



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 323 – FRIDAY 21 SEPTEMBER 2018

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

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

APOLOGIES: Doug Phillips and Sherry Cullen

OFFICERS PRESENT: Poppy Zaronias (A/Secretary) Dawn Parkes, Adelle Godfrey, Ben Wollinski, Susannah Penman and Alex Deutrom (Development Assessment Services)

COUNCIL REPRESENTATIVE: Absent

Meeting opened at 10.00 am and closed at 10.30 am

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

ITEM 1 **ALTERATIONS AND ADDITIONS TO AN EXISTING SINGLE DWELLING**
PA2018/0329 **WITH A REDUCED SIDE SETBACK**
 LOT 3328 (57) HUDSON FYSH AVENUE, TOWN OF DARWIN
APPLICANT **ANDREW AND SABRINA MASON**

Ms Sabrina Mason attended.

DAS tabled a copy of the Occupancy Permit documents provided by the applicant in relation to the proposed alterations and additions.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 7.3
156/18 (Building Setbacks of Residential Buildings and Ancillary Structures) of the
 Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 3328 (57) Hudson Fysh Avenue, Town of Darwin for the purpose of alterations and additions to an existing single dwelling with a reduced side setback, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans, 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 two copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) a landscaping schedule including species and quantities appropriate for screening the proposed extension from the neighbouring lot (Lot 3327, Town of Darwin).
2. Prior to the endorsement of plans and prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin's stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system or an alternate approved connection.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.

5. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity facilities to the development shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
6. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin as the case may be to the satisfaction of the consent authority.
7. 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.
8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing 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 to engage a building certifier, within the meaning of the *Building Act*, as to whether the building/s comply with the *Building Act* and associated Regulations.

REASONS FOR THE DECISION

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

The application is for alterations and additions to an existing single dwelling with a reduced side setback. The application has been considered against Clause 5.1 Zone SD (Single Dwelling Residential), Clause 6.5.1 (Parking Requirements), Clause 7.1 (Residential Density and Height Limitations), Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and Clause 7.5 (Private Open Space) of the Northern Territory Planning Scheme (the Scheme) and complies with the exception of Clause 7.3. Accordingly, the applicant sought a variation to this clause.

The primary purpose of Zone SD is to provide single dwellings on individual lots. The application is for an extension to an existing single dwelling which is consistent with the zone purpose.

Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) ensures that residential buildings are compatible with the streetscape and surrounding development, respond to the potential effects of building massing and visual bulk when viewed from the adjoining land and the street and encourage breeze penetration through and between buildings.

Table to Clause 7.3 stipulates that the minimum building setback for one and two storey residential buildings is 1.5m to the side boundary. The application seeks a 1.3m setback to the side boundary.

2. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Scheme, the Authority must only vary requirements specified in Part 4 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The authority considered the application, public submission and Development Assessment Services report. The authority noted that the affected lot (Lot 3327, Town of Darwin) is within a specific use zone (SD3) and currently facilitates commercial tenancies. The authority also noted that only a small portion of the wall encroaches into the 1.5m setback and the non-complaint portion does not include any windows or doors. Due to existing landscaping being on the neighbouring lot and subject to removal at any time, the authority determined that the inclusion of a condition precedent on the development permit requiring the landowner to provide landscaping within the subject lot boundary that will provide a visual screen of the non-compliant portion of the wall, would achieve the purpose of the clause and was the most appropriate outcome.

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

One public submission was made against the application under Section 49 of the *Planning Act*. The authority noted the submission and the issues raised. The submission expressed concerns that a window overlooks the adjoining property. The authority noted that the subject window is setback more than 1.5m from the lot boundary and is compliant. The submitter also expressed concerns about the screening of the development as the current landscaping that provides screening is within their lot boundary and could be removed. The authority determined to include a condition precedent on the development permit requiring the landowner to provide landscaping within the subject lot boundary that will provide a visual screen of the non-compliant portion of the wall.

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

The development is not expected to impact on the existing and future amenity of the area given the extension will be screened from the affected lot and is consistent with residential development in the area.

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2018/0330

**1 X 3 BEDROOM MULTIPLE DWELLING IN A SINGLE
STOREY BUILDING ADDITION TO AN EXISTING DWELLING IN ZONE MD
UNIT 12642 UNIT 12643 (APT 1, 5 & APT 2, 5) ALSTONIA STREET & UNIT
12644, TOWN OF NIGHTCLIFF**

APPLICANT

DPL DEVELOPMENTS

Mr Darron Lyons (DPL Developments) attended. Ms Carolyn Marriot attended.

**RESOLVED
157/18**

That, the Development Consent Authority vary the requirements of Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Unit 12642 (1/5), Unit 12643 (2/5) and Unit 12644 Alstonia Street, Town of Nightcliff for the purpose of 1 x 3 bedroom multiple dwelling in a single storey building addition to an existing dwelling in Zone MD, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), an amended landscaping plan providing additional details regarding the private open space areas, to the satisfaction of the consent authority and must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) species of plants;
 - (b) fencing details illustrating:
 - a solid wall or screen fence not less than 1.8 metres high: or
 - fencing to a height not less than 1.8 metres high and planted with dense vegetation.
2. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection points. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.
3. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental Construction Management Plan (ECMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land.
4. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

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

6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities, to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
7. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin to the satisfaction of the consent authority.
9. Storage for waste bins is to be provided to the requirements of the City of Darwin to the satisfaction of the consent authority.
10. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
11. The private open space areas of each dwelling shall be screened on each boundary by:
 - (a) the erection of a solid wall or screen fence not less than 1.8 metres high: or
 - (b) fenced to a height not less than 1.8 metres high and planted with dense vegetation.
12. Before 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.
13. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. 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.
3. City of Darwin advises that designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by the General Manager Infrastructure, City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.

4. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
5. This development permit does not grant "building approval" for the proposed structure. The Building Code of Australia requires that certain structures within 900mm of a boundary meets minimum fire resistance level requirements and you are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.

REASONS FOR THE DECISION

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

The development proposed is consistent with the purpose of Zone MD (Multiple Dwelling) of the Northern Territory Planning Scheme (NTPS) to provide for a range of housing options to a maximum height of two storeys above ground level. The scale, character and style of the proposal is compatible with the streetscape and surrounding development.

The proposal has been assessed against the Northern Territory Planning Scheme and does not comply with clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

2. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Northern Territory Planning Scheme, the Authority may consent to a development that does not meet the standard set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The following design features and site conditions are considered to be sufficient special circumstances to justify the granting of a variation to Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the scheme. The reasons for which are outlined below:

- The recent unit title schemes subdivision meets part 5 of the NTPS for the lot size and configuration.
- Due to the small size of the lot, which is anticipated in zone MD (Multiple Dwelling), providing a functional parking space and vehicle manoeuvring is limited.
- If the posts were to be setback further from the side boundary, this would interfere with the functionality of vehicle manoeuvring and parking.

A thorough assessment of the application against the *Planning Act* and Northern Territory Planning Scheme has been conducted by Development

Assessment Services. Variation to the requirements of clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) is supported as:

- Special circumstances exist to justify the giving of consent.
- The location of the proposed parking spaces does not restrict vehicle movement on site or vehicle parking.
- The side setback non-compliance remains consistent with the purpose of the clause in which the proposal is compatible with the streetscape and surrounding development, minimise any adverse effects of building massing when viewed from adjoining land and the street, avoids undue overlooking of adjoining properties and is encouraging breeze penetration through and between buildings.

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

One submission was received under section 49 in relation to the development application. The submission was made by Ms Marriott. The submission objects to the application on the following grounds:

- The exhibition notice did not indicate the application is an 'Amended Development Application.'
- The present houses' footprint is not suitably situated on the land for it to be subdivided into a battle-axe shape.
- Privacy and noise issues due to driveway access.
- Not consistent with the public's expectation of land use in the area.
- To use this MD land correctly would be to start afresh with two new buildings, designed so that each has privacy with a duplex type design.

Ms Marriott was present at the meeting and made further comment in regards to the driveway being adjacent to bedrooms in the existing dwelling. Ms Marriott advised of a loss of privacy due to vehicles and people walking past accessing the rear dwelling. Ms Marriot suggested that a better design outcome would be to redesign the lot with a duplex.

The authority noted Ms Marriot's submissions and explained that the current zoning of the land allowed for such a lot configuration under the *Unit Title Schemes Act*. The authority acknowledged the comments from Development Assessment Services in response to matters raised within Ms Marriot's written submission that explained:

- This application is not a variation to an existing development application.
- A unit title schemes subdivision approved the existing unit configuration. This application is not for subdivision or alteration of the boundaries.
- Access to the rear lot is via an internal driveway and was previously approved through the unit title schemes subdivision. Setbacks do not apply to internal unit title boundaries. Additionally, setbacks are measured from lot boundaries to the wall of a building or a support column. Due to these reasons, the distance between the existing dwelling and the driveway does not have setback requirements.
- Darwin Mid Suburbs Area Plan (DMSAP) is a referenced document under schedule 2 of the Planning Scheme. The lot and surrounding area is identified for multiple dwelling residential with the objective of

development of multiple dwellings on one site. In developing the DMSAP, public consultation was conducted throughout the process which gauged public opinion.

- Furthermore, the development is consistent with the NT Compact Urban Growth policy providing greater densities around activity centres and transport nodes, which is reasonably anticipated within the locality.
4. Pursuant to section 51(n) of the *Planning Act*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The proposed development is within zone MD (Multiple Dwelling). The development of multiple dwellings on one lot is considered appropriate within the zone and does not negatively impact the amenity of the area.

There is no change of use proposed and the proposed 1 x 3 bedroom multiple dwelling in a single storey building addition to an existing dwelling in zone MD (Multiple Dwelling) would be unlikely to have an adverse impact on the existing and future amenity of the area. The impact on visual amenity would be minimal, as the siting of the building is at the rear of a battle-axe lot with a substantial distance to the public roads.

ACTION: Notice of Consent and Determination Permit

ITEM 3 **KIOSK (SHOP) AND AMENITIES BUILDING ADDITIONS TO AN EXISTING**
PA2018/0306 **LEISURE AND RECREATION USE (WAVE POOL)**
APPLICANT **LOT 10177 (2) STOKES HILL ROAD, TOWN OF DARWIN**
DKJ PROJECTS ARCHITECTURE PTY LTD

Mr Adam Walker (DKJ Projects Architecture Pty Ltd) and Mr John Kassaras (Darwin Waterfront Corporation) attended.

RESOLVED That, the Development Consent Authority determine to reduce the car parking
158/18 requirements pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 10177 (2) Stokes Hill Road, Town of Darwin for the purpose of a kiosk (shop) and amenities building additions to an existing leisure and recreation use (wave pool), subject to the following conditions:

GENERAL CONDITIONS

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

4. The applicant/land owner must provide written confirmation from a suitably qualified person that the buildings will be constructed to withstand the effects of a primary storm surge event, to the satisfaction of the consent authority.
5. Any air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.
6. Any roof top plant equipment (such as any vents and ducting associated with requirements for ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).
7. Any pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The Environment division of the Department of Environment and Natural Resources advise that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

REASONS FOR THE DECISION

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

The development comprises a kiosk (shop) and amenities additions to an existing leisure and recreation facility (wave pool) at the Darwin Waterfront. The development is within Zone CB (Central Business) of which the primary purpose is to provide for a diversity of activities, with a commitment to the separation of incompatible activities. In Zone CB, building form and design is expected to be sensitive to the needs to pedestrian movement and facilitate the creation of safe and active

street frontages and public places and a vibrant commercial precinct. The kiosk and amenities building accords with the zone purpose statement by providing facilities for an existing, anticipated use in the zone.

In addition, Clause 14.1.1 (Darwin City Waterfront Planning Principles and Area Plan) provides more specifically for the planning and development of the Darwin Waterfront area within Zone CB. The proposal achieves the planning principles by improving the convenience of facilities provided as part of an existing recreational facility at the Waterfront, honouring existing pedestrian connections in the area, and achieving an appropriate scale and character.

2. The proposal has been considered against Clauses 6.14 (Land Subject to Flooding and Storm Surge) and 14.1.1 in relation to the location of the land being situated within a primary storm surge area. The development comprises an ancillary addition to an existing leisure and recreation facility, and recreation uses are identified by Clause 6.14 as suitable uses within the primary storm surge area.

Also, Clause 14.1.1 provides that the consent authority is to consider storm surge levels by siting the lowest floors (commercial and residential) within the development at a minimum of 6.5m AHD and the development will include a minimum finished floor area of 4.91m AHD only for the kiosk.

Despite this, the kiosk addition will not intensify the existing leisure and recreational land use, and will not result in an agglomeration of people, or an increased number of people within a storm surge area. The kiosk is also limited in size, with a net floor area of 19m² only, plus storage areas of 15m². The kiosk is also proposed in a location which is significantly lower in elevation than the surrounding commercial and residential buildings, and the finished floor level proposed relates to the existing site level. Using fill or another design technique to raise the finished floor level by an additional 1.59m would not be convenient or practical.

The authority noted the advice provided at the hearing regarding the extent of the sea wall at the Waterfront in mitigating flood events, and that the risks apply for the wave pool and lagoon precinct as a whole. As the Planning Scheme requires a minimum floor level for commercial buildings which is not being met and the buildings have the potential to be impacted, the authority requires confirmation that the buildings are designed to withstand storm surge conditions. The authority noted the storage area is intended for kiosk supplies and the pool toy storage only and is not proposing the storage of hazardous materials. Overall the impacts and risk of storm surge have been considered for the development and it is found that the risk to people and costs to the general community as a result of the development is low.

An assessment against Clause 6.5.1 (Parking Requirements) of the Planning Scheme has identified an additional net floor area of 19m² for the kiosk plus storage areas of 15m², and in total, 1 additional space (0.7 spaces rounded) is required. The car parking for the original wave pool was calculated and constructed through earlier development

permits with the required number of spaces provided within a multi-storey car park nearby to the development. No additional car parking is included as part of the application. A reduction under Clause 6.5.2 (Reduction in Parking Requirements) for the 1 space shortfall is considered appropriate as the development comprises a limited increase in the net floor area, being limited in scale in relation to the broader Waterfront area, and any additional demand is not expected to generate any noticeable or significant increase to car parking demands.

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

The site has been identified as being affected by the primary storm surge area as included in reason 2. In summary, the level of risk as a result of the additions is considered low as the proposal relates to an existing use, is of limited scale, and will not result in an increased number of people within the primary storm surge area. No other concerns have been identified with regard to the capability of the land in accommodating the development.

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

The buildings are ancillary to an existing recreation use, and although situated within a broader open space area, are generally contained within the existing fenced compound of the wave pool. As the buildings are single storey only and are limited in scale, there is no expected impact on views throughout the Darwin waterfront. The demolition plan submitted with the application confirms that only landscaping within the proposed building footprints will be removed, with the landscaping in the broader area to be retained. Accordingly, the development is not expected to impact on the broader amenity of the area.

ACTION: Notice of Consent and Development Permit

ITEM 4 **VISITOR CENTRE WITH MULTI-PURPOSE COMMUNITY**
PA2018/0336 **FACILITIES, INTERPRETIVE CENTRE, SOUVENIR SHOP, EVENT AND**
FUNCTION SPACE AND AMPHITHEATRE
APPLICANT **LOT 6524 (200) GARDENS ROAD, TOWN OF DARWIN**
NORTHERN PLANNING CONSULTANTS PTY LTD

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd), Mr Bryan Harty (Department of Tourism and Culture), Mr Hully Liveris (Hully Liveris Design Co. Pty Ltd), Mr Daryl Hudson (Department of Tourism and Culture) Jan Jensen (Turner Townsend Thinc) and Mr Michael Petrelis (Department of Infrastructure, Planning and Logistics) attended.

Mr Brad Cunnington tabled a plan showing the storm surge extent.

**RESOLVED
159/18**

That, pursuant to section 53(a) of the *Planning Act*, the Development Consent Authority consent to the application to develop Lot 6524 (200) Gardens Road, Town of Darwin for the purpose of a visitor centre with multi-purpose community facilities, interpretive centre, souvenir shop, event and function space and amphitheatre, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), confirmation must be provided that there are no impediments under the *Heritage Act* preventing the approval of the visitor centre with multi-purpose community facilities, interpretive centre, souvenir shop, event and function space and amphitheatre.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, and must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) removal of the bus bays within the Gardens Road reserve.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
5. 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.
6. The applicant/land owner must provide written confirmation from a suitably qualified person that the buildings have been constructed to withstand the effects of a primary storm surge event, or otherwise demonstrate that the development is situated outside of the primary storm surge area to the satisfaction of the consent authority.
7. Appropriate soil erosion, sediment and dust control measures must be effectively implemented throughout the construction stage of the development and all disturbed soil surfaces must be suitably stabilised against erosion at completion of works, to the satisfaction of the consent authority.
8. 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.

9. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The Environment division of the Department of Environment and Natural Resources advise that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
3. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from Department of Environment and Natural Resources.
4. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
5. The City of Darwin advises that any works on/over Council property shall be subject to separate approval, at no cost to Council.
6. A permit to work within a road reserve may be required from the City of Darwin before commencement of any works within the road reserve.

REASONS FOR THE DECISION

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

The development comprises a visitor centre with multi-purpose community facilities at the George Brown Darwin Botanic Gardens (Botanic Gardens). The building includes a combination of outdoor breezeways and open deck areas, with indoor spaces including an interpretive centre and media room, souvenir shop, and event space. The building also includes an amphitheatre stage proposed to the east.

2. The development is within Zone PS (Public Open Space) of which the primary purpose is to provide public areas for recreation activity. The

zone provides that development should be limited to that which is for public use and enjoyment consistent with the recreational opportunities of the land and which has minimal adverse impact (if any) on adjoining or nearby property. The development is consistent with the zone as it is largely ancillary to the broader use and maintains public areas for recreational activity. The development will increase the range of the facilities available, including allowing for an improved visitor experience through learning opportunities in the interpretive centre, and new amenities and a small shop.

Although a prohibited use in Zone PS, the souvenir 'shop' is considered entirely ancillary pursuant to Clause 2.9 of the Planning Scheme, given it is limited in floor area, and its location well within the Botanic Gardens. The event area and amphitheatre build upon the enjoyment of the existing open space area, making use of the existing topography. The maximum height of the building at 7.8m above the existing ground level complies with Clause 6.1 (General Height Control) of the Planning Scheme.

3. The development has been assessed against Clause 6.14 (Land Subject to Flooding and Storm Surge) of the Planning Scheme as the site is identified as being located within the primary and secondary storm surge areas. Clause 6.14 identifies that development in the primary storm surge area should be limited to uses including open space and recreation. It is considered that components of developments ancillary to the listed uses are also acceptable in the primary storm surge area. Whilst the building may attract an increased number of people to the Botanic Gardens as it improves the facilities available, the development is not required as a primary service to the community and is as such not expected to result in any increased risk to people or the general community. The applicant has confirmed that the building provides a minimum finished floor level of 6.25m AHD, which demonstrates that the final siting has considered the potential impacts of storm surge. Given the building is situated close to the edge of the area identified as being affected by storm surge, it is considered appropriate that the applicant either demonstrate that the building is designed to withstand storm surge conditions, or otherwise demonstrate that the development is situated outside of the primary storm surge area.
4. The Botanic Gardens has three existing car parking areas across the site including two accessed from Gardens Road, and one from Geranium Street. Overall, approximately 84 spaces are provided at the site and no new parking spaces are included as part of the development. A parking rate consistent with a community centre has been applied for the interpretive / visitor centre component as this area will be used for natural and cultural information displays, which is separate to the event space which will be used for functions and is assessed as a leisure and recreation use. The open deck area which can be used for displays, plus the amphitheatre are noted as not being included within the net floor area, and not technically generating any car parking, however may still attract visitors to the site.
5. Overall an assessment against Clause 6.5.1 (Parking Requirements) of the Planning Scheme has identified that 32 spaces are required, and

accounting for the existing restaurant and approved deck addition which require 22 spaces, a surplus of at least 30 spaces remain for the other existing components of the Botanic Gardens including the recreational areas, the existing visitors centre, and for events and functions at the existing amphitheatre.

The assessment has found that the development can be accommodated within the existing spaces for the majority of days. On the majority of days, it will be the interpretive / visitor centre and shop which will contribute to any car parking demand, rather than the event space. These components are considered in the context of other uses and facilities, such that that majority of visitors to these areas are also likely to be visiting the broader gardens. It is also expected that on function days, some overflow of parking will occur, to a similar degree as would already occur during other functions held at the Gardens. On major event days, the management of car parking through temporary parking and traffic controls through can continue to occur, and events in the building are not expected to be held during those times.

6. Pursuant to section 51(e) of the *Planning Act*, the consent authority must take into account any submissions made under section 49.

One public submission was received in relation to the development which commented that whilst the plans for the visitor centre were attractive, that there are concerns regarding the public interest, including contradictions and questions raised. The authority noted the submission and were satisfied with respect to the matters required to be taken into account under section 51 of the *Planning Act*.

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

The site has been identified as being affected by the primary storm surge area, as discussed in reason 2 earlier. The plans confirm that stormwater from the building will be directed towards a combination of both overland and subsoil drains, and then managed more broadly within the Botanic Gardens. The authority noted advice from the Medical Entomology branch that the management of mosquito breeding areas at the Botanic Gardens is being undertaken as part of broader works and that no conditions are required specifically on the development permit.

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

The development is located internally to the Botanic Gardens, and will not impact on the amenity of the surrounding area beyond the lot boundary. Within the site, the design of the building is low in profile, and is considerate of the existing contours of the land through the siting of the building at the base of 'frangipani hill', the amphitheatre, and the roof design. Through the combination of outdoor and indoor spaces,

the centre is expected to improve the ability for visitors to enjoy the surrounding recreational areas and accordingly the level of amenity within the site.

9. The landscaping design also minimises the impact on the amenity of the area, with the plans maintaining the mature trees in the area including the royal palm avenue and boab, with only some smaller palms and *Carpentaria* palms to be removed, in addition to the landscape feature along the slope of 'frangipani hill'. New landscaping is also proposed surrounding the building, plus new paving over the central driveway, a deck adjacent to the existing fountain, and a new lotus/lily pond, with new trees also located on the slope above the amphitheatre.
10. Pursuant to section 51(r) of the *Planning Act*, the consent authority must take into consideration any potential impact on natural, social, cultural or heritage values, including, for example, the heritage significance of a heritage place or object under the *Heritage Act*.

The Botanic Gardens are recognised as a place of natural, social and cultural value and the proposal is expected to allow for a broadened understanding of these values through the inclusion of the interpretive / visitor centre. The scale and sensitive design of the facility, in terms of its siting and low profile are expected to align with these values. The applicant explained that an application under the *Heritage Act* is underway and should be determined shortly. While the authority noted that there appear to be no impediments to the Minister approving the application under the *Heritage Act*, a condition precedent requiring that confirmation be provided prior to the endorsement of plans is included on the development permit.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

24 SEPTEMBER 2018