



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 318 – FRIDAY 6 JULY 2018

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

MEMBERS PRESENT: Suzanne Philip (Chair), Doug Phillips, John Gleeson, Sherry Cullen and Mick Palmer

APOLOGIES: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Dawn Parkes and Amit Magotra (Development Assessment Services) and Douglas Lesh

COUNCIL REPRESENTATIVE: Nil

Meeting opened at 2.00 pm and closed at 4.45 pm

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 SUBDIVISION AND CONSOLIDATION TO CREATE SEVEN LOTS
PA2018/0215 LOTS 10176 & 10177 (41 & 2) STOKES HILL ROAD & LOT 10178 KITCHENER
DRIVE, TOWN OF DARWIN
APPLICANT MASTERPLAN NT

Mr Simon Tonkin, Mr Jack Priestley and Ms Cat Tatum (Masterplan NT), Mr Cian Davis (Bates Smart), Mr Andy Payne (Landbridge). Mr Craig Cullen (JLL), Mr Gareth Edwards, Mr Mike Hughes, Heather and Jeff.

Submitters in attendance: PPlan: The Planning Action Network – represented by Ms Margaret Clinch and Mr Graeme Hockey.

Mr Hockey tabled three photographs taken from on-board deck 8 of the cruise ship 'Ovation of the Seas' and looking towards the subject site.

Interested parties in attendance:

Mr Geoff Weeks and Ms Rachel Beaumont-Smith (Tourism NT Board), Mr Jason Finlay and Ms Anne Tan (DTBI), Mr Brian O'Gallagher (Deputy CEO, NT Chamber of Commerce), Mr Michael Wells (DTC), Mr Mark Ashley (DTC), Mr Carl Muir (Honeywell Building Services), Ms Lorelei Fong Lim (Office of the Leader of the Opposition), Ms Leah Clifford and Ms Sharon Jones (DIPL), Ms Jane Davies and several others whose names were not recorded.

RESOLVED That, pursuant to section 53(a) of the *Planning Act*, the Development Consent
114/18 Authority consent to the application to develop Lots 10176, 10177 (41 & 2) Stokes Hill Road and Lot 10178 Kitchener Drive, Town of Darwin for the purpose of subdivision and consolidation to create seven lots, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the Transport and Civil Services Division of the Department of Infrastructure Planning Logistics and/or Darwin Waterfront Corporation and/or Crown Land Estate Division of the Department of Infrastructure Planning Logistics drainage system shall be submitted to and approved by relevant agency, to the satisfaction of the consent authority.
2. Prior to the commencement of works (including site preparation), an updated water and sewer infrastructure Masterplan for the locality is to be submitted to and approved by the Power and Water Corporation, to the satisfaction of the consent authority.
3. Prior to the commencement of works, the developer shall provide a Conservation Heritage Management Plan to the requirements of the Heritage Division, Department of Tourism and Culture, to the satisfaction of the consent authority.

4. Prior to the commencement of works, a Construction Environmental Management Plan (CEMP) for the construction stage of the development must be submitted to and approved by the consent authority upon the advice of the Environment Division and Rangelands Division of the Department of Environment and Natural Resources. When approved, the CEMP will be endorsed and will then form part of the permit. The works at all times are to be conducted in accordance with the endorsed plan.
5. Prior to the commencement of works, an Erosion and Sediment Control Plan (ESCP) is to be submitted to and approved by the Consent Authority on the advice of the Department of Environment and Natural Resources (DENR). The ESCP must be developed by a Certified Professional in Erosion and Sediment Control (CPESC) and in accordance with the Key Principals of erosion and sediment control as specified in the IECA Best Practice Erosion and Sediment Control Guidelines 2008. The ESCP should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase and that all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works. Information regarding erosion and sediment control and ESCP content is available at www.austieca.com.au and the NTP website: <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be emailed for assessment to: DevelopmentAssessment.DENR@nt.gov.au

GENERAL CONDITIONS

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
7. The works carried out under this permit shall be in accordance with the following:
 - (a) Construction Environmental Management Plan (CEMP);
 - (b) Erosion and Sediment Control Plan (ESCP); and
 - (c) Conservation Heritage Management Plan to the satisfaction of the consent authority.
8. The subdivision as shown on the endorsed plans must not be altered without the further consent of the consent authority.
9. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for approval by the Surveyor General.
10. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
11. All proposed roads to be created on the plan of subdivision submitted for approval by the Surveyor General must be dedicated to the relevant Northern Territory or local government authority.
12. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities, and telecommunication networks to each lot shown on

the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

13. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, site earthworks, vehicular access, pedestrian/ cycle corridors and streetscaping are to be to the technical requirements of the Transport and Civil Services Division of the Department of Infrastructure Planning Logistics and/or Darwin Waterfront Corporation, to the satisfaction of the consent authority and all approved works constructed at the owner's expense.
14. Stormwater is to be collected and discharged into the drainage network to the standards and approval of the Transport and Civil Services Division of the Department of Infrastructure Planning Logistics and/or Darwin Waterfront Corporation and/or Crown Land Estate Division of the Department of Infrastructure Planning Logistics as the case may be.
15. Dust control measures must be employed throughout the construction stage of the development to the requirements of the NTEPA, to the satisfaction of the consent authority.
16. Any proposed work (including the provision or connection of services) within, or impacting upon the Kitchener Drive, Hughes Avenue, Anchorage Court and Jervois Road road reserves shall be in accordance with the standards and specifications of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics. Design documents must be submitted to the Director Corridor Management, Transport and Civil Services Division for Road Agency Approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
17. Any intersection and/or road upgrade works required to accommodate the proposed development shall be carried out by the Developer, at the Developer's cost, to the standards and requirements of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics. No works within, or impacting upon NT Government road reserves are to commence prior to Approval.
18. Access to the proposed lots shall be via the established local road network to the standards and requirements of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics.
19. Prior to issue of titles and pursuant to section 34 of the *Land Title Act*, a Caution Notice shall be lodged with the Registrar-General on the parent parcel to include the following advice on proposed lots C & D indicated on the endorsed drawings. The Caution Notice is to state that: "*Prior to the commencement of any development works, a site audit statement verifying that the premises have been remediated to a standard consistent with the intended use is required*". Evidence of lodgement on the parent parcel shall be provided to the satisfaction of the consent authority.
20. Prior to issue of titles and pursuant to section 34 of the *Land Title Act*, a Caution Notice shall be lodged with the Registrar-General on the parent parcel to include the following advice on all proposed lots on the endorsed drawings affected by the buffer zone of the pumping station. The Caution

Notice is to state that: “*This allotment is affected by an odour buffer zone and development is restricted within the buffer zone*”. Evidence of lodgement on the parent parcel shall be provided to the satisfaction of the consent authority.

21. Prior to issue of titles, it shall be confirmed by the consent authority that all conditions relating to stage 1 and stage 2 of development application PA2018/0216 for the purpose of enabling works and sea wall, have been cleared 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. PWC (Water and Sewer Services) advises that the developer must demonstrate that the dimensions (m x m) of Lot E is sufficient to meet the functional requirements for the proposed sewerage pump station to the satisfaction of Power and Water. A revised subdivision application will be required should the lot size be inadequate to meet these requirements.
3. As part of any subdivision, the parcel numbers for addressing should comply with the Australian Standard (AS/NZS 4819:2011). For more information contact Survey and Land Records surveylandrecords@nt.gov.au 08 89955354. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
4. All new roads, including alterations and extensions to existing roads, are required to be named under the *Place Names Act*. You should immediately make application to the Place Names Committee to commence the road naming process. Contact the Place Names Unit on 8995 5333 or place.names@nt.gov.au
5. There are statutory obligations under the *Weeds Management Act* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment and Natural Resources.
6. The permit holder is advised that the proposal may have assessment implications under the *Waste Management and Pollution Control Act*. More information can be found on the Northern Territory Environment Protection Authority website at: <https://ntepa.nt.gov.au/waste-pollution>. The applicant is encouraged to contact the NT EPA on (08) 8924 4218 or ntepa@nt.gov.au.
7. Department of Environment and Natural Resources has advised that the lots area impacted by both Primary Storm Surge (PSS) and Secondary Storm Surge (SSS). The maximum PSS level (100 Year Average Recurrence Interval (ARI) of the surge affected area is approximately 5.58m Australian Height Datum (AHD). The maximum SSS level (1000 Year Average

Recurrence Interval ARI) of the surge affected area is approximately 6.48m AHD.

8. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Aboriginal Sacred Sites Act*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
9. The Northern Territory Environment Protection Authority advises that construction work must 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.
10. 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.
11. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>

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 Northern Territory Planning Scheme (the Scheme) applies to the land and the land is within Zone CB (Central Business) of the Scheme. The primary purpose of this zone is *to provide for a diversity of activities including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities with a commitment to the separation of incompatible activities.*

The proposed subdivision and consolidation will result in creation of seven lots to facilitate the future use of the land in accordance with the zone requirements. The proposal includes provision of a road layout and service infrastructure associated with the future development of a motel and multiple dwellings (considered under a separate planning application). While there are no specific subdivision requirements under Part 5 of the Scheme for land within Zone CB, it is considered that the size of the proposed lots are suitable to accommodate a range

of future development opportunities in accordance with the requirements of Zone CB.

The Authority acknowledged that the site is subject to inundation via Primary and Secondary Storm Surge, and that the associated planning application for the future development of a motel and multiple dwellings (PA2018/0216) identifies bulk earthworks to achieve the proposed road design and site levels for Lot A and B, in preparation for the future development as required under Clause 6.14 (Land Subject to Flooding and Storm Surge) of the Scheme. These works will ensure that the lots are suitable for development as it will be elevated to 6.5m AHD, allowing for future floor levels to be 8m AHD. In addition, a sea wall is proposed along the seaward boundary of Lot A to provide protection to the site from storm surge and ground retaining/retention for the intended development of Lot A and Lot B. The sea wall includes a reinforced concrete vertical piled wall, incorporating a headstock to facilitate a 4m-wide pedestrian and cycling thoroughfare at 5.5m AHD. Further, a vertical concrete wave barrier is positioned above the headstock to a height of 7.5m AHD. The protection provided by the sea wall will prevent property and infrastructure damage and reduce risk of loss of life in an extreme storm and cyclonic event. While Lots C and D are proposed to be kept at existing levels, the Authority noted that the Civil Engineering Design Report prepared by 'Robert Bird Group' submitted with the application states that the proposed sea wall and wave barrier for Lots A and B is unlikely to provide a benefit in terms of wave damage or inundation for Lots C and D given its distance from the shoreline.

A number of conditions have been included on the development permit to ensure that the land is appropriately remedied and serviced for its future intended use.

Pursuant to Clause 2.7 (Reference to Policy) of the Scheme, the interpretation of the Planning Scheme and the determinations of a consent authority must have regard to the policies and planning concepts expressed in those documents appearing in Part 8 or Schedule 2 and ensure that a use or development is consistent with them. The Clause further states that where there is an inconsistency between any applicable policy and this Planning Scheme, the provisions of the Scheme will prevail.

Part 8 of the Scheme includes Clause 14.1.1 *Darwin City Waterfront Planning Principles and Area Plan* which guides future development within the Darwin Waterfront Area. The Authority determined that the proposal was consistent with the Planning Principles outlined for the Darwin Waterfront, including:

- The subdivision and associated sea wall and enabling works will facilitate the future development of the site in line with the Darwin City Waterfront Planning Principles and Area Plan providing a diversity of uses that are consistent with the operational requirements of the port.
- The road network has taken into consideration the requirements associated with servicing an operating cruise ship terminal. Pedestrian links have been provided to connect the city and the cruise ship terminal.

- The road alignment proposed will reinforce the major access to and from the site along Kitchener Drive.
- The roads have been designed to accommodate and allow public transport movements including widening around bends for bus movements.
- The subdivision will include a network of footpaths within the defined road reserves. This allows for connections to be developed between the site and the existing pedestrian bridge connection to Smith Street.
- The proposed road alignment includes pedestrian and cyclist paths and includes a link between Jervois Park and Goyder Park through a shared space.
- Landscaping is provided within the road reserves and adjacent to pedestrian linkages that result from the subdivision. The species selected consider height and mass while ensuring shade is provided to pedestrians.
- A 4m-wide landscape bed is also proposed adjacent to the common boundary between Lot A and Jervois Park, which includes pedestrian connections, providing a visual softening, shading and cooling element for this thoroughfare.
- The proposed street trees have been located in kerb build-outs being a continuation of the streetscape treatment from Kitchener Drive. The tree species selected include large canopy trees that will provide shade to the pedestrians.

The Authority noted that the Area Plan drawing identifies a pedestrian access along the western seaward boundary which is addressed by providing a 4m-wide pedestrian and cycling thoroughfare on top of the sea wall proposed along the seaward boundary of Lot A. The pedestrian access connects further with the existing pedestrian access at the Darwin Waterfront. The pedestrian access is located at 5.5m AHD as required under the Area Plan. In addition, the proposed road network also includes pedestrian paths as identified in the Area Plan. The pedestrian access incorporates seating spaces which will provide an opportunity to the users to take in the view and recreation opportunities around the site.

2. 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.

The application was advertised in the NT News on 25th May 2018 and placed on public exhibition for a period of two weeks. In total, five public submissions were received in relation to the application. All submissions received were considered in detail by the Authority. The Authority noted that some of the issues raised in the submissions related to the associated planning application for the future development of a motel and multiple dwellings (PA2018/0216) and those issues were discussed separately during the hearing of that application.

The Authority noted that a prevalent issue in the submissions related to a perceived loss of public access along the foreshore. Ms Clinch explained that there is a difference between foreshore access and the narrow pathway that is proposed, in that the foreshore should be for

the use and recreation of the public as provided in various foreshore areas around Darwin such as Nightcliff and Mindil. Ms Clinch also commented that the Area Plan describes what should be allowed in the Darwin Waterfront area and consideration should be made to provide full access for picnics and enjoyment of the current space. Ms Clinch indicated that PPlan considered that the issues raised by it can be addressed by moving the hotel building further back and allowing foreshore access as per the Area Plan.

Mr Graeme Hockey commented that the proposed road layout is not functional for the requirements of the Port and that more public access should be provided along the foreshore.

A concern was raised by Ms Davies regarding increased traffic impacts on the residents of Anchorage Court as a result of the proposed road layout which includes the conversion of Anchorage Court into a Crescent.

The Authority read, heard and considered all submissions in detail and ensured that these submissions formed an integral part of the determination. The Authority noted subclause 4(e) of Clause 14.1.1 (Darwin City Waterfront Planning Principles and Area Plan) requires *uninterrupted public access to the water's edge for the full extent of the site having regard to security, safety and operational requirements of users of the wharves*. This requirement is address by providing 4m-wide pedestrian and cycling thoroughfare on the sea wall which further connects with existing pedestrian accesses along the Darwin Waterfront. Uninterrupted public access will be secured by the formal grant of a right of way easement in favour of the Northern Territory. The Authority considered that provisions have been made in the design of the public access to provide an opportunity to the users to enjoy the view and recreation opportunities around the site. It is also noted that restricting vehicle movement on the pathway satisfies the safety requirements of the clause.

In relation to the conversion of Anchorage Court into a Crescent, the Authority noted that all road layouts must meet the requirements of the controlling agency which in this particular instance is the Darwin Waterfront Corporation and/or the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics. No concerns in relation to increased traffic impacts as a result of the proposed road layout have been raised by the relevant service authorities and therefore while the Authority understands the concerns that the residents of Anchorage Court may have, the proposal is consistent with the requirements of the service authorities and the Scheme.

The Scheme states that Area Plans *broadly identify the expected nature of development into the future*. In considering the proposal against the Area Plan and Planning Principles of Clause 14.1.1, the Authority was satisfied that, as required by Clause 14.0, the subdivision is sufficiently consistent with the Area Plan and planning principles and accords with the requirements contained therein.

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 and the effect of the development on the land and on other land.

The subdivision is dependent on the successful remediation of the site and engineering requirements to bring the land to the standards suitable for future intended uses. As per the advice received from the Northern Territory Environment Protection Authority (NTEPA) and the Department of Environment and Natural Resources (DENR), a number of conditions (including for the remediation of the land, erosion and sediment control measures, a construction environmental management plan, plus measures relating to dust and water discharge) are included on the permit to ensure that the land is capable of supporting the proposed development.

It is noted that the subdivision is partly reliant on works proposed under a separate planning application (PA2018/0216) and therefore a condition is included on the development permit requiring *that prior to issue of titles, it shall be confirmed by the consent authority that all conditions relating to stage 1 and stage 2 of development application PA2018/0216 for the purpose of enabling works and sea wall, have been cleared to the satisfaction of the consent authority.* This will ensure that all works required to be undertaken to ensure that the proposed lots are capable of supporting the subsequent development have been completed.

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

The Authority required a number of servicing matters to be addressed through conditions of consent. These matters include submission of a Stormwater Management Plan, a Construction Environmental Management Plan (CEMP), Erosion and Sediment Control Plan (ESCP), and an updated water and sewer infrastructure plan. The Authority considered that these requirements, combined with standard conditions relating to the connection and upgrade of utility services and the provision and treatment of easements, will ensure that the land is developed in accordance with its physical capabilities and will ensure that utility and infrastructure requirements of the relevant agencies are appropriately addressed.

ACTION: Notice of Consent and Development Permit

**ITEM 2
PA2018/0216**

**237 MOTEL SUITES AND RESTAURANT IN A 9 STOREY BUILDING WITH ONE BASEMENT LEVEL CAR PARKING AND 24 X 3 BEDROOM MULTIPLE DWELLINGS IN A 7 STOREY BUILDING WITH GROUND FLOOR AND ONE LEVEL OF BASEMENT CAR PARKING AND SKY WALK
LOTS 10176 & 10177 (41 & 2) STOKES HILL ROAD, LOT 10178 KITCHENER DRIVE & LOT 5220 (29) ESPLANADE, TOWN OF DARWIN
APPLICANT MASTERPLAN NT**

Mr Simon Tonkin, Mr Jack Priestley and Ms Cat Tatum (Masterplan NT), Mr Cian Davis (Bates Smart), Mr Andy Payne (Landbridge). Mr Craig Cullen (JLL), Mr Gareth Edwards, Ms Heather, Mr Jeff, and Mr Mike Hughes.

Submitters who sent their apologies:- Ms Caroline Joswig, Ms Coral Beebe, Industry Capability Network, Ms Janet Hamilton, Ms Tanya Izod, Tourism Top End and Mr Willem Westra Van Holthe.

Submitters in attendance: Ms Carolyn Marriott, Mr Gerry Wood MLA, Ms Jane Davies, Ms Penelope Tastula, Ms Sharon Scurr, PAn: The Planning Action Network – represented by Ms Margaret Clinch, Mr Graeme Hockey, Ms Vanessa Kaye, Ms Jo Parrish and Mr Lon Wurrss.

Interested parties in attendance:

Mr Geoff Weeks and Ms Rachel Beaumont-Smith (Tourism NT Board);

Mr Jason Finlay (DTBI);

Mr Brian O’Gallagher (Deputy CEO, NT Chamber of Commerce);

Mr Michael Wells (DTC);

Mr Mark Ashley (DTC);

Mr Carl Muir (Honeywell Building Services);

Ms Lorelei Fong Lim (Office of the Leader of the Opposition);

Ms Leah Clifford and Ms Sharon Jones (DIPL); and

several others whose names were not recorded.

**RESOLVED
115/18**

That, the Development Consent Authority vary the requirements of Clause 6.5.3 (Parking Layout) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lots 10176 and 10177 (41 and 2) Stokes Hill Road, Lot 10178 Kitchener Drive and Lot 5220 (29) Esplanade, Town of Darwin for the purpose of 237 motel suites and restaurant in a 9 storey building with one basement level of car parking and 24 x 3 bedroom multiple dwellings in a 7 storey building with ground floor and one level of basement car parking and skywalk in five stages, subject to the following conditions:

Note that for the purpose of this permit:

1. Staging refers to the following:

(a) Stage - 1: Enabling works

(b) Stage - 2: Sea Wall

(c) Stage – 3: Motel

(d) Stage – 4: Skywalk

(e) Stage – 5: Residential

2. Notations referring to the applicable stage(s) to be cleared are included at the end of each condition.

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and provided either electronically or two copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to include:
 - (a) details of screening along the sections of the skywalk to restrict views to Government House.
 - (b) provision of bicycle parking spaces in accordance with Austroads guidelines.
 - (c) any required changes resulting from the conditions precedent requirements of this permit.

[Note: Condition 1(a) relates to Stage-4, Condition 1(b) relates to Stage-3 and Condition 1(c) relates to all stages]

2. 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 skywalk.

[Note: Stage-4 only]

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation) for each stage, a Traffic Impact Assessment (TIA) report is to be prepared by a suitably qualified traffic engineer to the requirements of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics and/or the Darwin Waterfront Corporation and/or City of Darwin, to the satisfaction of the consent authority.

[Note: Stage-3, Stage-4 and Stage-5]

[Note: TIA shall include details as provided in point no. 3 of TCSD comments. (Ref no: DDLP2011/0581-03-0035~0003)]

[Note: Approval from City of Darwin relates to Stage-4 only where the skywalk interfaces with City of Darwin infrastructure]

4. Prior to commencement of works (including site preparation) for each stage, a Construction Traffic Management Plan (detailing all appropriate site management measures, including construction access, proposed haulage routes, vehicle types, protection of existing assets, protection of public access and a risk assessment) and Work Zone Traffic Management Plan including Traffic Control Diagrams (TCD's) and including a risk assessment shall be submitted to the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics and/or the Darwin Waterfront Corporation and/or City of Darwin as the case may be to the satisfaction of the consent authority.

[Note: Approval from City of Darwin required for Stage-4 only where the skywalk interfaces with City of Darwin infrastructure]

5. Prior to the commencement of works for all stages, a Construction Environmental Management Plan (CEMP) for the construction stage of the development must be submitted to and approved by the consent authority

upon the advice of the Environment Division and Rangelands Division of the Department of Environment and Natural Resources. When approved, the CEMP will be endorsed and will then form part of the permit. The works at all times are to be conducted in accordance with the endorsed plan.

[Note: All Stages]

6. Prior to the commencement of works for each stage, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics and/or Darwin Waterfront Corporation and/or Crown Land Estate Division of the Department of Infrastructure, Planning and Logistics and/or City of Darwin drainage system shall be submitted to and approved by relevant agency, to the satisfaction of the consent authority.

[Note: Approval from City of Darwin required for Stage-4 only where the skywalk interfaces with City of Darwin infrastructure]

7. Prior to the commencement of works for each stage, an Erosion and Sediment Control Plan (ESCP) is to be submitted to and approved by the Consent Authority on the advice of the Department of Environment and Natural Resources (DENR). The ESCP must be developed by a Certified Professional in Erosion and Sediment Control (CPESC) and in accordance with the Key Principals of erosion and sediment control as specified in the IECA Best Practice Erosion and Sediment Control Guidelines 2008. The ESCP should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase and that all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works. Information regarding erosion and sediment control and ESCP content is available at www.austieca.com.au and the NTP website: <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be emailed for assessment to: DevelopmentAssessment.DENR@nt.gov.au

[Note: All stages]

8. 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 City of Darwin to the satisfaction of the consent authority.

[Note: Stage-4 only where the skywalk interfaces with City of Darwin infrastructure]

9. Prior to the commencement of works (including construction), the developer shall provide written confirmation from the Regional Harbourmaster regarding the safety controls to be adopted in the marine environment during the construction of the sea wall including notices to mariners for the activity and deconfliction of marine traffic to the satisfaction of consent authority.

[Note: Stage-2 only]

10. Prior to the commencement of works, the developer shall provide a Conservation Heritage Management Plan to the requirements of the Heritage Division, Department of Tourism and Culture, to the satisfaction of the consent authority.

[Note: All stages]

11. Prior to the commencement of works (including site preparation), a qualified person under section 68 of the *Waste Management and Pollution Control Act* must be engaged to guide any required remedial action and to clarify the site is suitable for its intended use, to the requirements of the Environment Division of the Department of Environment and Natural Resources, to the satisfaction of the consent authority.

[Note: Stage-3 and Stage-5]

GENERAL CONDITIONS

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

[Note: All stages]

13. The works carried out under this permit shall be in accordance with the following:
 - (d) Construction Environmental Management Plan (CEMP);
 - (e) Construction Traffic Management Plan (CTMP);
 - (f) Traffic Impact Assessment (TIA);
 - (g) Erosion and Sediment Control Plan (ESCP);
 - (h) Conservation Heritage Management Plan; andto the satisfaction of the consent authority.

[Note: All Stages]

14. The staging shown on the endorsed plans must not be altered without the further consent of the consent authority.
15. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity facilities and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

[Note: All Stages]

16. 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.

[Note: All Stages]

17. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.

[Note: All Stages]

18. Engineering design and specifications for the proposed and affected roads, street lighting, stormwater drainage, site earthworks, vehicular access, pedestrian/ cycle corridors and streetscaping are to be to the technical requirements of the Transport and Civil Services Division of the Department of Infrastructure Planning Logistics and/or Darwin Waterfront Corporation, to the satisfaction of the consent authority and all approved works constructed at the owner's expense.

[Note: All Stages]

19. Stormwater is to be collected and discharged into the drainage network to the standards and approval of the Transport and Civil Services Division, Department of Infrastructure Planning Logistics and/or Darwin Waterfront Corporation and/or Crown Land Estate Division of the Department of Infrastructure Planning Logistics and/or City of Darwin as the case may be. The local underground stormwater drainage system shall provide adequate connection points for individual lot drainage along the downstream sides of each property catchment.

[Note: All Stages]

[Note: Approval from City of Darwin required for Stage-4 only where the skywalk interfaces with City of Darwin infrastructure]

20. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the Transport and Civil Services Division of the Department of Infrastructure Planning Logistics, to the satisfaction of the consent authority.

The owner shall:

- (a) remove disused vehicle and/ or pedestrian crossovers;
 - (b) provide footpaths/ cycleways;
 - (c) collect stormwater and discharge it to the drainage network; and
 - (d) undertake reinstatement works;
- all to the technical requirements of and at no cost to the TCSD, to the satisfaction of the consent authority.

[Note: Stage-3 and Stage-5]

21. Written confirmation from a qualified traffic engineer that the car parking spaces and access lanes associated with the development comply with the relevant Australian Standards for car parking must be provided in instances where the car parking does not comply with the minimum requirements of Clause 6.5.3 (Parking Layout) of the Northern Territory Planning Scheme, to the satisfaction of the consent authority.

[Note: Stage-3]

22. The area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

- (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and driveways
- to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.

[Note: Stage-3 and Stage-5]

23. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.

[Note: Stage-3 and Stage-5]

24. 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.

[Note: Stage-3 and Stage-5]

25. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.

[Note: All Stages]

26. 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.

[Note: All stages]

27. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.

[Note: Stage-3 and Stage-5]

28. All roof top plant equipment, equipment relating to the operation of the lift and any other equipment (such as any vents and ducting associated with requirements for stairwell pressurisation or other such 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).

[Note: Stage-3, Stage-4 and Stage-5]

29. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.

[Note: Stage-3 and Stage-5]

30. 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.

[Note: Stage-3 and Stage-5]

31. All substation, fire booster and water meter arrangements are to be appropriately screened to soften the visual impact of such infrastructure on the streetscape, to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority in consultation with the Power and Water Corporation, and NT Fire and Emergency Services.

[Note: Stage-3 and Stage-5]

32. Storage for waste disposal bins is to be provided to the requirements of the Darwin Waterfront Corporation, to the satisfaction of the consent authority.

[Note: Stage-3 and Stage-5]

33. The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bay and must not disrupt the circulation and parking of vehicles on the land.

[Note: Stage-3]

34. All proposed work (including the provision or connection of services) within, or impacting upon the Kitchener Drive, Hughes Avenue, Anchorage Court and Jervois Road road reserves shall be designed, supervised and certified on completion by a practicing and registered Civil Engineer, and shall be in accordance with the standards and specifications of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics. Design documents must be submitted to the Director Corridor Management, Transport and Civil Services Division for Road Agency Approval, irrespective of approvals granted by other authorities. No works within, or impacting upon NT Government road reserves are to commence prior to gaining Road Agency Approval, to the satisfaction of the consent authority.

[Note: All Stages]

35. Swept path diagrams for the design vehicle/maximum sized vehicle intended to access the Kitchener Drive, Hughes Avenue, Anchorage Court and Jervois Road shall be provided with the detail design drawings submitted for Road Agency Approval to demonstrate the suitability of the intersection / access design geometry to the requirement of Transport and Civil Services Division, Department of Infrastructure Planning and Logistics, to the satisfaction of the consent authority.

[Note: All Stages]

36. Any proposed work (including the provision or connection of services) within, or impacting upon the Kitchener Drive, Hughes Avenue, Anchorage Court and Jervois Road road reserves shall be in accordance with the standards and specifications of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics.

[Note: All Stages]

37. Upon completion of any works within or impacting upon the Kitchener Drive, Hughes Avenue and Jervois Road road reserves, the road reserves shall be rehabilitated to the standards and requirements of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics and the Darwin Waterfront Corporation, to the satisfaction of the consent authority.

[Note: All Stages]

38. Any floodlighting or security lighting provided on site is to be shielded in a manner to prevent the lighting being noticeable or causing nuisance to Kitchener Drive, Hughes Avenue, Anchorage Court and Jervois Roads traffic or surrounding residential areas, to the satisfaction of the consent authority.

[Note: All Stages]

39. The development must be designed and constructed to comply with the recommendation of the acoustic report prepared by the WSP. A statement from a suitably qualified acoustic engineer confirming compliance with the recommended acoustic treatments identified in the report must be submitted prior to occupation of the development, to the satisfaction of the consent authority.

[Note: Stage-3 and Stage-5]

40. A Compliance Certificate under the *Swimming Pool Safety Act* issued by the Swimming Pool Safety Authority is required for the swimming pool/s prior to the commencement of the use/development, to the satisfaction of the consent authority.

[Note: Stage-3 and Stage-5]

41. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both landdevelopmentnorth@powerwater.com.au and powerconnections@powerwater.com.au.

[Note: Stage-5]

42. Dust control measures must be employed throughout the construction stage of the development to the requirements of the Environment division of the Department of Environment and Natural Resources, to the satisfaction of the consent authority.

[Note: All Stages]

43. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the meters within the development in accordance with the allocation. An Occupancy Permit will not be able to be granted until such time as addressing is obtained.

[Note: Stage-5]

44. Prior to the issue of the Certificate of Compliance, the applicant/land owner must provide confirmation from a suitably qualified person that the finished floor levels for the habitable rooms are 300mm above the flood level of the site.

[Note: Stage-3 and Stage-5]

[Note: The maximum PSS level (100 Year Average Recurrence Interval (ARI)) of the surge affected area is approximately 5.58m Australian Height Datum (AHD). The maximum SSS level (1000 Year Average Recurrence Interval (ARI)) of the surge affected area is approximately 6.48m AHD]

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. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>
3. The site is subject to the 'Defence Areas Control Regulations (DACR)'. All temporary structures, higher than 15m above ground level, including, but not limited to, additional buildings, light poles, cranes used during construction, vegetation etc., require approval from the Department of Defence.
4. The Department of Defence (DoD) advises that the proposed motel and restaurant meet the requirement for reporting of tall structures. The DoD requests that the applicant provide Air Service Australia (ASA) 'as constructed' details. The details can be emailed to ASA at vod@airservicesaustralia.com.

5. A "Permit to Work within a Road Reserve" will be required from the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics and/ or City of Darwin as the case may be before commencement of any work within the road reserve.

[Note: Approval from City of Darwin required for Stage-4 only where the skywalk interfaces with City of Darwin infrastructure]

6. 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.

[Note: Approval from City of Darwin required for Stage-4 only where the skywalk interfaces with City of Darwin infrastructure]

7. The Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics advise that loads of all trucks entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets. This includes ensuring that all wheels, tracks and body surfaces are free of mud and other contaminants before entering onto the sealed road network.
8. The Environment division of the Department of Environment and Natural Resources advises that during the excavation, the basement may fill with turbid sediment laden stormwater. The proponent should ensure that any pit-water discharged from the development is in accordance with their document *Guidelines to prevent pollution from building sites*.
9. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5354 (surveylandrecords@nt.gov.au).
10. The Land Information Group of the Department of Infrastructure, Planning and Logistics advises that that contact should be made in relation to potential land tenure issues and the registration of interests over the subject parcels.
11. The development and use hereby permitted should be designed, constructed, registered and operate in accordance with the National Construction Code of Australia, the *NT Public Health Act* and Regulations, the *NT Food Act* and National Food Safety Standards.
12. The permit holder is advised that the proposal may have assessment implications under the *Waste Management and Pollution Control Act*. More information can be found on the Northern Territory Environment Protection Authority website at: <https://ntepa.nt.gov.au/waste-pollution>. The applicant is encouraged to contact the NT EPA on (08) 8924 4218 or ntepa@nt.gov.au
13. There are statutory obligations under the *Weeds Management Act* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment and Natural Resources.
14. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under

the Aboriginal Sacred Sites Act. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.

15. 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.
16. The Environment division of the Department of Environment and Natural Resources advises 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 Northern Territory Planning Scheme (the Scheme) applies to the land. The proposal includes the development of two buildings; one for a motel and restaurant and the other for 24 x 3 bedroom multiple dwellings, which is consistent with the primary purpose of Zone CB (Central Business) which is *to provide for a diversity of activities including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities with a commitment to the separation of incompatible activities*. A skywalk is also proposed which will provide a connection to the waterfront area from the Darwin CBD. The skywalk starts at the Esplanade and terminates at level eight of the motel. A lift tower provides a connection to Goyder Park.

Pursuant to Clause 2.7 (Reference to Policy) of the Scheme, the interpretation of the Planning Scheme and the determinations of a consent authority must have regard to the policies and planning concepts expressed in those documents appearing in Part 8 or Schedule 2 and ensure that a use or development is consistent with them. The clause further states that where there is an inconsistency between any applicable policy and this Planning Scheme, the provisions of the Scheme will prevail.

Part 8 of the Scheme includes Clause 14.1.1 *Darwin City Waterfront Planning Principles and Area Plan* which guides future development within the Darwin Waterfront Area. The Authority determined that the proposal was consistent with the Planning Principles outlined for the Darwin Waterfront, including:

- The proposed development will have no perceivable impacts on shipping and navigation aids. Also no issues are raised regarding future access to the Port.

- The development does not prejudice the supply of utility services to surrounding wharves or their users.
- The proposal will have no effect on the current refuelling operations. The Naval Fuel Installation is no longer in use and refuelling is undertaken by road fuel tanker. The Aboriginal Sacred Site referred to is a considerable distance from the area of proposed works.
- Goyder Park has been considered as an important role in the development as a meeting place and node within the pedestrian circulation hub to enhance these connections through provision of a shared zone and lift access from the skywalk to the park.
- The ground floor of the motel incorporates all the operational elements associated with a use of this scale such as a grand foyer, lobby, large pre-function room, dining areas, terrace and entrance way. The ground floor building design adds to the convivial outcome with the use of deep verandahs, extensive glass and effective connection between the various indoor rooms and outdoor areas. The ground floor of the residential complex has been designed to be used as a communal space with the inclusion of a gym, shared dining and lounge facilities, incorporating a direct relationship to a large outdoor deck and pool.
- The waterfront access will provide a pedestrian and cyclist link from the cruise ship terminal to Jervois Park and Goyder Park and link to the shared path, providing a key piece of connectivity within the public realm. The large trees and landscaping from the hotel grounds will offer shade and interest along its length. The landscape plan proposes a wide variety of trees, palms and shrubs, with the inclusion of over 40 different species. The landscaping located towards the north and east of the site is dominated by shrubs and palms, providing a landscaped buffer between the roadway and fence within the site. The articulation of the fence line and use of landscaping in this manner provides the impression of a wider road corridor along Kitchener Drive, greater sight lines and improved aesthetic outcome. Both the motel and residential components of the development have been oriented so that windows, balconies and verandahs overlook public spaces and streets.
- The application demonstrates the incorporation of intelligent water management practices including advanced irrigation systems which reduce water requirements. The tree species selected include large canopy trees that will provide shade to the pedestrian footpath linking the site to existing footpaths in the surrounding area.
- A sea wall will provide site protection from storm surge in addition to providing ground retention for the intended development of the site. The sea wall has also been designed to facilitate public access with the incorporation of a 4m-wide pedestrian and cycling thoroughfare.
- The enabling works will raise the ground level of the motel and residential sites (proposed Lot A and Lot B) to above RL 6.5m AHD. Habitable motel areas will be RL 8m AHD or greater.

Subclause 1 of Clause 14.1.1 requires the development to *provide a diversity of uses that reinforce the area's primary focus for leisure, entertainment and waterside living while reflecting its maritime and historical connections including; tourist accommodation; and range of residential developments*. The proposed development is within the south western portion of the Area Plan drawing which identifies the area for the development of residential and mixed use comprising of residential and commercial. The proposal is for the development of a

motel and multiple dwellings which aligns with the Planning Principles and Area Plan.

Subclause 3(a) of Clause 14.1.1 requires *preservation of nominated key views from Government House to the water and wharves*. Further, the Area Plan drawing accompanying Clause 14.1.1 shows the key view lines from Government House to the water and wharves. The proposal includes a skywalk which originates on the Esplanade and connects with the motel at level eight. A portion of the skywalk runs near Government House.

The Authority noted that the detailed visual assessment of Government House provided by the applicant highlights that the western views of Government House remain unaffected due to the location of the skywalk, and the current views to and from the eastern terrace of Government House are screened by the large trees and dense vegetation with the exception of the southern end of the terrace, which provides views towards the southeast. The horizontal views are kept clear allowing the views towards Cox Peninsula to be maintained. The assessment noted that the southern terrace of Government House has been consistently used for private purposes and therefore privacy in this area will be maintained through the use of appropriate screening. The Authority noted that while the application proposes to screen sections of the skywalk, no such details are currently shown on the plan and therefore a condition precedent to provide amended plans to show screening is included on the development permit.

The applicant at the meeting demonstrated that the proposed skywalk will not interfere with the views from the Government House to the Water and Wharves as the alignment sits above the view lines of the Government House from the terraces. The applicant explained that lowering the height of the skywalk will have more impacts on the key views from the Government House and that extensive work has been carried on the alignment of the skywalk and the current alignment is considered as the best scenario under the requirements of the Area Plan. The Authority noted that the Heritage Division of the Department of Tourism and Culture confirmed that there are no issues or concerns with the construction of the motel and that an application in relation to the skywalk (due to it encroaching on an existing declared heritage place) has been received by the Heritage Council. The application will be determined by the Minister responsible for the administration of the *Heritage Act* and the Heritage Council advised that there is no reason why the Minister cannot approve the proposed skywalk in its current form. Mr Mark Ashley, Executive Director, Heritage, Department of Tourism and Culture at the meeting acknowledged that the Heritage Council noted that although the proposed skywalk intersects with the land on which Government House sits, this does not have an undue impact on the heritage significance of Government House as described in the Statement of Heritage Value. The Authority, while acknowledging that there appears to be no impediments to the Minister for Tourism and Culture approving the application under the *Heritage Act*, determined to include a condition on the development permit requiring that confirmation be provided prior to the endorsement of plans for the skywalk stage of the development.

Subclause 4(e) of Clause 14.1.1 requires *uninterrupted public access to the water's edge for the full extent of the site having regard to security, safety and operational requirements of users of the wharves*. The provision of a 4m-wide pedestrian and cycling thoroughfare formed part of a separate planning application for the purpose of subdivision (PA2016/0215) and uninterrupted public access will be secured by the formal grant of a right of way easement in favour of the Northern Territory.

Subclause 6 of Clause 14.1.1 requires the development to relate the scale of development to both the surroundings and to reflect the desired future character by "*generally siting development below the level of the vegetated escarpment*" and "*incorporating a range of building heights within identified building areas*".

The area for the proposed development is within the south western portion of the Area Plan drawing, which shows building heights of 27.5m and 48.5m. The proposal includes a motel, residential tower and a skywalk, with building heights of 39.90m, 37.50m and 36.50m respectively. The Authority noted that the motel and residential building does not extend beyond the top of the existing vegetation along the escarpment. The tree canopy is extensive and will generally screen the motel and residential development when viewed from the pedestrian realm on the Esplanade. Further the small footprint of the buildings together with the large landscape areas enhance the amenity of the area. The design of the building also responds to its interface with other uses and the need to maximise the benefits to the site users.

2. Clause 2.5 (Exercise of Discretion by the Consent Authority) requires that the Authority 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 noted that the basement carpark of the motel appears to be functional and appropriately designed, however a variation to the design of the carpark is proposed where the layout does not provide separate access to every car parking space. This occurs for parking spaces 197 – 204 which are stacked behind parking spaces 117 – 127 (tandem car parks). The Authority supported a variation to the requirements of Clause 6.5.3 (Parking Layout) of the Scheme as the applicant confirms that these car parking spaces will be reserved for the motel guests as 'Valet Parking' and will be managed by the motel staff only. The Authority considered that provided these spaces are maintained for its intended purpose the compliance with the requirement of the clause is achieved. Further, a condition requiring a suitably qualified person to confirm the parking design meets the applicable Australian Standard will ensure that the car parking is functional in accordance with the requirements of Clause 6.5.3.

The residential component of the development provides 52 spaces. This includes 24 at the basement and 24 at ground level (undercroft), with 4 additional visitor spaces. The Authority noted that the basement car parking appears to be functional and appropriately designed whereas, a variation to the design of the ground level carpark is proposed where two carpark spaces are located less than 3m from a

road. This occurs at spaces 11 and 12 located adjacent to the proposed pedestrian pathway. The Authority supported a variation to the requirements of Clause 6.5.3 (Parking Layout) of the Scheme as the report prepared by Development Assessment Services noted that these parking spaces will not be visible from the pedestrian path due to the level difference between the pedestrian path and building footprint. Also, it was considered that the vertical concrete wave barrier provided along the boundary as well as the provision of 1.8m high fencing as shown on the landscape plan will further screen the parking area.

The Authority acknowledged that the proposal is fully compliant with all other requirements under Part 4 of the Scheme.

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.

The application was advertised in the NT News on 25th May 2018 and placed on public exhibition for a period of two weeks. 22 public submissions were received in relation to the application. All submissions received were considered in detail by the Authority.

The Authority noted that a number of submissions in support acknowledge that the proposed development will provide ongoing economic opportunities within the construction and hospitality industry. The submissions also acknowledge that the proposal will deliver a world-class waterfront development in Darwin including luxury hotel and apartments, additional public spaces, foreshore access, iconic architecture and an exclusive pedestrian access link to the CBD through the skywalk. Mr O'Gallagher and Mr Weeks both spoke in support of the proposal and acknowledged the benefits, both long and short-term, that such a development will bring to the NT.

Mr Wood spoke further to his written submission and clarified that he was not in objection to the proposal overall but did have concerns in relation to the skywalk component, in particular that it should not impact on historical buildings. Mr Wood advised that he did not realise that an area plan for the Darwin Waterfront was still in place but having recently learnt of its existence he advised that it should be complied with.

Ms Tastula, Ms Clinch and Mr Hocking all spoke further to their written submissions and raised a number of concerns with the proposal including the location of the skywalk and its proximity to Government House; the provision of public access to the water's edge; the architectural design of the proposed buildings; traffic circulation; the cultural and heritage significance of the area; and the overall scale of the proposed development.

The Authority read, heard and considered all submissions in detail and ensured that these submissions formed an integral part of the determination. The Authority carefully considered the matters raised in relation to compliance with the Scheme requirements which have been

discussed in detail in reasons 1 and 2. The Scheme states that Area Plans *broadly identify the expected nature of development into the future*. In considering the proposal against the Area Plan and Planning Principles of Clause 14.1.1, the Authority was satisfied that, as required by Clause 14.0, the proposed development is sufficiently consistent with the Area Plan and planning principles and accords with the requirements contained therein.

The Authority acknowledge that some of the matters raised in submissions relate to matters that are managed by service authorities and therefore a number of conditions have been applied to the development permit to ensure that these matters are appropriately addressed. Relevant conditions include submission of a Traffic Impact Assessment and submission of a Conservation Heritage Management Plan.

4. 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 and the effect of the development on the land and on other land.

The Authority required a number of servicing matters to be addressed through conditions of consent. These matters include submission of a Stormwater Management Plan, a Construction Environmental Management Plan (CEMP), Erosion and Sediment Control Plan (ESCP) and a Traffic Impact Assessment. The Authority considered that these requirements, combined with standard conditions relating to the connection and upgrade of utility services and the provision and treatment of easements, will ensure that the land is developed in accordance with its physical capabilities and will ensure that utility and infrastructure requirements of the relevant agencies are appropriately addressed.

ACTION: Notice of Consent and Development Permit

NOTE

Authority member, Mr Doug Phillips, although supporting the other elements of the Application, did not support the skywalk component of the proposal in its current location.

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

SUZANNE PHILIP
Chair

11 July 2018