



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 374 – FRIDAY 21 MAY 2021

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

MEMBERS PRESENT: Mark Blackburn (Presiding Member), Marion Guppy (Item 1 only), Simon Niblock and Peter Pangquee

APOLOGIES: Suzanne Philip (Chair)

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Ann-Marie Reynolds, Amit Magotra and Richard Lloyd (Development Assessment Services)

COUNCIL REPRESENTATIVE: Alice Percy, Drosso Lelekis and Brian Sellers (Item 1 only)

Meeting opened at 10.00 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 TIMES DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

That, pursuant to section 101(3) of the *Planning Act 1999*, in the Chair's absence the members of the Darwin Division of the Development Consent Authority elect Mark Blackburn to preside at the meeting held on Friday 21 May 2021.

ITEM 1

PA2020/0413 CHANGE OF USE FROM OFFICE TO CHILD CARE CENTRE (GROUND FLOOR TENANCIES ONLY)

APPLICANT LOT 5396 (18) CAVENAGH STREET, DARWIN CITY, TOWN OF DARWIN
MasterPlan NT

Mr Alex Deutrom and Mr Simon Tonkin (MasterPlan NT), Ms Jacinta McInerney (Assistant Director - Insight Early Learning) and Mr David Byran (NTG) attended in person. In attendance via videoconference:- Mr Michael Grassi (Director Property and Development - Podia), Mr Paul Simons (Traffic Engineer - Tonkin) and Mr Nick Sissons (Partner - Sissons Architects).

**RESOLVED
45/21**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 5396 (18) Cavenagh Street, Town of Darwin for the purpose of change of use from office to child care centre (ground floor tenancies only), 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 generally be in accordance with the plans submitted with the application but modified to show:
 - a. The location of four parking bays in the Litchfield Street Car Park for the child care centre in addition to two pick-up/drop-off bays for the development in Cavenagh Street.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscaping schedule addressing the requirements of sub-clause 4 of clause 5.4.2.3 (Reduction in Parking Requirements within Zone CB in Darwin) for nine (9) vertical strips of landscaping that span almost the entire height of the building along the Cavenagh Street frontage 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.

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval is required for the awnings to the Cavenagh Street frontage to the requirements of the City of Darwin and Power and Water Corporation (Water Services), to the satisfaction of the consent authority.
4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principal approval is required for any element of the building design (separate to awnings) that is designed to be constructed or installed over the City of Darwin road reserve, to the satisfaction of the consent authority.
5. Prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin, 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.
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 the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP 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 SCMP is also to address the protection of existing assets, the protection of public access, and include a risk assessment.
8. 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

9. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
10. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
11. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to 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. Before the use/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.
14. 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.
15. Before the use or occupation of the development starts, the area(s) set-aside for the parking within Litchfield Street Car Park and two (2) pick-up/drop-off bays for the development (approved by the City of Darwin in Cavenagh Street) must be provided to the satisfaction of the consent authority.
16. The car parking shown on the endorsed plan(s) must be available at all times for the exclusive use of the child care centre and its (visitors).
17. If the two (2) pick-up/drop-off bays for the development (approved by the City of Darwin in Cavenagh Street) cease to be available at any time in the future, then the owner of Lot 5396 Town of Darwin must supply two (2) pick-up/drop-off bays for the duration and benefit of child care centre at a place or places proximate to the site, to the satisfaction of the consent authority.

NOTES:

1. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
2. Notwithstanding the approved plans, any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin Policy Number 42 – Outdoor Advertising Signs Code.
3. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
4. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
5. 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*, the *Food Act 2004* and the Education and Care Services National Regulations that apply to the

requirements for the establishment and operation of child care centres.

REASONS FOR THE DECISION

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

The NT Planning Scheme 2020 applies to the land and a change of use from office to child care centre (ground floor tenancies only) requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 4.10 – Zone CB (Central Business), and therefore Clauses 5.2.3 Buildings in Central Darwin, 5.2.4 Vehicle Parking, 5.5.3 Commercial and Other Developments in Zone CB..., 5.4.4 Expansion of existing Developments in Zone CB... and 5.5.7 Child Care Centre need to be considered.

Lot 5396 is fully developed with a seven-storey building comprising of offices on the upper floors and 10 smaller individual tenancies on the ground floor. The child care centre is proposed to occupy eight (8) tenancies on the ground floor with a total gross floor area of approximately 894m².

The technical assessment finds the proposal to be compliant with the NTPS 2020. The assessment notes that the proposed use does not alter the car parking requirement from the currently approved use of the ground floor of the building (25 car spaces – 19 for the child care and 6 for the remaining vacant tenancies). The application claims a reduction in the overall parking demand under Clause 5.2.4.3 (Reduction in Car Parking Requirements) due to the following:

- (1) (b) The development is located within 400m walking distance of a public bus stop that provides access to:
 - i. five or more bus routes; or
 - ii. a bus route with a minimum 15 minute frequency during morning and afternoon peak hours Monday to Friday.
- (2) (b) The development is within 200m walking distance of an existing, publically accessible car park with a combined total of 100 car parking spaces or more.
- (3) (d) The development proposes vertical landscaping that an area of 10-25% of the site area.

In relation to 1(b) and 2(b), the subject site is located within 400m walking distance of Darwin bus interchange and within 200 walking distance of Litchfield Street and Smith Street public car parks. In relation to 3(d), the proposal includes a 20m tropical landscaping strip along the Cavenagh Street frontage and nine vertical strips of landscaping that span almost the entire height of the building along the Cavenagh Street frontage. The proposed vertical landscaping will cover approximately 150m², equivalent to 8.5% of the 1780m² (site area). This, in conjunction with the tropical landscaping along the Cavenagh Street to provide green, functional, and aesthetic screening

to the play area of the child care centre will achieve a vertical landscape area of 10-25% of the site area.

Based on the allowable reductions under Clause 5.2.4.3 (provided above), the parking requirement for the ground floor of the building assessed as 14 car spaces for the child care centre and 3 for the remaining vacant tenancies (based on the 30% reduction). A condition is included that requires the applicant to provide a landscaping schedule for the proposed vertical landscaping along the frontage addressing the requirements of subclause 4 of Clause 5.4.3.2 as these details were not confirmed on the submitted plans.

Considering the historical shortfalls approved for the existing building and car parking supply requirements contained within the Clause 5.2.4.1 (Parking Requirements), the proposed child care centre will not alter the car parking provisions of the site. The Authority notes the proposal actually reduces the required number of car parking spaces from the site currently approved office use (under Clause 5.2.4.3 Reduction in Parking Requirements in Zone CB).

Clause 5.5.7 (Child Care Centre) requires that the development provide associated vehicle access, parking and manoeuvring. Due to the buildings central CBD location and convoluted history of planning approvals affecting the subject site, there is no on-site car parking provided for the subject tenancies. The building upon the subject site (Energy House) was approved to have 88 car parking off-site on Lots 2396 (14) and 2367 (12) Lichfield Street. Development Permit DP18/0298 granted consent to develop a seven-storey car park (with 324 spaces) over Lots 2396 and 2397, and a condition on the permit requires the ongoing provision of 88 car parking bays associated with the Energy House building within the car park. These 88 car parking spaces are provided across different levels of the car park. The assessment notes that the application proposed to allocate two (2) parking spaces within the ground floor of the Litchfield Street multilevel car park for the exclusive use of the child care centre.

Whilst, the NTPS 2020 does not specify that provision for a dedicated pick-up/drop off area for a child care centre, the Authority notes that the applicant proposes to provide two (2) short term car parking bays in Cavenagh Street immediately in front of the proposed child care centre to serve as a pick-up/drop-off area during peak periods of the child care's operation specifically for one (1) hour during the am peak period (8.00 am – 9.00 am) and one (1) hour during the pm period (4.00 pm – 5 pm). The Authority also notes that the City of Darwin had provided in-principle approval for two (2) short term car parking bays in Cavenagh Street immediately in front of the proposed child care centre.

In response to a question raised by the Authority at the hearing on whether the parking bays proposed within the Litchfield Street car park and drop-off in Cavenagh Street bays will adequately serve the child care centre, Mr Simon Tonkin from MasterPlan NT (the applicant) explained that the proposed facility would cater for the residents in the CBD many of which are within walking distance in addition to working population who drive to the city. Mr Tonkin explained that the proposed

parking arrangements are based on the nature of the use, character of Zone CB, traffic flow of surrounding roads and the number of parking spaces available in the vicinity. Mr Michael Grassi (Director Property and Development - Podia) shared the same views as Mr Tonkin regarding proposed car parking arrangements. Mr Grassi explained to the Authority that a portion of parents are expected to have car parking associated with their employment or with their dwelling in the CBD. Therefore it is likely that a significant portion of parents will have access to alternative parking options within the CBD. Mr Grassi further added that the traffic study carried out by Tonkin Consulting estimates that the proposed child care requires 4 pick-up/drop-off bays during peak hours provided in the proposed development.

Furthermore, the parking demand outside of peak drop off and pick up periods can be accommodated within nearby on and off-street public parking. The traffic parking survey reveals that 11-18 empty spaces are available along both sides of Cavenagh Street (between Knuckey Street and Bennett Street), with two (2) spaces available (adjacent Energy House) during these times. Mr Grassi confirmed to the Authority that further access to the Litchfield Street car park would be provided to the child care centre users as required.

In response to the question raised by the Authority on use of existing on-street parking on Litchfield Street for pick-up/drop-off area associated with the child care centre, Mr Grassi confirmed to the Authority that the current development proposes no formal pick-up/drop-off area in Litchfield field.

In response to the question raised by the Authority regarding the availability of parking to accommodate a bus to regularly transport young children to kindergarten, Ms Jacinta McInerney (Assistant Director - Insight Early Learning) explained that the proposed facility would not provide any bus facility for children going to kindergarten. Mr Tonkin further added that while there is no immediate need to provide formal bus parking, any need in future can be accommodated within the on-street parking.

The Authority has taken all comments into account and carefully considered the material provided with the application. Based on the commentary provided by the applicant and its project team on the car parking arrangements, the drop off analysis and general availability of parking spaces along Cavenagh Street provided by the Traffic Engineer - Tonkin and the location of use within the CBD, the Authority considers that the proposed child care centre can provide adequate vehicle access, parking and manoeuvring.

The Authority, however noted that the drop-off analysis provided by the Traffic Engineer – Tonkin estimates the requirement of 4-6 drop off bays for the child care centre. Furthermore, it is mindful that the proposed use may cater for children attending kindergarten, as well as drop offs by parents outside peak hours. The Authority considers that adequate parking arrangements should be provided in these circumstances and determined to provide two additional parking bays within Litchfield Street Car Park. Condition Precedent 1 is included on

the permit to reflect the requirement as agreed by Mr Grassi to provide additional car parking to the child care centre users as required.

The clause also requires that development provide landscaping and any necessary screening. The assessment notes that the application proposes to provide aluminium louvres with tropical planting and clear glass louvres along the 20m frontage to provide privacy, screening and natural ventilation to the kids play area of the child care centre. The aluminium louvres are included to ensure that privacy, screening and natural ventilation can be provided whilst still allowing the façade to remain active and provide passive surveillance opportunities. The tropical planting buffer will act as a screen from the street whilst providing a degree of natural filtration. The horizontal glass louvres can be opened and closed as desired depending on the time of day/time of year whilst providing some acoustic protection from the street as and when required.

In terms of location, the proposed child care centre is located within the Central Business District (CBD) of Darwin and is surrounded by a mix of land uses within the wider locality accommodating a range of retail, commercial and high-rise residential and tourist accommodation uses.

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

Two submissions were made under section 49 in relation to the application during the exhibition period. The main issues raised in the submission relate to the absence of outdoor space with the potential to detriment physical and mental development, inadequate parking, unsafe drop-off and pick-up arrangements, inappropriate urban context and potential to impact the amenity of the area. To address the concerns raised in submissions, the applicant engaged 'Inspire', a specialist child care consultant, to provide a qualified response on the matters raised in the submissions.

The Authority notes that:

- The detailed response from the Quality Education Care and NT (QECNT), Department of Education, on the proposed plans for the child care centre raised no concerns with the proposal.
- Following the receipt of comments from the City of Darwin and public submissions, the applicant amended the application and provided two (2) short term car parking bays in Cavenagh Street immediately in front of the proposed child care centre to serve as a pick-up/drop-off area during peak periods. No pick-up/drop-off bays are proposed in Litchfield Street as part of the revised development. The Authority considers that the matter related to inadequate parking and drop-off and pick-up arrangements are adequately addressed.
- The drop off analysis provided in the additional information and car parking survey along Cavenagh Street and the revised Traffic Review confirms that access, and the continued efficient

operation of the local road network, will not be undermined by the operation of the child care centre.

- The applicant's response and additional information were circulated to the public submitters for any further comments. No further comments were received from The Cavenagh Hotel and The Affinity Education Group raised no further issues with the applicant's response.

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

The assessment notes that the City of Darwin initially objected the use of existing loading bays located at the back of the subject site on Lichfield Street for dual use, as both a loading bay and short term drop-off / pick-up parking zone for parents of children attending the centre. The City of Darwin also objected to the proposed zebra crossing on Lichfield Street to provide safe pedestrian access to the car park.

Since the Council's initial submission which raised significant doubt in relation to the proposals loading bay in Lichfield Street being used as a pick-up / drop-off zone, subsequent emails between the applicant and Council indicate that Council has no objection to provide two (2) short term car parking bays in Cavenagh Street immediately in front of the proposed child care centre to serve as a pick-up/drop-off area during peak periods.

All other comments received from service authorities are addressed by the inclusion of conditions and/or notations on the development permit as required.

3. 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 impact on amenity should be considered in the context of the site and its surroundings, with the use being consistent with the broader intent of Zone CB (Central Business). The proposal is predominantly an internal fit out of existing office tenancies, and minimal impact on amenity is anticipated. The provision of nine (9) vertical strips of landscaping spanning almost the entire height of the building along the Cavenagh Street frontage demonstrate an exemplary approach to greening development in the Darwin CBD. The provision of two (2) short term car parking bays in Cavenagh Street immediately in front of the proposed child care centre to serve as a pick-up/drop-off area during peak periods will provide safe and convenient access to the parents.

In relation to the issues reverse amenity arising from the drive-thru bottle shop that abuts the site are considered in the context of Central Business zoning and inter-land use interface.

The site is within Zone CB, which is a flexible zone intended to provide for a diversity of activities. The site falls within Focus Area A1 – City Centre Core of the Central Darwin Area Plan (CDAP) which encourages mixed-use development, increased active frontages and pedestrian connections to enhance the overall vibrancy of the CBD. The child care centre will contribute to the aspirations detailed in the CDAP by introducing a commercial development in an underutilised tenancy in a prime CBD location. It will also directly contribute to the CDAP objective of intensifying mixed-use development in Focus Area 1. In this location, a child care centre will contribute to positive amenity outcomes and ensure that both existing and future residential and commercial development in the CBD has access to appropriate social infrastructure.

The proposed child care centre has no direct interface with the adjoining licenced premises in relation to the inter-land use interface. The existing building has nil setbacks to all site boundaries with a thick block work façade (with no openings at ground level) on side boundaries. This provides a visual and acoustic barrier for both uses. Furthermore, it is reasonable to consider that the pub-based business activities would mostly occur in the evening, outside of the hours of operation of the child care centre. During the day, in which both the child care centre and The Cavenagh Hotel are concurrently in operation, the pub would generally be comparable to any other restaurant or café. It is noted that the submission received from the adjoining licenced premises (The Cavenagh Hotel) raised no issues of reverse amenity.

FOR: 3

AGAINST: 1

ABSTAIN: 0

ACTION:

Notice of Consent and Development Permit

ITEM 2

PA2021/0065

DATA CENTRE

LOT 9198 (7) ELLENGOWAN DRIVE, BRINKIN, TOWN OF NIGHTCLIFF

APPLICANT

MasterPlan NT

Pursuant to section 97 of the *Planning Act 1999*, Marion Guppy, a member of the Darwin Division of the Development Consent Authority disclosed an interest and was not present during, did not contribute to, or took part in the deliberation or decision of the Division in relation to Item 2.

Mr Alex Deutrom and Mr Simon Tonkin (MasterPlan NT), Mr Adam Walker (DKJ Projects.Architecture), Mr Vimil Parashar and Mr Malcolm Caldwell (CDU) attended.

Submitters in attendance: Mrs Helen & Mr Leo Cleanthous, Dr Ian Roberts & Mrs Clare Roberts.

Dr Roberts tabled photos of the site taken from their residence and videos of the site during the last construction.

**RESOLVED
46/21**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 9198 (7) Ellengowan Drive, Town of Nightcliff for the purpose of a data centre, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with drawings numbered 2021/0065/01 to 2021/0065/04, endorsed as forming part of this permit.
2. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. 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.
5. 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.
6. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The applicant is advised that the use and development must be managed so that the amenity of the area is not detrimentally affected, through the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

3. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works. Due to provisions in the National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued.

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 NT Planning Scheme 2020 (NTPS2020) applies to the land and a data centre requires consent under Clause 1.8 (When development consent is required).

A 'data centre' is undefined under NTPS2020, and an undefined use is identified as *Impact Assessable* development under Clause 4.22 - CP (Community Purpose), and therefore the strategic framework (Part 2 of the Scheme – Darwin Regional Area Plan 2015), zone purpose and outcomes of Clause 4.22 (Zone CP), and Clauses 5.2.1 (General Height Control), 5.2.4 (Vehicle Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), and 5.5.3 (Commercial and Other Development in Zones... CP...), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of NTPS2020.

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

Five submissions were made under section 49 in relation to the application during the exhibition period. The main issues raised in the submissions relate to the use of the car park, noise and dust impacts, lighting impacts, visual impacts and landscaping, use of Zone CP (Community Purpose) land, pedestrian access, cable and consultation.

Dr Ian Roberts, Ms Claire Roberts and Mr Leo Cleanthous addressed the meeting reiterating their submissions to the application, particularly in relation to noise and dust during construction, noise and lighting during the centre's operation, landscaping, use of the land for commercial purposes and consultation.

The Authority notes the concerns raised. The Authority considers that noise and dust impacts are principally matters that fall under the responsibility of the NT Environment Protection Authority. A note to the consent conditions however advises the applicant that the development must be managed so that the amenity of the area is not detrimentally affected, through the emission of noise, dust, artificial

light etc. A consent condition also requires that 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 located so as to minimise thermal and acoustic impacts on neighbouring properties. The Authority notes the submitters' comments regarding the lack of consultation by Charles Darwin University (CDU) about the proposal with the neighbouring residents along Hibiscus Crescent in particular, and the need for the residents to be informed on what is proposed particularly during construction. The Authority strongly encourages the CDU to conduct consultation with the neighbouring residents as the project proceeds.

Regarding potential lighting impacts, the Authority notes the consent condition requiring external lighting be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.

Regarding landscaping, the Authority notes the existing vegetation between the site location and residents and considers it reasonably screens the site and further landscaping is not necessary. However the Authority would not discourage CDU discussing the level of vegetation between the site and residences with the residents and whether improvements to it were possible to any extent.

The Authority considers the proposed use compatible with the Zone CP (Community Purpose) land in that it generally complies with the purpose and outcomes of Zone CP. It is also noted that the proposal is not a rezoning and any future developments which are not defined as 'education establishment' in the NTPS2020, such as this proposal, would require a development application to be determined by the Authority.

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

The application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of conditions and/or notations on the development permit as required. It is particularly noted that the Department of Environment, Parks and Water Security raised no issues regarding the proposal.

6. 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.

It is considered unlikely that the proposal will have a significant impact on the amenity of the area particularly as it is a 4.5m high single storey building, some 80m from the nearest residential property in Zone LR, and the car park on which it will be situated is surrounded by reasonably dense bushland and university buildings. Additionally, it

complies with the NT Planning Scheme 2020, and the recommended conditions and notes for the proposal will also assist in preventing any adverse impacts on amenity.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Determination

ITEM 3

PA2021/0082

SUBDIVISION TO CREATE ONE LOT FOR THE PURPOSE OF LEASE IN EXCESS OF 12 YEARS

LOT 9198 (7) ELLENGOWAN DRIVE, BRINKIN, TOWN OF NIGHTCLIFF

APPLICANT

MasterPlan NT

Pursuant to section 97 of the *Planning Act 1999*, Marion Guppy, a member of the Darwin Division of the Development Consent Authority disclosed an interest and was not present during, did not contribute to or took part in the deliberation or decision of the Division in relation to Item 3.

Mr Alex Deutrom and Mr Simon Tonkin (MasterPlan NT), Mr Adam Walker (DKJ Projects.Architecture), Mr Vimil Parashar and Mr Malcolm Caldwell (CDU) attended.

Submitters in attendance: Mrs Helen & Mr Leo Cleanthous, Mr Ian Roberts & Mrs Clare Roberts.

**RESOLVED
47/21**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 9198 (7) Ellengowan Drive, Town of Nightcliff for the purpose of a subdivision to create one lot for the purpose of a lease in excess of 12 years, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with drawing numbered 2021/0082/01, endorsed as forming part of this permit.
2. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

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.

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 NT Planning Scheme 2020 (NTPS2020) applies to the land and a data centre requires consent under Clause 1.8 (When development consent is required).

Subdivision is identified as *Impact Assessable* under Clause 1.8(1)(c)(ii) of NTPS2020, and therefore the strategic framework (Part 2 of the Scheme – Darwin Regional Land Use Plan 2015), and zone purpose and outcomes of Clause 4.22 (Zone CP), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of NTPS2020.

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

Five submissions were made under section 49 in relation to the application during the exhibition period. The main issues raised in the submissions relate to the use of the car park, noise and dust impacts, lighting impacts, visual impacts and landscaping, use of Zone CP (Community Purpose) land, pedestrian access, cable and consultation. It is considered that the submissions to this subdivision application are essentially in response to the application for the data centre (PA2021/0065), rather than the subdivision application itself - which is solely to enable IOT Data Centres to lease the land from CDU in excess of 12 years. The application proposes the creation of a lot for the purpose of a lease to facilitate the future development. No building/development works are proposed as part of this application. The future development of the proposed lot is not assessed as part of this application but rather through the planning application for the data centre (PA2021/0065).

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

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

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 proposed subdivision is not anticipated to result in any adverse impacts to existing or future amenity.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Consent and Development Permit

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



MARK BLACKBURN
Delegate

27 May 2021