and/or notations on the development permit as required.

The City of Darwin did not raise any concerns relating to the parking shortfall and traffic impacts on Lee Point Road. The requirement of a turn path diagram for vehicles turning right from Lee Point Road to enter the golf course facility is included as a condition precedent on the permit, along with other standard conditions relating to waste management, bin storage, outdoor signage and site construction management plan (SCMP) as required by the City of Darwin.

The Department of Environment, Parks and Water Security (DEPaWS) provided consolidated comments on matters relating to Flora and Fauna, Environment, Wildlife, Ericson and Sediment Control measures. These comments are addressed by various conditions and notes on the development permit. In relation to the site contamination, DEPaWS has advised that if the site is contaminated, a contaminated land assessment may be required in accordance with the *National Environment Protection (Assessment for Site Contamination) Measure (ASC NEPM)*. A requirement for an ASC NEPM is made under the National Environmental Protection Council Act 1994. The relevant legislation of the Northern Territory is the Waste Management and Pollution Control Act 1998 (WMPC Act). Suspected contamination should be reported to the Northern Territory Environmental Protection Authority (NT EPA). A note to this effect is included on the Development Permit to inform the proponent of the relevant legislation and requirements.

A note is included on the permit regarding weed management, which is enforced and implemented through a separate legislation, the Weeds Management Act 2001.

The Authority noted that the application documents include an Environment Management Plan (EMP) that sets out the need for the proposed development to reduce the spread of exotic weeds, limit the consumption of water, maintain the water quality of Buffalo Creek, and improve the habitat for threatened native species. Some recommendations of the EMP are addressed by conditions and notes on the permit based on the comments from service agencies. A separate note is included on the permit to notify the proponent to consider the finding and recommendation of the EMP during construction and ongoing use.

The site falls under the 'HLSSI - Land in proximity to Helicopter Landing Sites of Strategic Importance' Overlay. A requirement is included in the permit to provide details of lighting within the site's area covered by the Overlay as these details were not confirmed on the submitted plans. In addition, general conditions and notes are included for ongoing compliance of lighting and use of construction equipment under the Overlay to ensure that the development does not affect the ability of helicopters to use landing sites of strategic importance associated with the Royal Darwin Hospital.

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

The proposed development is for leisure and recreation and club in the form of a golf course at Lot 9289 and Lot 9461 Town of Nightcliff. The proposed development is over 250m from Lee Point Road and over 30m from Buffalo Creek Road. The alteration to the access with Lee Point Road is considered acceptable, and City of Darwin have raised no concerns regarding any increase in traffic caused by the development. The interface with Buffalo Creek Road includes the existing sewerage ponds and golf fairways. Subsequently, the proposed development is unlikely to cause any undue impact on the amenity of the area.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Determination

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

SUZANNE PHILIP
Chair
20 June 2024