



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 327 – FRIDAY 23 NOVEMBER 2018

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

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

APOLOGIES: John Gleeson

OFFICERS PRESENT: Margaret Macintyre (Secretary), Adelle Godfrey (Development Assessment Services) and Susannah Penman (Lands Planning)

COUNCIL REPRESENTATIVE: Cindy Robson

Meeting opened at 10.00 am and closed at 12 Noon

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

ITEM 1 VERANDAH ADDITION TO AN EXISTING MULTIPLE DWELLING WITH A
PA2018/0400 REDUCED SIDE SETBACK (UNIT 1)
APPLICANT LOT 1120 (5) GARDENS HILL CRESCENT, TOWN OF DARWIN
JB INDUSTRIES (NT) PTY LTD

The applicant sent their apologies. Mr Steve Skinner (landowner) attended.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 7.3
199/18 (Building Setbacks of Residential Buildings) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 1120 (5) Gardens Hill Crescent, Town of Darwin for the purpose of a verandah addition to an existing multiple dwelling with a reduced side setback (unit 1), subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system 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.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
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. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
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 authorities' requirements and relevant legislation at the time.

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. 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.

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 Residential) of the Northern Territory Planning Scheme. However, it is not compliant with Clause 7.3 (Building Setbacks of Residential Buildings), specifically with regard to the side setback requirements. There are special circumstances, as set out below, to vary this clause.

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.

Special circumstances exist to vary Clause 7.3 (Building Setbacks for Residential Buildings and Ancillary Structures) due to the location of the pool directly behind the house, which limits the availability of useable space for increasing the size and functionality of the existing patio area. In addition, the subject property boundary has an eclectic array of elements and already has two boundary walls associated with the adjacent multiple dwelling development.

3. 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.

It is anticipated that the verandah will not have a detrimental effect on residential amenity as it will largely be concealed by an existing dividing fence, which will ameliorate any potential impact in terms of the massing of the structure. Furthermore, the solid wall will help with sound attenuation between the outdoor areas of the subject place and its southern adjacent neighbour; and remove overlooking/privacy concerns that currently exist. The applicant advised at the public hearing of the application that they had liaised directly with the owner

of the southern affected property who raised no concerns with regard to the proposal after clarifying that the wall will not exceed the height of the existing building on the boundary of neighbouring properties. This advice is corroborated by the fact that no submissions were received in relation to the proposal during the exhibition period.

The requirement for a stormwater management plan to the requirements of Council will ensure that stormwater run-off is appropriately managed and directed away from the adjacent lot.

ACTION: Notice of Consent and Development Permit

**ITEM 2
PA2017/0569
APPLICANT**

**SUBDIVISION TO CREATE 513 LOTS IN TWO STAGES
LOT 4873 (577) LEE POINT ROAD, TOWN OF NIGHTCLIFF
NORTHERN PLANNING CONSULTANTS PTY LTD**

DAS tabled two additional public comments received from Emma Fitzsimons and Mirjam Kaestli.

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd), Mr Darron Lyons (The Red Shed), Mr Chris Grimm, Ms Natalie Wynn and Ms Keely Hutton (DHA) Mr David Bramley (Cardno) and Mr Aaron Organ (Ecology and Heritage Partners) attended.

Mr Cunnington tabled three photos showing existing dwelling examples of houses on small lots.

Submitters who sent their apologies: - Ms Kym Tucker and Ms Tracey Tomlinson.

Submitters who attended:- Mr Jahde Dennis, Ms Heather Ferguson, Mr Andris Bergs, Ms Emma Fitzsimons and representing PPlan – Ms Margaret Clinch and two others.

**RESOLVED
200/18**

That, the Development Consent Authority vary the requirements of Clause 11.2.3 (Lot Size and Configuration in Residential Subdivisions) of the Northern Territory Planning Scheme and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 4873 (577) Lee Point Road, Town of Nightcliff for the purpose of a subdivision to create 513 lots in two stages, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans are to be submitted showing:
 - (a) A 7m carriageway included within the 15m local road reserve, to the requirements of the City of Darwin.
 - (b) The removal of the lake, or otherwise the written consent of the City of Darwin and Medical Entomology, Department of Health for this feature.
 - (c) The minor boundary changes submitted during assessment of the application.The above is to be completed to the satisfaction of the consent authority.

2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the proponent is to develop and commence implementation of a monitoring program to quantify impacts on shorebirds. The program is to be developed on the advice of the Flora and Fauna division, Department of Environment and Natural Resources, Wildlife and Heritage division, Department of Tourism and Culture, to the satisfaction of the consent authority.

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation, the proponent is to prepare a Construction and Environmental Management Plan.
The Plan is to address waste management, traffic control, haulage routes, stormwater drainage, and how Council land will be managed during construction, to the requirements of the City of Darwin.
The Plan is also to address dust, noise and vibration impacts, and waste management, and include processes for:
 - communicating anticipated impacts of construction to stakeholders;
 - the reporting of, and responding to complaints; and
 - identifying when there are unexpected and unacceptable impacts to stakeholders and amending construction practices as appropriate, on the advice of the Environment division, Department of Environment and Natural Resources. The Plan must demonstrate compliance with NT EPA Noise Guidelines for Development Sites, and the NT EPA Noise Management Framework Guideline, and is also to include scope for regular review and updates and include the schedule for construction stages.
The above is to be completed to the satisfaction of the consent authority.

4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the design and specifications of the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system or another location shall be submitted to and approved by the City of Darwin, Medical Entomology, Department of Health, and the Park Development division, Department of Tourism and Culture, to the satisfaction of the consent authority.
The stormwater design should be completely free draining to avoid the potential for mosquito breeding during low flow periods. All discharge drains to the conservation reserve must be-fitted with concrete low flow inverts that terminate at a free draining tidal area.
Access to, and maintenance of the discharge drains in the Casuarina Coastal Reserve must be clarified and accepted by the Park Development division, Department of Tourism and Culture, and Medical Entomology, Department of Health.

5. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan is to be prepared and must be generally in accordance with the landscape concept submitted with the application but modified as follows:
 - (a) The plan is to address landscaping details for all proposed road reserves and public areas, to the approval of the City of Darwin.
 - (b) The plan is to include, and confirm the location of the 50m open wind buffer to the western edge of the monsoon forest boundary (or the edge of the escarpment if this is closer). The 50m open wind buffer is to comprise tall-growing, long-lived, hardy native trees, with a mature tree crown coverage of

- approximately 10% only, on the advice of Medical Entomology, Department of Health.
- (c) The plan is to include the location and design of trails through the conservation area, to the approval of the Park Development division, Department of Commission.
 - (d) The plan is to demonstrate that mature trees in the Casuarina Coastal Reserve have been preserved, on the advice of the Aboriginal Areas Protection Authority.
The above is to be completed to the satisfaction of the consent authority.
6. Prior to the commencement of works, an Erosion and Sediment Control Plan (ESCP) is to be submitted to and approved by the consent authority of the advice of the Rangelands division, Department of Environment and Natural Resources. The ESCP must be developed by a Certified Professional in Erosion and Sediment Control (CPESC) and should detail methods and treatments for minimising erosion and sediment loss from the site during both the clearing and establishment phases of the development. Information regarding erosion and sediment control and ESCP content is available at www.austieca.com.au and the NTG website: <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be emailed for assessment to: developmentassessment.dnr@nt.gov.au.
 7. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a site earthworks plan indicating finished levels of all proposed lots is to be submitted to and approved by the City of Darwin to the satisfaction of the consent authority. All cut and fill works are to be designed to eliminate the need for excessive cut/fill/retaining wall works for the proposed lots.
 8. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), traffic management details including amendments to the proposed road configurations to meet the relevant subdivision and development guidelines are to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
 9. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), public transport details including bus stop locations and designs, and a route that considers the staging of the development are to be provided to the requirements of Transport and Civil Services, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
 10. Prior to the commencement of works, a proposed zoning plan must be submitted to and approved by the consent authority. The zoning plan must be consistent with the description given in the application.

CONDITIONS

11. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
12. The development must proceed in the order of stages as shown on the endorsed plan unless otherwise agreed in writing by the consent authority.

13. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage facilities, electricity services and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
14. 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.
15. 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.
16. 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.
17. The monitoring program to quantify impacts on shorebirds is to be implemented on the advice of the Flora and Fauna division, Department of Environment and Natural Resources, Wildlife and Heritage division, Department of Tourism and Culture, to the satisfaction of the consent authority. The results and annual updates from the program must be made publically available.
18. The Construction and Environmental Management Plan is to be implemented on the advice of the City of Darwin, and the Environment division, Department of Environment and Natural Resources, to the satisfaction of the consent authority. The Plan is also to remain publically available for the duration of construction.
19. 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 City of Darwin, to the satisfaction of the consent authority and all approved works constructed at the owner's expense. Any street and reserve lighting directly visible from the beach is also to be provided on the advice of the Environment division, Department of Environment and Natural Resources, with regards to demonstrating details of how the Western Australian Guideline for Protecting Marine Turtles from Light Impacts (WA EPA, 2010) have been incorporated.
20. Before the use commences the owner must, in accordance with Part 6 of the *Planning Act*, pay a monetary contribution to the City of Darwin for the upgrade of local infrastructure, in accordance with its Lee Point Road Roadwork Contribution Plan.
21. Stormwater is to be collected and discharged into the drainage network to the technical standards of the City of Darwin, the Medical Entomology division of the Department of Health, and the Park Development division, Department of Tourism and Culture, to the satisfaction of the consent authority.

22. The applicant is to demonstrate all discharge drains, including the end of point of the drains in the Casuarina Coastal Reserve, include suitable access to allow for maintenance on the advice of the Park Development division, Department of Tourism and Culture, and Medical Entomology, Department of Health, to the satisfaction of the consent authority.
23. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of Medical Entomology, Department of Health, the Park Development division, Department of Tourism and Culture, and the Aboriginal Areas Protection Authority, to the satisfaction of the consent authority.
24. All works relating to this permit are to be undertaken in accordance with the approved Erosion and Sediment Control Plan to the requirements of the consent authority on the advice of the Rangelands division, Department of Environment and Natural Resources.
25. Any offset or offset management plan required by the Australian Government with respect to the significant residual impact to the black-footed tree-rat (*Mesembriomys gouldii gouldii*) is to be completed, on the advice of the Flora and Fauna division, Department of Environment and Natural Resources, to the satisfaction of the consent authority.
26. A qualified person, under section 68 of the *Waste Management and Pollution Control Act*, must provide certification that the site is suitable for the intended use on the advice of the Environment division, Department of Environment and Natural Resources, to the satisfaction of the consent authority.
27. The proponent must ensure that only clean fill (virgin excavated natural material) is accepted and that the fill has been adequately assessed as being suitable for its intended use, to the requirements of the Environment division, Department of Environment and Natural Resources.
28. Before the issue of Titles, the developer is to provide written confirmation (in the form of plans or drawings) demonstrating that all lots less than 600m² for single dwellings allow for future vehicle access via a single driveway unrestricted by street infrastructure (including any power, water, sewer, or stormwater infrastructure) which demonstrates that a 3.5m driveway can be located on each lot whilst ensuring that each lot's street frontage has a minimum continuous length of 6.5m, to the satisfaction of the consent authority.

NOTES:

1. Consent is required for any changes to the approved staging of the subdivision and the applicant should contact Development Assessment Services on (08) 8999 6046 for more information.
2. 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 one month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

3. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>
4. The Northern Territory Environment Protection Authority 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.
5. 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.
6. 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 8995 5354. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.
7. 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 08 8995 5333 or place.names@nt.gov.au
8. The Northern Territory Environment and Protection Authority has advised that the proponent must comply with their General Environment Duty provided by section 12 of the *Waste Management and Pollution Control Act*.
9. 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 Rangelands division, Department of Environment and Natural Resources.

REASONS FOR THE DECISION

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

The land is located in Zones FD (Future Development) and CN (Conservation) of the Northern Territory Planning Scheme. Clause 14.1.5 (Planning Principles for the Lee Point Area Plan) applies to the development and the development is found to be generally complying

with the broad design principles, including the land uses and densities proposed, the road layout, and areas required to be set aside for conservation.

The design responds to the Lee Point Area Plan by locating new lots entirely above the escarpment, and the application has demonstrated environmental and engineering measures to achieve an appropriate stormwater quality and to ensure no increase in peak flows from the development. The design retains “the bunkers” as a remnant site feature relating to the historic use of the land for Defence activities and includes purpose built viewing platforms, signs and landscaping in this area.

The majority of lots have been designed to have their longest axis facing east-west in order to reduce direct morning and afternoon sun. A number of north-south roads also encourage the prevailing north-west (wet season) and south-east (dry season) breezes. The shading of walls and windows including at the western edge of each lot will rely on eaves and landscaping within the lot boundary.

The landscaping provided will contribute towards a quality public realm which is responsive to local conditions, and includes playgrounds, picnic facilities, shelters and fitness stations, an extensive shared path network, trees which are top end native species, and the protection and relocation of cycads.

The subdivision promotes access to Lyons to the south with the extension on Damabila Drive, plus four road connections to Lee Point Road to the east. The road layout facilitates route choice and is reflective of the main connections shown on the area plan. A future bus route will connect the majority of residents within 400m of public transport. An extensive pedestrian/cyclist network is shown.

The mix of uses shown in the tourism/commercial area including lots for higher residential densities is consistent with the area plan. The application states that the tourist component is to take advantage of the coastal location and to maximise views from the side. Future developments in this area will require separate planning applications for built form including assessment of building heights.

The residential lot mix shown on the Area Plan ranges from 10 – 80 dwellings per hectare. The lot mix includes:

- 18% of lots as 360 – 449m² (‘Courtyard’ lots);
- 33% as 450 – 539m² (‘Villa’ lots);
- 26% as 540 – 599m² (‘Small’ lots); and
- 23% as >600m² (‘Traditional’ lots).

The northern and southern most precincts are intended for 10 – 20 dwellings per hectare and achieve a density of 11.1 and 13.2 dwellings per hectare respectively. Either side of the main street precinct are intended for 20 – 40 dwellings however lots are proposed to be developed as single dwellings at a lower density of 14.2 dwellings per hectare to the north and 11.6 dwellings per hectare to the south. The main street precinct intended for 60 – 80 dwellings per hectare is

calculated at 56.6 dwellings per hectare using the highest number of storeys and densities allowed. Overall, the densities are proposed at a lower rate than anticipated by the Area Plan. At the south of the subdivision, a row of lots mirror the density and size of existing lots where adjacent to Lyons.

The land located in Zone CN includes a new single pedestrian access to Casuarina Beach, plus existing walking and mountain bike paths to be upgraded. Part of Zone CN also includes stormwater infrastructure. The design includes a boundary fence to restrict access to the conservation area.

It is noted that zone normalisation is required following the completion of the subdivision, and a condition precedent requiring a proposed zoning plan is therefore included on the permit.

2. The development accords with the detailed subdivision requirements of Clauses 11.2.1 (Site Characteristics in Residential Subdivisions) and 11.2.2 (Infrastructure and Community Facilities in Residential Subdivisions), including the provision of 19.5% public open space within 400m walking distance from all dwellings. The provision of public open space well exceeds the minimum required by the Planning Scheme of 10% of the subdivision area.

Non-compliances were found when assessed against Clause 11.2.3 (Lot Size and Configuration in Residential Subdivisions). The purpose of Clause 11.2.3 is to ensure residential subdivisions contain lots of a size, configuration and orientation suitable for residential purposes. All lots less than 600m² are noted as complying with the minimum building envelopes. For lots over 600m², minimum lot sizes 20m x 24.5m are required to meet the minimum building envelopes, and larger lot sizes on street corners. A total of 49 lots were assessed as not complying with the minimum building envelopes.

In accordance with Clause 2.5 of the Planning Scheme, the consent authority may grant a variation to this clause provided it is satisfied that special circumstances can be identified to justify the variation sought. The circumstances determined with this variation include, that most of these lots have been designed with a frontage of 18m minimum rather than 20m, and that this is consistent with other successful urban development examples in the Darwin and Palmerston area, with these dwellings being able to be sufficiently accommodated. A small number of lots would comply if they fell within the 450m² – 600m² size range however have an increased length, or otherwise have an irregular lot shape and the margin of non-compliance generally relates to a small corner portion only. All lots are determined to provide adequate areas for the construction of a dwelling and private open space.

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 made under Section 49 was received in relation to the application and a further 19 interested parties provided comment

in relation to the application after the exhibition period had ended. The consent authority accepted and considered those comments after the exhibition period, including the opportunity to address the consent authority in person at the public hearing of the application. The consent authority also notes that the inclusion of the Lee Point Area Plan in the Planning Scheme, as well as the environmental assessment process, both allowed the opportunity for public comment.

All submissions and comments have been read in detail and form an important part of the assessment process. Compliance with the Planning Scheme has been discussed in reasons 1 and 2 above and the proposed development is fully compliant with the applicable requirements other than seeking a variation to the building envelope requirements for 49 lots, which is found to not compromise the future development of these lots. The maximum residential densities are noted as being lower than those shown for the broader land use planning for the area. The future development on land in the main street precinct, including on lots shown for tourist commercial uses, will require the further consent of the authority and will provide opportunity for public comment on those applications.

Many of the comments received relate to environmental concerns/impacts and these have been considered in detail through the environmental assessment process. The conditions included on the permit in response to the EPA Assessment Report and other service authority comments are considered to address a number of the matters raised by interested parties.

4. Section 51 of the *Planning Act* provides that a consent authority must, in considering a development application, take into account (g) if a public environmental report, or an environmental impact statement, has been prepared or is required under the *Environmental Assessment Act* in relation to the proposed development – the report or statement and the results of any assessment of the report or statement under the Act.

The EPA has provided an Assessment Report on the proposal together with the proposed development to the east of Lee Point Road, assessed at the level of an Environmental Impact Statement (EIS). The Assessment Report included consideration of public and agency comment, regard to key environmental factors, activities that are likely to impact the existing environment, the potential environmental impacts and risks, and the significance of those impacts and risks, and the potential avoidance or minimisation/mitigation measures to reduce potential impacts and risks to acceptable levels and to meet EPA objectives.

The process undertaken by the EPA was extensive and thorough. The consent authority relies on the report and recommendations made in determining this application with regard to environmental matters.

The Assessment Report states that the development could proceed if all recommendations are implemented, and also that the environmental commitments, safeguards and recommendations detailed in the EIS, the Assessment Report and the final management plans be implemented to deliver acceptable environmental outcomes. The assessment including the 15 recommendations have been addressed as part of this assessment and conditions have been included on the permit relating to monitoring of shorebirds, restricting lighting to protect turtles, construction management including dust, noise and vibration and the broader communication of construction with stakeholders, protection from biting insects, plus offsets required by the Australian Government relating to the impact to the black-footed tree-rat.

The consent authority also notes that the proposal requires separate approval under the *Environment Protection and Biodiversity Conservation Act*.

5. Section 51(n) of the *Planning Act* requires the consent authority to take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The subdivision will result in a change to the amenity of the local area, as the land is currently undeveloped. The subdivision accords with the broader strategic planning of the area, and is determined to be consistent with the intended future amenity of the area, in terms of the land uses, densities, open space and road layout.

The development is adjacent to the Casuarina Coastal Reserve and restricts access to the Reserve to just one location to reduce its impact. A 21.95ha parcel is zoned CN, will largely remain unchanged, and is intended to be included as part of the Reserve.

Along the frontage to Lee Point Road, the subdivision includes a 6m wide linear open space corridor. The landscape plans identify this area and the Lee Point Road reserve adjacent as including landscaping and aluminium vertical slat fencing along rear lot boundaries. The road reserve adjacent is intended to provide a 3m shared path.

6. Pursuant to section 51(k) of the *Planning Act*, the consent authority must take into consideration the public facilities or public open space available in the area in which the land is situated and the requirement, if any, for the facilities, or land suitable for public recreation, to be provided by the developer.

Clause 11.2.2 (Infrastructure and Community Facilities in Residential Subdivision) of the Planning Scheme states that residential subdivision design should provide a minimum of 10% of the subdivision area as public open space. The subdivision provides a total of 19.5% of public open space, and also all dwellings are within 400m walking distance of public open space. Whilst the entrance park and part of the coastal buffer at the south-west are proposed as dual purpose open space / detention basins, the landscaping plans show this area is unencumbered by drains, and comprises a shallow, flat grassed area which can be used for active or passive recreation. The majority of open space areas are bound by road frontages, with only three areas

where open spaces are also directly adjacent to residential lot boundaries (at the local park, the entrance park, and at part of the larger coastal reserve at the northern part of the subdivision). The areas where open spaces are adjoining residential lots, the entire open space area is still visible with clear views from the street frontages. The development is also proposed to occur in two or more stages, with the development of the entrance park forming part of stage 1.

The consent authority notes that the Lee Point Area Plan provides guidance for the public facilities required for the area to the east of Lee Point Road. The applicant has provided advice that the subdivision to the east of Lee Point Road is intended to include land for a new public school, public playing fields and a community centre.

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. Also, 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, infrastructure or land to be provided by the developer for that purpose.

The land is determined to be capable of supporting the subdivision. The subdivision responds to the biting insect buffers, the location of the conservation reserve and the specific stormwater design measures requested by the Area Plan to minimise the risk of impact. The application includes demonstration of environmental and engineering measures to achieve an appropriate stormwater quality and to ensure no increase in peak flows discharging from the subdivision. Conditions are included on the permit to ensure the detailed stormwater design meets the requirements of the relevant authorities.

The design avoids the steeply sloping areas along the western edge, and the small portion of land at the southwestern corner which is identified as being located within the primary storm surge zone. Where lots are proposed, the land has an approximate gradient of 3% which is not considered excessive, and a condition is included on the permit for the submission of site earthworks plans demonstrating that excessive cut/fill/retaining walls have been avoided.

All matters raised by the service authorities have been addressed through the inclusion of appropriate conditions and/or notations on the development permit. This has included consideration of traffic management, developer contributions for the upgrade of Lee Point Road, erosion and sediment control, and landscape design.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

28 November 2018