



# **Business Papers**

## **Town Planning Committee Meeting**

Tuesday, 3 June 2014  
5:00pm

# OPEN SECTION

PAGE

TP6\1

## CITY OF DARWIN

### TOWN PLANNING COMMITTEE

#### TUESDAY, 3 JUNE 2014

MEMBERS: Member G A Lambert, (Chairman); The Right Worshipful, Lord Mayor, Ms Katrina Fong Lim; Member J M Anictomatis; Member R K Elix; Member H I Galton; Member G J Haslett; Member R M Knox; Member G Lambrinidis; Member R Lesley; Member A R Mitchell; Member S J Niblock; Member R Want de Rowe; Member K J Worden.

OFFICERS: Acting Chief Executive Officer, Dr D Leeder; General Manager Infrastructure, Mr L Cercarelli; Manager Design, Planning & Projects, Mr D Lelekis; Strategic Town Planner, Miss C Robson; Executive Assistant, Miss A Smit.

**Enquiries and/or Apologies: Arweena Smit  
E-mail [a.smit@darwin.nt.gov.au](mailto:a.smit@darwin.nt.gov.au) - PH: 89300 685**

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### ***Committee's Responsibilities***

THAT effective as of 16 April 2012, Council in pursuant to Section 32(2)(b) of the Local Government Act 2008 hereby delegates to the Town Planning Committee the power to make decisions within the approved budget relating to:

- \* All Development Applications referred from the Development Consent Authority
- \* All Town Planning related matters referred from the NT Government
- \* Town Planning Strategy, Policies and Procedures
- \* Development Application and Town Planning Matters referred to Council from Developers, Community Groups and Individuals
- \* Signage Applications, Policies and Procedures
- \* Liquor Licence Applications

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Town Planning Committee Meeting – Tuesday, 3 June, 2014

## 1. MEETING DECLARED OPEN

The Chairman declared the meeting open at \_\_\_\_\_ p.m.

## 2. APOLOGIES AND LEAVE OF ABSENCE

### 2.2 Leave of Absence Granted

()

- A. THAT it be noted Member R K Elix is an apology due to a Leave of Absence previously granted on 29 April 2014, for the period 28 May 2014 to 5 June 2014.
- B. THAT it be noted Member R Want de Rowe is an apology due to a Leave of Absence previously granted on 28 January 2014, for the period 29 January 2014 to 4 June 2014.

DECISION NO.21\() (03/06/14)

## 3. DECLARATION OF INTEREST OF MEMBERS AND STAFF

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Town Planning Committee Meeting – Tuesday, 3 June, 2014**4. CONFIDENTIAL ITEMS****4.1 Closure to the Public for Confidential Items**

Common No. 1944604

()

COMMITTEE'S DECISION

THAT pursuant to Section 65(2) of the Local Government Act and Regulation 8 of the Local Government (Administration) Regulations the meeting be closed to the public to consider following Items:-

<u>Item</u>	<u>Regulation</u>	<u>Reason</u>
C15.1	8(e)	Information provided to the council on condition that it be kept confidential.
C16.1	8(c)(iv)	Information that would, if publicly disclosed, be likely to prejudice the interests of the council or some other person.

DECISION NO.21\()

(03/06/14)

**5. WITHDRAWAL OF ITEMS FOR DISCUSSION****5.1 Items Withdrawn by Staff**

()

COMMITTEE'S DECISION

THAT the Committee resolve under delegated authority that the following items be withdrawn by staff as Items of Significance, be considered: .....

DECISION NO.21\()

(03/06/14)

**5.2 Items Withdrawn by Members**

()

COMMITTEE'S DECISION

THAT the Committee resolve under delegated authority that the Information Items and Officers Reports to the Town Planning Committee Meeting held Tuesday, 3 June 2014, be received and considered individually.

DECISION NO.21\()

(03/06/14)

**OPEN SECTION**

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Town Planning Committee Meeting – Tuesday, 3 June, 2014

**6. CONFIRMATION OF MINUTES PERTAINING TO THE PREVIOUS TOWN PLANNING COMMITTEE MEETING**

() COMMITTEE'S DECISION

THAT the Committee resolve that the minutes of the previous Town Planning Committee Meeting held on Tuesday, 1 April, 2014, tabled by the Chairman, be received and confirmed as a true and correct record of the proceedings of that meeting.

DECISION NO.21\() (03/06/14)

**7. BUSINESS ARISING FROM THE MINUTES PERTAINING TO THE PREVIOUS TOWN PLANNING COMMITTEE MEETING****7.1 Business Arising**

**ENCL:** TOWN PLANNING COMMITTEE/OPEN  
**YES**

**AGENDA ITEM: 8.1**

**SIGNAGE APPLICATION – FREE-STANDING ILLUMINATED SIGN  
 LOT 6030 (24) CLARENCE STREET, LEANYER  
 TOWN OF SANDERSON**

**REPORT No.:**14TS0141BS:dj

**COMMON No.:** 2787452

**DATE:** 03/06/2014

**Presenter:** Strategic Town Planner, Cindy Robson

**Approved:** General Manager Infrastructure, Luccio Cercarelli

**PURPOSE**

The purpose of this report is for Council to determine a sign application for a permanent illuminated free-standing sign to be located within the premises of Lot 6030 (24) Clarence Street, Leanyer.

**LINK TO STRATEGIC PLAN**

The issues addressed in this Report are in accordance with the following Goals/Strategies of the City of Darwin 2012 – 2016 as outlined in the 'Evolving Darwin Towards 2020 Strategic Plan':-

**Goal**

1. Collaborative, Inclusive and Connected Community

**Outcome**

1.4 Improved relations with all levels of government and significant stakeholders

**Key Strategies**

1.4.2 Play an active role in strategic and statutory planning processes

**KEY ISSUES**

- It is recommended that Council approve this application with conditions regarding the illumination of the sign.
- The free-standing sign is considered a discretionary sign under the Council's Outdoor Advertising Signs Code (Signs Code) and requires Council's consent.
- The free-standing sign is located within private premises facing Vanderlin Drive.
- The Applicant has submitted a letter of support for both the size and illumination for Council to consider.

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 LOT 6030 (24) CLARENCE STREET, LEANYER  
 TOWN OF SANDERSON

## **RECOMMENDATIONS**

THAT the Committee resolve under delegated authority:-

- A. THAT Report Number 14TS0141BS:dj entitled Signage Application – Free-Standing Illuminated Sign, Lot 6030 (24) Clarence Street, Leanyer, Town of Sanderson, be received and noted.
- B. THAT Council approve the application from the Darwin Revival Fellowship for the Permanent Free-Standing Illuminated Sign and that a Sign Permit be issued in accordance with the requirements of the Outdoor Signs Code with the following condition:
  - a) The sign shall only be illuminated to 10pm on evenings that the church is operating.

## **DISCUSSION**



Church Location



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 LOT 6030 (24) CLARENCE STREET, LEANYER  
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Sign Location

<b>Applicant</b>	Darwin Revival Fellowship	
<b>Type of Advertising</b> (inc. temp/perm/illuminated)	Permanent	✓
	Illuminated	✳
<b>Type of Sign</b> (Business/Election/Promotion etc.)	Business	✓
<b>Type of Structure</b> (Pole/Free Standing/Fascia/High etc.)	Free-Standing	✓
<b>Measurement of Sign</b> (inc.height)	6m wide x 2.4m high - Total of 14.4 square metres (12.4 square metres oversized)	✳
<b>Location of Sign</b>	On private property	✓
<b>Existing Signage</b>	Complies	✓

Complies - ✓ Requires Council Approval - ✳

Consent is being sought from the Darwin Revival Fellowship to install an illuminated business advertising sign within private property. The image and plans of the sign are provided at **Attachment A**.

The Darwin Revival Fellowship is located on the corner of Lee Point Road and Vanderlin Drive, Leanyer, within Zone CP (Community Purpose). The application proposes one (1) illuminated sign being six (6) metres wide and 2.4 metres high,

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having a total area of 14.4 square metres. The bottom of the sign will be positioned above the fence line resulting in a total height of the sign being four (4) metres above ground level.

The Signs Code limits signs in Community Zones to that necessary to identify the use of the land, so as to minimise the impact on the locality. A complying sign under the Signs Code for the CP Zone includes a non-illuminated advertising sign with a maximum size of two (2) square metres, being no more than three (3) metres above ground level.

The proposed sign has a total of 14.4 square metres, illuminated and is to be four (4) metres above ground level, including support posts and as such, the sign is considered a discretionary sign under the Signs Code, thereby requiring Council approval and the issuing of a City of Darwin Sign Permit.

Lot 6030 (24) Clarence Street is a large sized lot (4550 square metres) positioned on the corner of Lee Point Road and Vanderlin Drive. The sign is to be set back 1.5 metres from the boundary line and will face Vanderlin Drive.

Vanderlin Drive is owned and maintained by the Northern Territory Government (NTG). This application has been forwarded to the NTG who have no objections to this sign provided the illumination of the sign does not exceed the levels identified in the submitted sign application, refer **Attachment A**.

The Vanderlin Drive road reserve adjacent to the subject premises are approximately 60 metres wide and contains large mature trees positioned along the footpath and fence lines within the road reserve. The nearest residents which face the sign are located across the other side of Vanderlin Drive, approximately 120 metres away. The applicant has submitted letters of support from the immediate neighbour to the church, and also from the nearest resident which faces towards the sign, refer **Attachment B**.

The Applicant has been made aware that the size of the sign as well as the illumination is discretionary in a CP Zone. The following is proposed in relation to the illumination:

- *This sign will be illuminated by lights attached to the supporting structure*
- *The lights will be directed towards the sign face and shrouded to prevent glare.*
- *The light source will not be visible from adjacent roads or footpaths.*
- *The lights will be a series of 3 x halogen lights attached to the sign frame*

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The applicant has submitted documentation supporting this sign application, refer **Attachment B**. A summary of the submitted justification is:

#### Signs Size

*The sign will be positioned within the boundary fence, facing Vanderlin Drive. In this location it will be approximately 60m from the closest traffic lane. At that distance a sign of area 2m sq will be unreadable. The sign and text needs to be of sufficient size to be legible without being a visual distraction. We believe the sign face design as we have proposed strikes an appropriate and acceptable visual balance. The use of simple text font and the simple subdued colour (navy blue) helps to provide a simple and clear feature message (that this is a church), without being distracting (no garish colours or stylised graphics). The sign face is a non-reflecting material which will ensure there is no risk of distraction by reflected light. The overall height of the sign is dictated by the height of the boundary fence. To minimise any adverse visual impact, but retaining our desired visible message the bottom of the sign will be aligned with the fence top.*

#### Illumination

*The sign face is non-reflecting. The proposed lights will be 3 x twin 36 watt Florescent batten lights. The light fitting will be mounted to illuminate the sign face and shrouded to prevent any direct light projecting toward Vanderlin Dr or nearby houses. The sign lights will only be illuminated on Wednesday nights and the occasional weekend nights when there is a church activity. The times of operation of the lighting will be 7pm until 10pm, controlled by timeswitch. There is no desire to have the lights permanently lit at night.*

The church operates on Wednesday nights and the occasional weekend night. It has been recommended that Council approve this application with the following condition:

- a) The sign shall only be illuminated to 10pm on evenings that the church is operating.

### **CONSULTATION PROCESS**

In preparing this report, the following external parties were consulted:

- Manager Operations & Traffic, Department of Infrastructure, Northern Territory Government

In preparing this report, the following City of Darwin officers were consulted:

- Team Leader Design
- Strategic Town Planner
- Planning Officer

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### **POLICY IMPLICATIONS**

The proposed Permanent, Illuminated Free-Standing Sign is discretionary under the Outdoor Advertising Signs Code Policy and as such, requires Council consent.

### **BUDGET AND RESOURCE IMPLICATIONS**

There are no budget and resource implications for Council in this application.

### **RISK/LEGAL/LEGISLATIVE IMPLICATIONS**

No risk, legal, legislative implications are expected with the approval of this application.

### **ENVIRONMENTAL IMPLICATIONS**

No environment implications are expected with the approval of this application.

### **COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION**

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

**CINDY ROBSON**  
**STRATEGIC TOWN PLANNER**

**LUCCIO CERCARELLI**  
**GENERAL MANAGER**  
**INFRASTRUCTURE**

For enquiries, please contact Cindy Robson on 89300528 or email:  
 c.robson@darwin.nt.gov.au.

#### **Attachments:**

- Attachment A:** Sign Application - situated at Lot 6030 - Town Of Sanderson - 24 Clarence Street, Leanyer  
**Attachment B:** The applicant's submitted documentation supporting this sign application



client: emanouil. spirit filled church.

job number: 47760



08 8984 3772

fax. 08 8984 4827

sales@aussiesignsnt.com.au

75 benison road. winnellie. northern territory.

project: new signage.

date: 6.5.2014

design: markus dixon

# ATTACHMENT A

# SPIRIT FILLED CHURCH



**Have you received the Holy Ghost? Act 19:2**

**Jesus said you must  
be born again. John 3:5**

**8945 6909  
8945 3998**

[www.trf.org.au](http://www.trf.org.au)

MEETING TIMES: SUNDAY 10:00AM • WEDNESDAY 7:30PM

6000mm. x 2400mm.

Job will not proceed without signature of approval.

signature:

date:

approved: yes

no

12  
this layout remains the property  
of Aussie Signs and is  
subject to the laws of copyright

Brian Sellers

**Subject:** Further Information - Sign Application - Lot 6030 (24) Clarence Street, Leanyer  
**Attachments:** EPSON001.PDF; EPSON002.PDF

**From:**  
**Sent:** Sunday, 25 May 2014 4:05 PM  
**To:** Brian Sellers  
**Cc:**  
**Subject:** Re: Further Information - Sign Application - Lot 6030 (24) Clarence Street, Leanyer

Brian

Thanks for the opportunity to discuss this application. I'd like to clarify the matters discussed in our meeting to support the application by the Darwin Revival Fellowship church for a display sign.

Council advised that further information, as detailed below, should be submitted to support the sign application.

### Size

**Council comment** - "The sign has been proposed to be 6m wide x 2.4m high with a total area of 14.4 square metres, to a height of 4m above ground level. The Outdoor Advertising Signs Code allows an advertising sign in a Community Purpose (CP) Zone to a maximum size of 2 square metres and to a height of 3m above ground level. The City of Darwin would like further documentation supporting the size and height of the advertising sign."

It is understood that the size criteria is a discretionary matter and we provide the following information to support our request for the dimensions as submitted...

The sign will be positioned within the boundary fence, facing Vanderlin Drive. In this location it will be approximately 60m from the closest traffic lane. At that distance a sign of area 2m sq will be unreadable. The sign and text needs to be of sufficient size to be legible without being a visual distraction. We believe the sign face design as we have proposed strikes an appropriate and acceptable visual balance. The use of simple text font and the simple subdued colour (navy blue) helps to provide a simple and clear feature message (that this is a church), without being distracting (no garish colours or stylised graphics). The sign face is a non-reflecting material which will ensure there is no risk of distraction by reflected light. The overall height of the sign is dictated by the height of the boundary fence. To minimise any adverse visual impact, but retaining our desired visible message the bottom of the sign will be aligned with the fence top.

### Illumination

**Council comment** - "Illuminated signs in a Community Purpose (CP) Zone require Council approval. The illumination within this application has been identified as a concern, as the sign faces a major intersection of two arterial roads and is located adjacent residential properties. It is recommended that further information regarding the reasons of the illumination and if/when any timing of the illumination is proposed, be submitted to the City of Darwin to support the illumination of the proposed sign."

To support our proposal, We advise the following:

The sign face is non-reflecting. The proposed lights will be 3 x twin 36 watt Fluorescent batten lights. The light fitting will be mounted to illuminate the sign face and shrouded to prevent any direct light projecting toward Vanderlin Dr or nearby houses.

The sign lights will only be illuminated on Wednesday nights and the occasional weekend nights when there is a church activity. The times of operation of the lighting will be 7pm until 10pm, controlled by timeswitch. There is no desire to have the lights permanently lit at night.

To assist consideration of this aspect of our submission we have provided positive statements from our immediate neighbour, and also from the nearest residential property on Vanderlin Dr facing the proposed sign. - **please see the two attachments**

We look forward to your positive review of our application

kind regards

To: City of Darwin

From: Resident of 28 Clarence Street Leanyer

Subject: Proposed "SPIRIT FILLED CHURCH" sign for Revival Fellowship facing Vanderlin Dr

I advise that members of the church have explained their proposal to place a sign facing Vanderlin Dr, and that they also propose to illuminate it by use of 3 x twin 36 watt Flourescent batten lights to operate on Wednesday nights and the occasional nights when there is a church activity.

I advise that I have no objection to their proposed sign.

Signed:

A handwritten signature in black ink, consisting of several overlapping loops and lines, positioned to the right of the word "Signed:".



To: City of Darwin

From: Resident of 68 Vanderlin Dr WUHABI

Subject: Proposed "SPIRIT FILLED CHURCH" sign for Revival Fellowship facing Vanderlin Dr

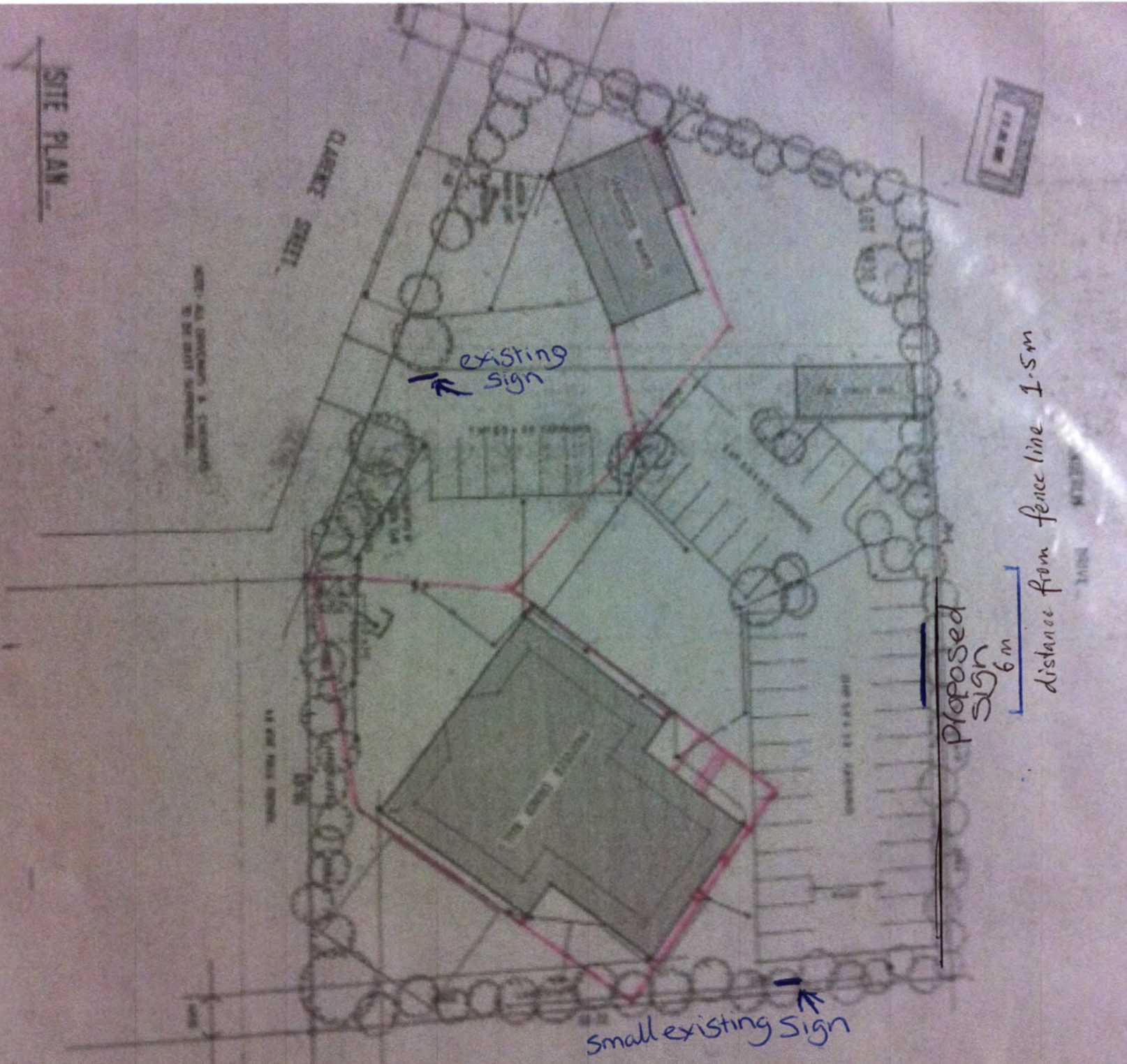
I advise that members of the church have explained their proposal to place a sign facing Vanderlin Dr, and that they also propose to illuminate it by use of 3 x twin 36 watt Fluorescent batten lights to operate on Wednesday nights and the occasional nights when there is a church activity.

I advise that I have no objection to their proposed sign.

Signed:

25/5/14

SITE PLAN





50x50x2 mm SHS  
fully welded frame  
fixed in front of  
columns

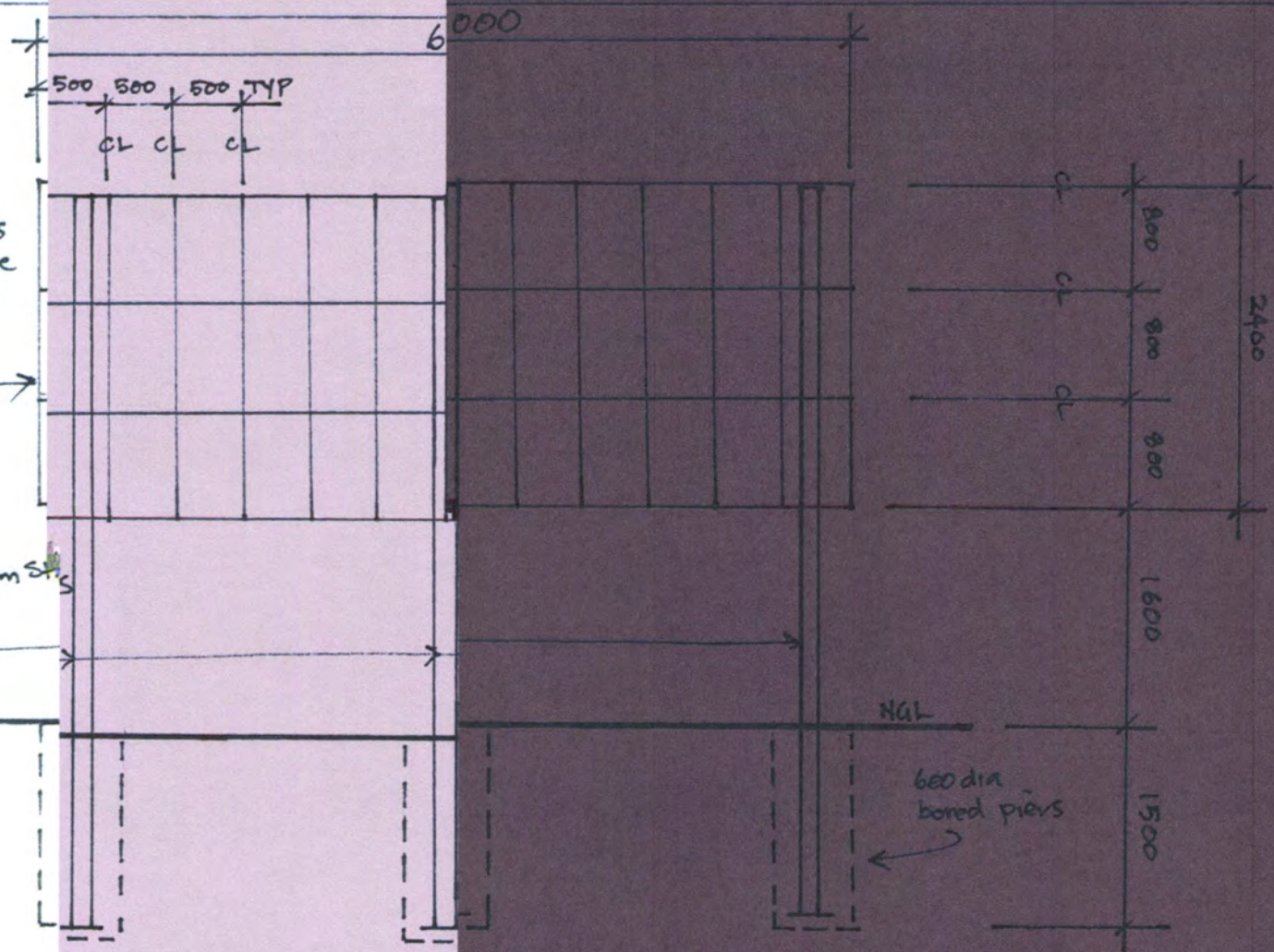
125 x 125 x 4 mm SHS  
columns

600 dia  
bored piers

NGL

PROPOSED 6000 x 2400 SIGN  
24 CLARENCE STREET LEANYER

SCALE 1:50



*entry existing sign*

# REVIVAL FELLOWSHIP

24 CLARENCE STREET LEANYER

## SPIRIT FILLED CHURCH



Jesus said you must  
be born again. John 3:5

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MEETING TIMES:  
SUNDAY 10:00AM · WEDNESDAY 7:30PM

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1200mm. x 900mm.

ENCL: TOWN PLANNING COMMITTEE /OPEN  
YES

AGENDA ITEM: 8.2

**CITY OF DARWIN POLICY NO. 11 – OUTDOOR DINING**

REPORT No.: 14TS0146 LC:kb

COMMON No.: 2653168

DATE: 03/06/2014

**Presenter:** General Manager Infrastructure, Luccio Cercarelli

**Approved:** Chief Executive Officer, Brendan Dowd

**PURPOSE**

The purpose of this report is to present to Council the revised Outdoor Dining Policy for Council endorsement.

**LINK TO STRATEGIC PLAN**

The issues addressed in this Report are in accordance with the following Goals/Strategies of the City of Darwin 2012 – 2016 as outlined in the 'Evolving Darwin Towards 2020 Strategic Plan':-

**Goal**

2 Vibrant, Flexible and Tropical Lifestyle

**Outcome**

2.2 A sense of place and community

**Key Strategies**

2.2.1 Develop a vibrant and active central business district

**Key Strategies**

2.2.2 Develop vibrant suburban centres of activity

**KEY ISSUES**

- Council currently has an Outdoor Dining Policy (Policy Number 11) which was adopted on 23 February 2010.
- Policy Number 11 has a review date of September 2015.
- Council has further identified the review of the Policy as a priority with a target date of April 2014.
- It is proposed that two documents are developed the Policy and Procedures, Design and Assessment Criteria (Administrative Procedures).
- A preliminary draft policy and administrative procedures have been developed and workshopped with Council.
- The 'Policy' establishes the Council's objectives in relation to outdoor dining within Darwin.
- The administrative procedures are a technical document approved by the Chief Executive Officer designed to deliver on the Policy and will be finalised by the Chief Executive Officer.

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- The administrative procedures are designed to be flexible so that they can be amended as required by the Chief Executive Officer to ensure they reflect the required technical and administrative standards at any point in time.

## **RECOMMENDATIONS**

THAT the Committee resolve under delegated authority:-

- THAT Report Number 14TS0146 LC:kb entitled City Of Darwin Policy No. 11 – Outdoor Dining, be received and noted.
- THAT Council endorse for the purpose of community consultation, the draft City of Darwin Policy Number 11 – Outdoor Dining being **Attachment B** of Report Number 14TS0146 LC:kb entitled City Of Darwin Policy No. 11 – Outdoor Dining.
- THAT a further report be prepared on the outcomes of the community consultation relating to the draft City of Darwin Policy Number 11 – Outdoor Dining.

## **BACKGROUND**

The City of Darwin has a current Outdoor Dining Policy (Policy Number 11) adopted in February 2010, **Attachment A**.

An administrative amendment occurred in September 2011.

The Policy identifies the next review date as September 2015, however, Council has identified this issue as a priority and established a date of April 2014.

Given the importance of this Policy, a Council workshop was held on 15 April 2014, to discuss a preliminary draft review of documents.

## **DISCUSSION**

The existing Policy contains a mixture of policy objectives and technical and administrative requirements.

Council's website describes Policies as follows:

*“Policies are a representation of the values that Council will take into consideration during its decision making process. It is the Elected Members role to weigh Council matters and decide upon policies which the Council administration will then carry through. Policies are in place to fulfil the community’s needs and are continually being reviewed and updated.”*

It is being recommended that Council separate the current Policy into two elements being “the Policy” setting out Council’s objectives for outdoor dining and an



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Administrative Procedure establishing how the Council Administration will achieve Council's Policy and objectives.

This is considered a more appropriate structure and ensures that the Chief Executive Officer can easily amend and manage the technical and administrative requirements to achieve Council's objectives. For example technical requirements and standards change from time to time and need to be amended to ensure Council is achieving appropriate technical and compliance standards.

Based on these principles and others the outcomes of the Council workshop, Council staff have reviewed and amended Policy Number 11. The draft Policy and is contained within **Attachment B**.

Following the adoption by Council of the revised Policy the Chief Executive Officer will finalise the Administrative Procedures to reflect and deliver on the Policy's objectives.

The draft Policy has been developed around the objective:

“to encourage the practice of outdoor dining areas in the Darwin municipal area while establishing robust procedures to ensure that the amenity and safety of streets and public places is maintained.”

It is important that Council provides the community with clear guidance and consistency with respect to outdoor dining in Darwin.

The draft Policy contains 11 key objectives supported by policy statements. The Policy is not designed to result in outdoor dining to be in competition with the built form, but for it to be a complementary extension of the built form, to add vitality and enhance and protect the character of the surrounding public realm and built form.

The draft Policy identifies that generally outdoor dining areas in public places should be located where there is an adjacent restaurant, bar or café and be an extension of this activity, unless Council considers there is special merit. This differs from the existing Policy which does not support outdoor dining unless it is attached to an adjacent established business.

In addition permanent structures will be considered by Council on merit on a case by case basis.

The Administrative Procedures will retain, amend and add to the current technical requirements and assessment criteria within the existing Policy Number 11, as appropriate. It will reflect current standards and requirements and is designed to support and deliver on the draft Council Outdoor Policy. Documents such as Council Policies, standards and the draft Darwin City Centre Master Plan will be used to inform the criteria.

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## **CONSULTATION PROCESS**

It is suggested that Council undertake community consultation Level 2 – consult in accordance with Council’s Policy No. 025 – Community Consultation Policy.

This will involve the following activities:

- Advertising the draft Policy.
- Place on Council’s web-site.
- Seek any community feedback.

The consultation period will be for a three (3) week period.

In preparing this report the following City of Darwin parties were consulted:

- Chief Officer’s Group

In preparing this report, the following External Parties were consulted:

- Design Urban Pty Ltd, Steve Thorne
- Urban City, Mike Cullen

## **POLICY IMPLICATIONS**

The process is a review of Council Policy Number 11 – Outdoor Dining and if the draft is adopted following community consultation it will become the new policy.

Council Policy Number 25 – Community Consultation

## **BUDGET AND RESOURCE IMPLICATIONS**

None identified as part of the review process. Outdoor dining does generate income for Council via permit fees. Fees and Charges are reviewed annually by Council and the 2014/2015 charges have been recently adopted.

The fees and charges for outdoor dining will be reviewed prior to the establishment of the 2015/2016 City of Darwin Fees and Charges.

## **RISK/LEGAL/LEGISLATIVE IMPLICATIONS**

It is being proposed that the procedures, design and assessment criteria is an operational function and would be managed by the Chief Executive Officer under delegation.

It is intended all existing permits and leases remain unaffected as a result of change to the Policy until they expire at which time they should be reviewed. All new applications would be considered against the revised Policy. There is a risk that



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some new applicants may have issues based on what Council has approved in the past under any previous Policy or process.

### **ENVIRONMENTAL IMPLICATIONS**

Will be considered on a case by case basis with each application.

### **COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION**

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

**LUCCIO CERCARELLI**  
**GENERAL MANAGER**  
**INFRASTRUCTURE**

**BRENDAN DOWD**  
**CHIEF EXECUTIVE OFFICER**

For enquiries, please contact Luccio Cercarelli on 89300581 or email:  
l.cercarelli@darwin.nt.gov.au.

### **Attachments:**

**Attachment A:** Existing City of Darwin Policy No. 11 – Outdoor Dining

**Attachment B:** New Draft City of Darwin Policy No. 11 – Outdoor Dining

## ATTACHMENT A

**Title:** Outdoor Dining  
**Policy No:** 011  
**Adopted By:** Council  
**Next Review Date:** 01/09/2015  
**Responsibility:** General Manager Corporate Services  
**Document Number:** 2119701

Version	Decision Number	Adoption Date	History
1	20\2501	23/02/2010	Adopted
2	Administrative Amendment by CEO	01/09/2011	Adopted by Chief Officers Group
3			
4			

### 1 Policy Summary

The Policy sets out the application procedure, and criteria to be applied for determining applications, for street cafes (non licensed) and alfresco dining areas(licensed for the sale of alcohol).

- Part A Alfresco Area Agreements for Licensed Premises
- Part B Street Cafes (Not licensed for the sale of alcohol)
- Part C Outdoor Eating in Parks and Reserves

### 2 Policy Objectives

The objective of the Policy for outdoor dining is to encourage the practice across the Darwin Municipal area and to establish robust procedures to improve the amenity of streets and public places, while providing added convenience and economic benefit to the community.

### 3 Background

Outdoor dining involves the sale and or consumption of articles at an outdoor eating area or footpath, road (including roads under the control of Northern Territory Government) or other public place under the care of City of Darwin.

- Darwin's climate is conducive to outdoor dining and the Council receives applications from time to time in respect to the use of roads and reserves under the council's care and control for this purpose. In addition the Council seeks to be pro-active and, by adopting clear procedures, seeks to both encourage applications and ensure that applications are treated consistently.

#### 4 Policy Statement

##### **Part A - Alfresco Area Agreements for Licensed Premises**

This policy outline is to be read in conjunction with the standard agreement . Alfresco Area Agreements are required for outdoor dining where some fixed infrastructure is involved (fixed shade structures, tables and chairs or other street furniture) and the sale of alcoholic beverages is proposed.

##### Application Procedures

An application for an Alfresco Area Agreement must be in writing and accompanied by supporting documentation, including:

- A dimension drawing indicating the frontage of the site, the position of the tables and street furniture in relation to any existing features such as planter boxes, as well as the size of the proposed Alfresco Area.
- A photograph or brochure detailing furniture, accessories and fittings intended to be placed in the area.

The Applicant must, if so required, furnish any further information or documents the Council may need to determine the application.

Where the proposed alfresco area will be serviced by adjacent premises, the written permission of the owner of these premises must be provided with the application for the Alfresco Area Agreement.

An application for an Alfresco Area Agreement is not duly made until the applicant has complied with all requirements.

##### Key Criteria to be Used in Determining an Application

Conformity with the Central Darwin Streetscape Strategy and in particular Appendix B of that Strategy 'Guidelines for Footpath Widening to Accommodate Alfresco Areas'

A key determinant will be adjacency to premises that provide access to appropriate toilet facilities to service the alfresco area.

The length of the Alfresco Area Agreement will depend on the level of investment. 3 x 3 years for lower levels of infrastructure investment and 5 x 5 years for higher levels when applicable.

Where applicable, consideration will also be made for some consistency in the period of the Alfresco Area Agreement and the lease period of the applicant's premises.

The annual rental value of the Alfresco Area Agreement shall be at market value, with consideration for the value of capital improvements made by the person or Company making the agreement.

The permit holder shall, at all times indemnify City of Darwin and keep it indemnified against all actions, proceedings, accounts claims and demands whatsoever on the part of any person or persons and from all costs, damages, expenses, losses and other claims and liabilities which may arise out of, or incidental to the operation of the Street Cafe.

A public liability policy for not less than \$20 million and which lists City of Darwin as an interested party is to be maintained for the Street Cafe operation.

A high standard of fittings such as shade and rain shelters that meet any Building Code requirements is required. These fittings are to be maintained in good state of repair to the Council's satisfaction at all times. The Council must approve the design and materials used. All fittings, including chairs and tables, planter boxes and umbrellas must be in keeping with the character of the area.

Use of quality reusable crockery and cutlery must be in keeping with the standard of furniture and fittings and no disposable containers or cutlery are to be used in the delivery of food.

Cooking and/or storage of food within the area covered by the Alfresco Area Agreement must relate to the nature of the activity and the size and location of the space provided. Alfresco Area Agreement holders will need to address health and safety issues.

The Alfresco Area Agreement will specify the minimum required spread of hours of operation the intent being to maximise usage of the alfresco area whilst having regard for the trading hours of surrounding businesses and seasonal conditions.

The alfresco area is to be kept clean and disposal of generated waste is to be carried out in accord with any requirements established from time to time by the General Manager Infrastructure.

Council approval is required for any entertainment or amplified music within the alfresco area.

Council will allow the serving of alcohol *without* a meal during the period 8.00 pm to 2.00 am the following day.

Council will allow the serving of alcohol *with* a meal during the period 11.30 am until 8.00 pm provided the following criteria are met:

- Patrons shall consume alcohol only whilst seated at a table (bar stools and raised tables will not be approved).
- The area shall be clearly delineated with the use of barriers to the satisfaction of Council's General Manager Infrastructure.
- Adjacent footpaths shall be controlled in such a manner to minimise disruption to the public.
- Substantial meals and non-alcoholic drinks shall be available on request.
- The area shall at all times have the appearance of, and trade predominantly as, an outdoor dining area.
- Prior approval of Council and the NT Liquor Commission.
- Noise levels shall be limited to a level that would not cause unreasonable disturbance to the amenity of ordinary residents of any nearby residential property.

Outdoor dining in The Mall and Raintree Park will only be permitted under the provisions of the Alfresco Area Agreement.

#### Schedule of Potential Alfresco Areas - The Mall and Raintree Park

	<u>Site</u>	<u>Seating Capacity</u>
1.	Raintree Park	Seating approximately 40
2.	ANZ area	Seating approximately 48
3.	Raised Dias Galleria area	Seating approximately 48
4.	Vic Complex area	Seating approximately 32
5.	Bennett Street area	Seating approximately 60

Underground utilities exist within reasonable proximity to all sites. Connection to services will be at the applicants expense.

#### **Part B – Footpath Dining (Not licensed for the sale of alcohol)**

Street Cafe Permits are for the temporary (during opening hours) placement of street furniture for the purpose of outdoor dining.

A Street Cafe Permit does not entitle the holder to prepare food on the footpath. No alcohol is to be consumed in the area used for footpath dining. Street Cafe Permits are available, subject to the provisions of this policy for all areas with the exception of The Mall and Raintree Park. Outdoor dining in The Mall and Raintree Park will only be permitted through the use of Alfresco Area Agreements.

#### Application Procedure

The procedure to be used in making an application for a Street Cafe is as follows:

1. The application must be in writing on the prescribed form accompanied by supporting material:

- a) A dimension drawing indicating frontage of the site, the position of the tables and street furniture in relation to any existing features such as planter boxes and the size of the proposed Street Cafe area.
- b) A photograph or brochure detailing furniture, accessories and fittings intended to be placed on the footpath.
- c) A copy of the current Eating Establishment License and Registration Certificate issued by the NT Health Department.
- d) A copy of the current Public Liability Policy for not less than \$10 million which lists City of Darwin as an interested party.

The Applicant must, if required, furnish any further relevant information or documents that Council may need to determine the application.

2. A Street Cafe Permit will only be considered for the part of the footpath which abuts the food premises owned and/or occupied by the applicant.
3. An application for a permit is not duly made until the applicant has complied with all requirements.

#### Criteria In Determining Application

The following criteria will be used in determining whether or not a Street Cafe Permit is issued:

- a) The premises must be approved under the Food Regulations;
- b) Consent in writing from the owner of the abutting premises;
- c) Consideration of the potential impacts on;
  - Adjoining property owners and occupiers
  - Traffic and pedestrians
  - Amenity of the area
- d) Consideration of the potential benefit and enhancement of the area.

#### Character and Design

The layout, design and type of furniture and associated fixtures of the proposed street cafe area must be in keeping with the characteristic of the local area. Brochures or photographs of the proposed furniture must be used to support the application.

#### Provision of Toilets

Adequate toilet facilities must be accessible during hours of operation in accordance with the Building Code of Australia.

#### Noise

- Council approval is required for all amplified music systems within the permit area.
- The occupier of any food business holding a Street Cafe Permit must not cause or permit any amplified music system or patrons to emit any noise that is unreasonable.

- Noise from a food business holding a Street Cafe Permit is unreasonable if at any time the average maximum noise level exceeds the background level by more than 5dB(A) measured outside any affected noise sensitive place.
- Amplified music is unlikely to be approved where it would be likely to have an adverse effect on residential amenity.

#### Disability Access

The occupier must provide access/clearance for people with disabilities as per the Commonwealth Disability Discrimination Act 1992. Blind pedestrians normally use the shop-front as a guide and placing dining facilities in this area potentially increases the risk of injury to them if they must negotiate between the tables and chairs and the kerb.

AS 1428.2 1992 "Design for Access and Mobility: Enhanced and Additional Requirements - Buildings and Facilities" requires that a clear width of 1800 mm is provided to allow two wheelchairs to pass comfortably.

#### Footpath Area and Conditions

The occupier must provide a head clearance for pedestrians of a minimum height of 2.1 metres for umbrellas and plants to avert the risk of head injuries. The height clearance necessary for overhead signs hanging from awnings is 2.7 metres (see City of Darwin Outdoor Advertising Code).

Approximately 5.5 m<sup>2</sup> should be set aside for each table with four chairs.

Where an application proposes to provide additional items beside tables and chairs including umbrellas, pots, posts or other structures or alter the surface, approval must be obtained from the General Manager Infrastructure prior to commencement.

The Council has the responsibility to maintain the structural integrity of the footpath areas to the standard at the commencement of the permit. If the footpath area is damaged by the activities of footpath dining, the permit holder shall bear the cost of reinstatement works. Reinstatement works are to be designed and constructed to the satisfaction of the General Manager Infrastructure.

#### Cleaning and Maintenance of Area

The permit holder will keep the area clean at all times during the hours of operations.

#### Fees and Duration

Renewable twelve month permit from the date of commencement with fees payable monthly in advance with a review of fees effective in July each year.

A security bond of an amount to be determined by Council from time to time must be lodged with Council before a permit is issued.

### Transfer

Street Cafe Permits are not transferable.

### Street Furniture

Outside the hours of operation all street furniture is to be removed from the footpath. Off street storage for this furniture is required when not in use.

### Permit Conditions

Other conditions that City of Darwin considers relevant to the site may be attached to the permit.

### Indemnity

The permit holder shall, at all times indemnify City of Darwin and keep it indemnified against all actions, proceedings, accounts claims and demands whatsoever on the part of any person or persons and from all costs, damages, expenses, losses and other claims and liabilities which may arise out of, or incidental to the operation of the Street Cafe.

A public liability policy for not less than \$10 million and which lists City of Darwin as an interested party is to be maintained for the Street Cafe operation.

### Revocation of Permit

A Street Cafe Permit may be revoked if:

- a) The holder, during the time that the permit is in force, fails to comply with any condition of the permit; and/or
- b) The Council determines that the permit should be revoked.

## **Part C - Outdoor Eating in Parks and Reserves**

Council approves in principle the idea of open air eating places in parkland adjacent to shopping centres.

### Procedure

- Open air eating places are not to be located where they will encroach upon or create a nuisance to adjoining landowners.
- The General Manager Infrastructure will determine the technical and environmental suitability of any proposal.
- The General Manager Corporate Services will prepare a draft lease or deed of agreement for the development.
- The proposal will be referred to Council for approval subject to planning and building approval as appropriate.



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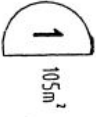
## 5 Legislation, terminology and references

Sections 183 and 185 of the Local Government Act provide the Council with the power to control and manage reserves and roads within its area.

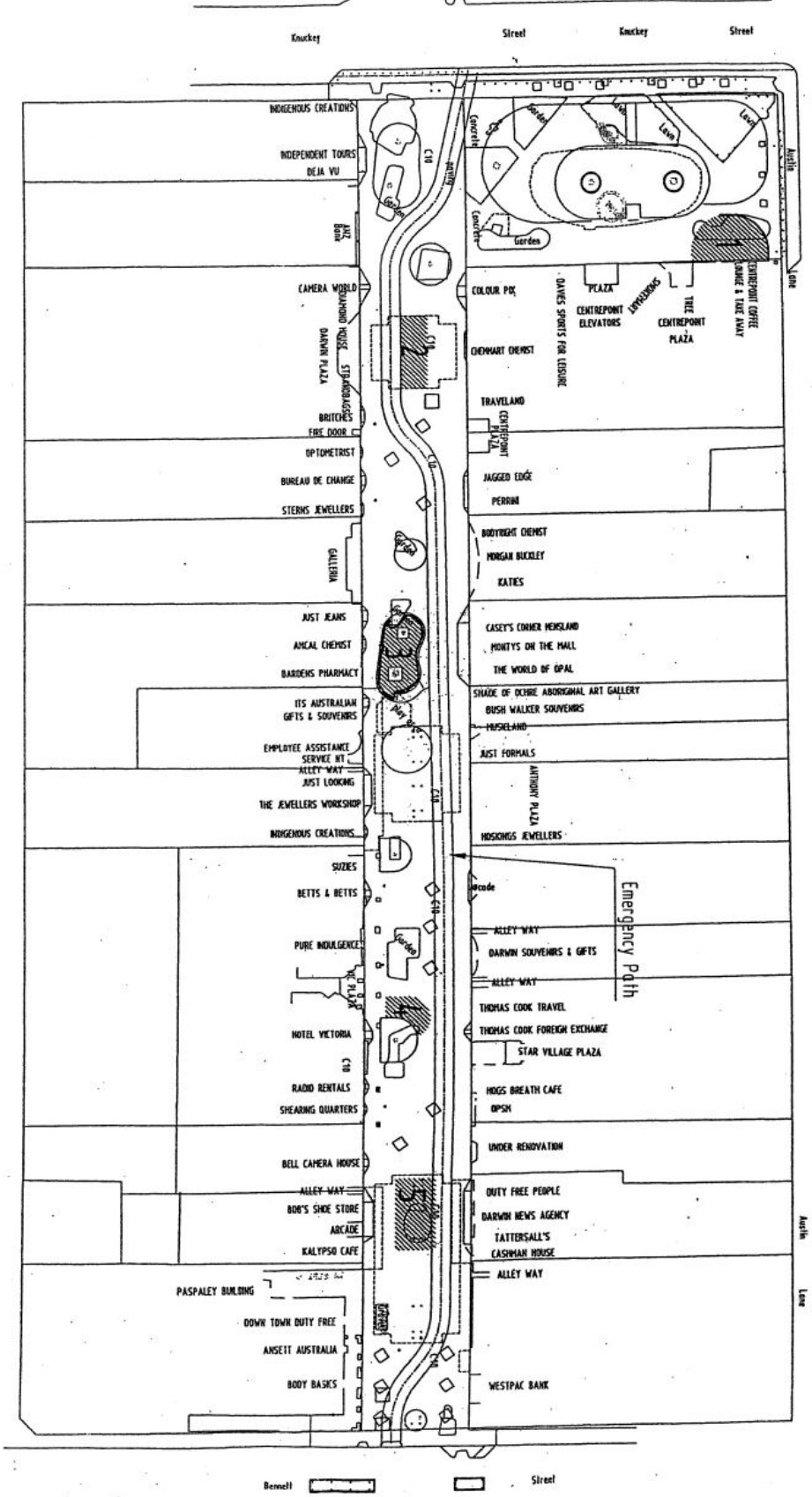
Central Darwin Streetscape Strategy, in particular Appendix B of the 'Guidelines for Footpath Widening to Accommodate Alfresco Areas'.

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Approximate Areas:



Potential areas for Alfresco Dining as shown numbered 1-5



ALFRESCO AREAS - THE MALL/RAINTREE PARK

38

**ATTACHMENT B****Title** Outdoor Dining

Policy No: 011

Adopted By: Council

Next Review Date:

Responsibility:

Document Number:

Version	Decision Number	Adoption Date	History
1			

**1. Policy Summary**

This *Policy* and the *City of Darwin Procedures, Design and Assessment Criteria for Outdoor Dining Areas in Public Spaces* document together set out the application procedure and the criteria to be applied when determining applications for street cafés (non-licensed) and outdoor dining areas (licensed for the sale and consumption of alcohol) and outdoor dining permits in public reserves and parks.

**2. Background**

The City of Darwin has a current outdoor dining policy, adopted in February 2010, and amended in 2011. This policy review updates the outdoor policy in the light of previous experience, the 2014 Darwin City Centre Master Plan and increased interest in the provision of outdoor dining opportunities.

The City of Darwin is keen to promote outdoor dining as the Darwin climate is conducive to this form of activity. The Council seeks to be pro-active by adopting clear policy and procedures to encourage applications for outdoor dining and ensure that applications are treated clearly and consistently.

**3. Policy Objectives**

This policy is intended to encourage the practice of outdoor dining across the Darwin municipal area while establishing robust procedures to ensure that the amenity and safety of streets and public places is maintained and that there is clear guidance and consistency with respect to outdoor dining.

There are 11 Key Objectives for this Policy

- i. To encourage outdoor dining in areas that are suited to purpose and in appropriate areas of the city;
- ii. To add vitality to the streets and public spaces of the city;
- iii. To protect and enhance the character of the surrounding streetscape and built form, as well as the community functions of parks and other public spaces;
- iv. To ensure that activity contributes to the amenity of adjoining and nearby properties;
- v. To ensure that pedestrian and vehicular traffic safety and accessibility is not compromised by outdoor dining activities;
- vi. To ensure that adequate, sheltered and safe space is maintained for pedestrian access and circulation;
- vii. To ensure equitable access for all, including people with disabilities and that pedestrian dignity is maintained;
- viii. To ensure that Universal Design Principles and Crime Prevention through Environmental Design Principles are adhered to;
- ix. To ensure that outdoor dining areas are maintained in a clean, healthy and tidy manner, and remain an attractive element of the Public Realm;
- x. To provide clear guidelines for applicants, Council, staff and the community with respect to Council's expectations in relation to outdoor dining;
- xi. To provide for performance monitoring to be used as part of the approval renewal process.

#### 4. Policy Statement

- Generally outdoor cafés and dining areas in public places should be located where there is an adjacent existing indoor restaurant, bar or café and be an extension of this activity, unless Council considers there is a special merit.
- Outdoor dining areas are not intended as the primary dining area, but an extension of indoor seating, for use in fine weather.
- Outdoor dining areas should only be visible and in use during café, bar or restaurant operating hours, or during specified hours depending on location.
- They should not be designed for equipment other than temporary tables, chairs, umbrellas, cooling devices, weather protection and screens.
- Outdoor dining areas will be located within the Public Realm or public place. The Public Realm is land that is used by the public as "common ground", where the public is entitled to have access for community, social and commercial interaction and exchange. The Public Realm should allow for pedestrian flow and movement from one place to another.
- A permit is required to operate any outdoor café or dining area located on public land.
- The City of Darwin does not permit areas in the Public Realm to be used solely for the consumption of alcohol. The consumption of alcohol in the Public Realm must only occur in locations where meals are served from adjacent restaurants or bars.
- Outdoor dining areas should be integrated into the street in a way that does not compromise existing street activities, circulation requirements and pedestrian and traffic safety through maintaining adequate clearances.

- Outdoor dining is to contribute to a sense of safety in the City of Darwin. Improving the quality of the environment and promoting accessible and liveable places that encourage a feeling of safety and community participation is the key to safer places.
- Permanent structures may be considered on special merit. The Council will exercise its discretion on a case by case basis.
- No live or recorded music is to be played/transmitted from any outdoor dining area contained within the public realm (Council land).

## 5. Legislation, terminology and references

Sections 183 and 185 of the Local Government Act provide the City of Darwin with the power to control and manage reserves and roads within its area.

For the purposes of this policy a “bar” is defined as an establishment where alcohol and meals are served. If alcohol is to be served in outdoor dining areas within specified times, the associated restaurant or bar must serve meals as well.

Outdoor “cafés” are areas of the Public Realm which serve meals, coffee and the like and are unlicensed to sell alcohol. These areas must be associated with an adjacent café.

Outdoor dining areas may also be associated with “restaurants”, whose primary function is to serve meals, and may or may not be licensed to sell alcohol.

Refer also to the Design Guidelines contained in the Draft Darwin City Centre Master Plan, 2014.

**ENCL:** TOWN PLANNING COMMITTEE/OPEN  
**YES**

**AGENDA ITEM:** 8.3

**“THE AVENUE” SALONIKA STREET - ENCROACHMENT**

**REPORT No.:** 14TS0152 LC:kb

**COMMON No.:** 1823945

**DATE:** 02/06/2014

**Presenter:** General Manager Infrastructure, Luccio Cercarelli

**Approved:** Acting Chief Executive Officer, Diana Leeder

**PURPOSE**

The purpose of this report is to seek Council direction regarding a building encroachment into the road reserve at “The Avenue” Salonika Street.

**LINK TO STRATEGIC PLAN**

The issues addressed in this Report are in accordance with the following Goals/Strategies of the City of Darwin 2012 – 2016 as outlined in the ‘Evolving Darwin Towards 2020 Strategic Plan’:-

**Goal**

1. Collaborative, Inclusive and Connected Community

**Outcome**

1.4 Improved relations with all levels of government and significant stakeholders

**Key Strategies**

1.4.2 Play an active role in strategic and statutory planning processes

**KEY ISSUES**

- The developer of “The Avenue”, Salonika Street has written to Council to identify an encroachment of this building into future Council road reserve.
- The encroachment is by verandahs on Two (2) Levels with the total area of the encroachment being approximately 12.2 square metres (6.1 square metres per floor) and is not considered to create any detrimental impact on future use of the road reserve.
- No prior approval was granted by Council for the encroachment.
- The new road is being delivered as a requirement of the overall development and is currently on the Northern Territory Government Land.
- The road will be vested in Council when completed.
- It is recommended that consent be given for the encroachment subject to a permit fee of \$10,000.
- Time is of the essence in determining this matter.

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REPORT NUMBER: 14TS0152 LC:kb  
SUBJECT: "THE AVENUE" SALONIKA STREET - ENCROACHMENT

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## **RECOMMENDATIONS**

THAT the Committee resolve under delegated authority:-

- A. THAT Report Number 14TS0152 LC:kb entitled "The Avenue" Salonika Street - Encroachment, be received and noted.
- B. THAT Council consent to the encroachment into the road reserve as detailed in Report Number 14TS0152 LC:kb entitled "The Avenue" Salonika Street – Encroachment, subject to the following conditions:
  - All relevant permits are entered into with Council;
  - All works are to be to the satisfaction of Council at no cost to Council;
  - Clearances are obtained from service authorities within the road reserve.
- C. THAT Council apply a fee of \$10,000 to the verandah permit for Lot 8889, Town of Darwin.
- D. THAT a Policy on dealing with encroachment onto Council property without prior approval be developed for Council's consideration.

## **BACKGROUND**

As part of "The Avenue" development occurring within Salonika Street, Council has previously consented to a boundary re-alignment involving the purchase of elements of the road reserve adjacent to Lot 8558 and to transfer parts of Lot 8558 to Council for the purposes of road reserve.

The development also requires the re-alignment of the current Stuart Highway service road and transfer of the resulting new road to Council as shown in **Attachment A**.

The developer has recently identified that portions of verandahs on their building encroach into the future Council road reserve. No prior approval was sought from or granted by Council for the encroachment.

## **DISCUSSION**

The developer has written to Council requesting that Council approve the encroachment and enter into an agreement to allow the verandahs to remain in place, **Attachment B**. (Note: The red line on the photograph is intended to indicate the location of the property boundary line)

The developer indicates that they had assumed that the construction could be simply classed as a balcony under Council's regulations and they would simply apply for a permit.

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Council Policy Number 037 – Awnings, Balconies and Verandahs on Council Property, supports awning and verandahs and balconies in commercial zones and specific precinct areas where warranted by the merits of the proposal.

The issue on this occasion is that no prior approval or consent from Council was obtained.

The structure is of solid construction and forms part of the building.

The encroachment into the road reserve is estimated at 6.1 square metres per floor being a total of 12.2 square metres. The area of encroachment is shown in **Attachment C**.

The Council has a number of options which include:

#### Consent is Refused

Council does not grant approval and requires that the verandahs be removed.

This would involve significant works and changes to the building and associated costs to the developer given the design and construction.

Given the minor area of encroachment and design this option is not considered practical and therefore **not recommended**.

#### Consent is Granted

This option involves Council consenting to the encroachment. The option has a number of sub options being as follows:

(i). Direct Sale of Air Rights

Council sell the air rights to the developer at an agreed value. This would involve subdivisions, lot consolidation and take time.

Council would no longer have ownership or control over this portion of air space. The building has a fixed life and at some future point will be redeveloped resulting in the area returning to Council.

Independent valuation advice suggests the value would be minimal.

This option is **not recommended** as Council will no longer control the space.



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(ii). Issue a Permit

Council consents to the use and issues a standard permit for the use. This is in keeping with Council policy relating to awning, verandahs and balconies and Council retains ownership.

This is the **recommended** option as it is in keeping with Council Policy 037 intent.

The fees and charges associated with a permit for an awning, verandah or balcony comprise a single fee of \$111 for plan approval.

Consideration should be given to the fact that no prior approval was sought.

It is **recommended** that a fee of \$10,000 be applied to the permit for verandahs on Lot 8889. The intention is to discourage assumptions that Council will provide retrospective approval that limits its ability to determine all permit conditions.

Summary

It is **recommended** that Council approve the issuing of an awning, verandah and balcony permit subject to normal terms and conditions and that the fee for the permit be \$10,000.

**CONSULTATION PROCESS**

In preparing this report, the following External Parties were consulted:

- Osborne Family Holdings

**POLICY IMPLICATIONS**

Council's Policy Number 037 – Awnings, Balconies and Verandahs on Council Property provide guidance in regards to elements of the request.

(The Policy is available at [www.darwin.nt.gov.au](http://www.darwin.nt.gov.au))

**BUDGET AND RESOURCE IMPLICATIONS**

A charge of \$10,000 is recommended.

**RISK/LEGAL/LEGISLATIVE IMPLICATIONS**

Should Council sell the land it will no longer have control over the space.

The permit will contain all standard terms and conditions including but not limited to insurances, maintenance and indemnity of Council against any costs for future modification and/or removal of the structure.

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Should consent be granted two permits (one per level) will be issued as one (1) Level is the commercial body corporate and the other level is the residential body corporate.

Bylaw 5 of the City of Darwin Bylaws provides that Council may determine a fee in relation to a property undertaking, service, matter or thing.

### **ENVIRONMENTAL IMPLICATIONS**

The verandah will provide a level of shade and weather protection in that location.

### **COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION**

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

**LUCCIO CERCARELLI**  
**GENERAL MANAGER**  
**INFRASTRUCTURE**

**DIANA LEEDER**  
**ACTING CHIEF EXECUTIVE**  
**OFFICER**

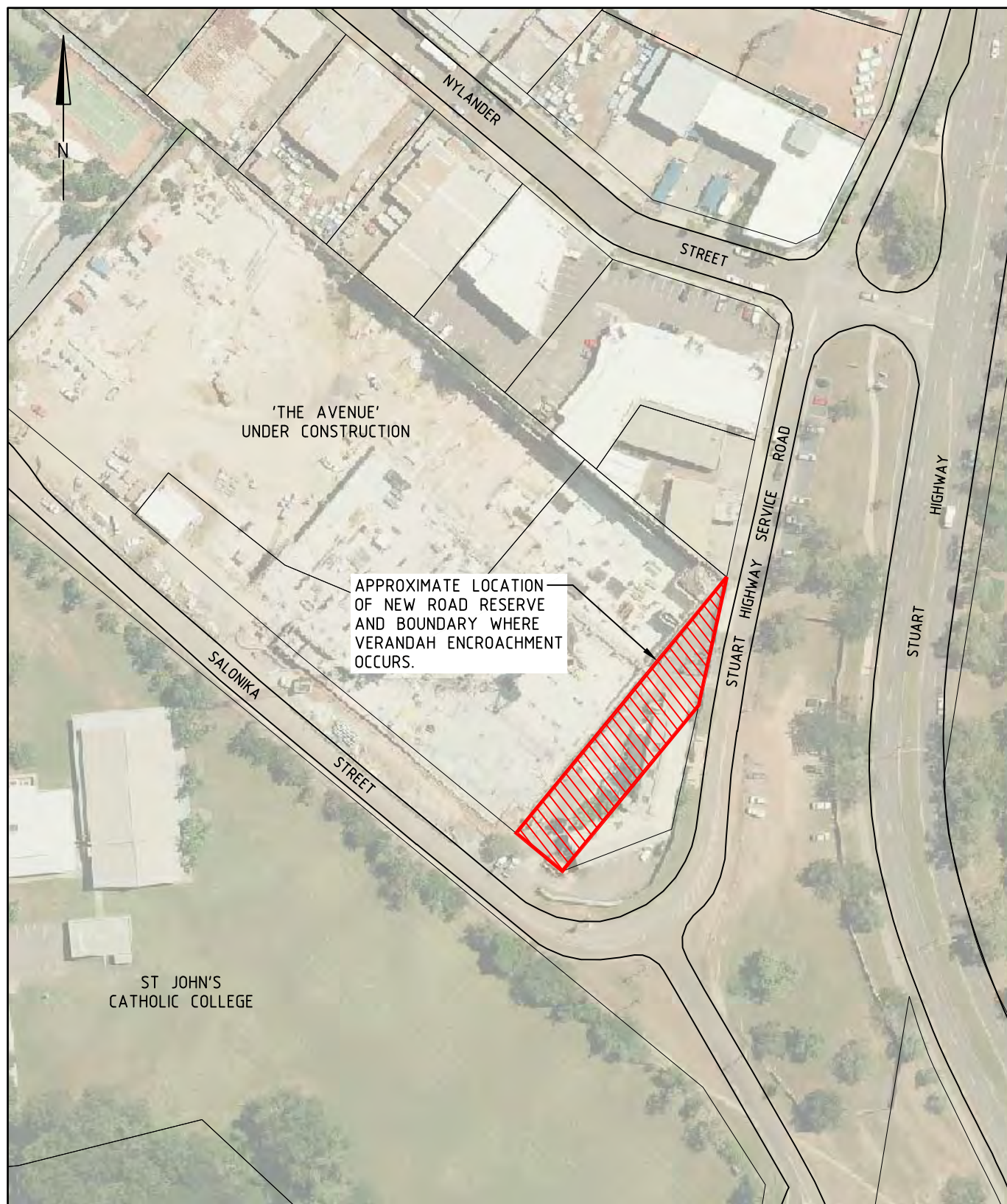
For enquiries, please contact Luccio Cercarelli on 89300581 or email:  
 l.cercarelli@darwin.nt.gov.au.

### **Attachments:**


**Attachment A:** "The Avenue" – General Location Plan

**Attachment B:** Incoming Correspondence – "The Avenue" – Alterations to Salonika Street

**Attachment C:** The area of encroachment on the road reserve



LAYOUT PLAN

DRAWN RM	DESIGNED	'THE AVENUE' AREA OF NEW ROAD RESERVE LAYOUT PLAN			
SCALE NTS	CHECKED				
APPROVED	DATE MAY '14				
	SHEET 1 OF 1	SHEET SIZE: A4	DRAWING No. THE_AVE_A	AMENDT. A	



**ATTACHMENT B<sup>43</sup>**  
**PO Box 39242**  
**Winnellie NT 0821**  
**3 / 133 Stuart Highway**  
**The Gardens NT 0810**

15<sup>th</sup> May 2014

The General Manager Infrastructure  
Darwin City Council  
GPO Box 84  
Darwin NT 0801

**Attn Mr Luccio Cercarelli**

**Re : The Avenue Development – Alterations to Salonika St**

Dear Luccio,

Further to our recent discussions I am writing in relation to the OFH group handing over the new section of road forming part of Salonika St.

As you would be aware, this piece of road forms part of a complicated land transaction with the NT Government. The NT Government has indicated that it would be their preference that this section of road would be transferred directly from Essonav to Council, subject to Councils acceptance of the roadway.

In the design of the Avenue Development, our Architects have followed our initial brief of incorporating curves into the building structure to soften the lines of the building and improve its aesthetic appeal , particularly to the highway.

As a result they have extended the verandas on the 2<sup>nd</sup> and 3<sup>rd</sup> levels of the building as well as for the restaurant.

In reviewing this design with the NT Government and the Darwin Council, we identified that there may be issues with the Restaurant over lapping the Road way corridor, particularly in relation to ensuring the use of the area was compliant with Council regulations for both consumption of alcohol and smoking regulations. As a result we instigated the recently completed land swap with Council ensuring all of the areas to be utilized by the restaurant were owned by the restaurant.

With respect to the Southern Boundary of the building, the curved building structure overlaps the recently constructed footpath by an amount of up to 1m for a length of 12m. This occurs at two levels. The total area being encroached is estimated to be less than 6 square metres per level.

As this space is part of a veranda and shades the footpath below, we had assumed that it could simply be classed as a balcony under Council regulations and we would simply apply for a balcony permit. We now believe that this is not correct.

We are seeking to enter into an agreement with Council to allow the verandas to remain in place. The agreement would initially be with Hammer the property owner but would transfer to the Body corporates that will own the verandas on issue of titles for the strata titles development

The lower veranda is part of the commercial property body corporate and the upper veranda is part of the residential property body corporate.

The Body corporates would remain responsible for the property with respect to insurances, repairs and maintenance.

As this space is part of a body corporate common property and is not otherwise usable space other than for a veranda or walkway, we would request that the permission for the space to be over the footpath be provided at nil cost to the body corporates.

We would also request that this matter be dealt with by Council as a matter of urgency. We are expecting that Certificate of Occupation for the residential component will be achieved in early June and we would be seeking to have titles issued in mid to late June to allow the property owners to move into their new apartments. Any delays in resolving this matter could result in delays in the issue of titles.

Please do not hesitate to contact me if you need additional information

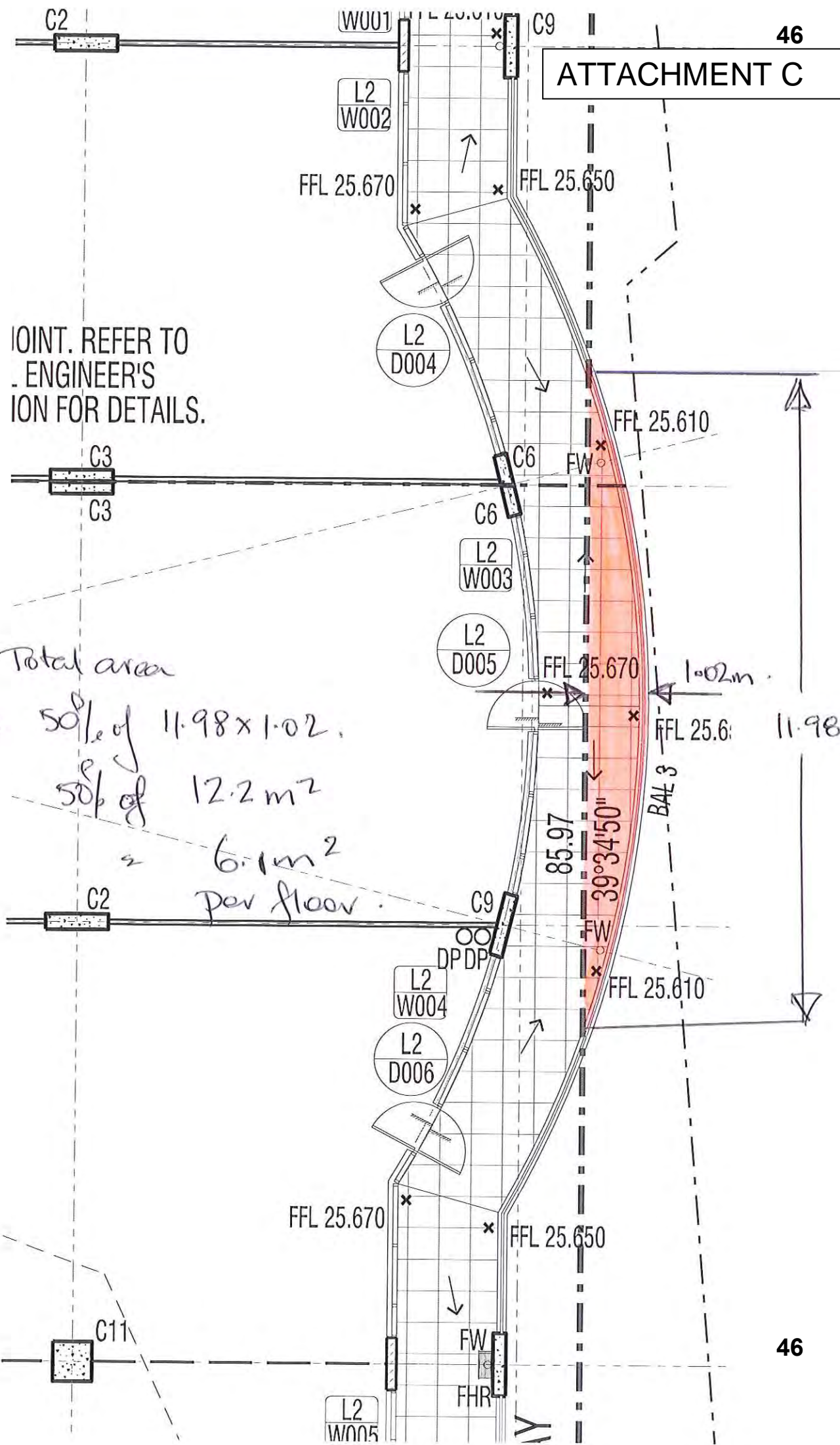
Yours sincerely

Kerry Osborne  
Managing Director





ATTACHMENT C



JOINT. REFER TO  
ENGINEER'S  
SECTION FOR DETAILS.

Total area  
 approx 50% of 11.98 x 1.02.  
 50% of 12.2 m<sup>2</sup>  
 ≈ 6.1 m<sup>2</sup>  
 per floor.

# OPEN SECTION

PAGE

TP6\6

Town Planning Committee Meeting – Tuesday, 3 June, 2014

## 9. INFORMATION ITEMS

Nil

## 10. GENERAL BUSINESS