



**DEVELOPMENT CONSENT AUTHORITY**

**DARWIN DIVISION**

**MINUTES**

**MEETING No. 320 – FRIDAY 3 AUGUST 2018**

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

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

**APOLOGIES:** Doug Phillips

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Dawn Parkes, Amit Magotra, Adelle Godfrey and Poppy Zaronias (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Simon Niblock, Nadia Smith, James Whyte and Shenagh Gamble

**Meeting opened at 10.15 am and closed at 1.15 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**                    **RECONSIDERATION - 2 x 3 BEDROOM MULTIPLE DWELLINGS IN A SINGLE**  
**PA2017/0471**            **STOREY BUILDING**  
**APPLICANT**           **LOT 11856 (125) ASCHE STREET, TOWN OF NIGHTCLIFF**  
**DARRON LYONS**

DAS tabled a further submission from the submitters dated 2 August 2018.

Mr Darron Lyons (DIPL Developments) attended.

**RESOLVED**  
**133/18**

That, the Development Consent Authority vary the requirements of Clause 7.3.1 (Additional Setback Requirements for Residential Buildings Longer Than 18 metres and for Residential Buildings Over 4 Storeys in Height) and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 11856 (125) Asche Street, Town of Nightcliff for the purpose of 2 x 3 bedroom multiple dwellings in a single storey building, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (ECMP) to the requirements of the City of Darwin. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land during construction. The ECMP should include details of the location of the crane and any holding areas.
2. Prior to commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

**CONDITIONS**

3. The works carried out under this permit shall be in accordance with the drawings numbered 2017/0471/01 through to 2017/0471/08 endorsed as forming part of this permit.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
5. 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, to the satisfaction of the consent authority.
6. 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 unit/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 doors and 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.

7. 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](mailto:landdevelopmentnorth@powerwater.com.au) and [powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au).
8. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
9. 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 City of Darwin, to the satisfaction of the consent authority.
10. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
11. 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.
12. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin to the satisfaction of the consent authority.
13. Soil erosion control and dust control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
14. The private open space areas of each dwelling shall be screened on each boundary by:
  - (a) the erection of a solid wall or screen fence not less than 1.8m high; or
  - (b) fenced to a height not less than 1.8m high and planted with dense vegetation.
15. Before the occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
16. 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 replace.

17. 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.
18. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.

**NOTES:**

1. Power and Water Corporation advise that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and the Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto:powerconnections@powerwater.com.au)) should be contacted via email a minimum of one month prior to construction works commencing to determine servicing requirements and the need for upgrading of infrastructure.
2. 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.
3. This development permit does not grant building approval. You are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.
4. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5362 ([surveylandrecords@nt.gov.au](mailto:surveylandrecords@nt.gov.au)).
5. Power Network Division advises that the developer shall obtain written approval from the Customer Connections Officer (email [PowerConnections.PWC@powerwater.com.au](mailto:PowerConnections.PWC@powerwater.com.au)) for compliance on customer's internal electricity reticulation in accordance with Power and Water's current Installations Rules, commencing any electricity installations. Non-compliant customer's electrical installations would cause significant delays to rectify by the Developer prior to power service be made available to the developer for obtaining Permit to Occupancy authorisation.
6. Notwithstanding the approved plans, any proposed works (including landscaping) within the road reserve is subject to approval and shall meet all requirements of the City of Darwin, and at no cost to the City of Darwin.
7. A permit to work within a road reserve may be required from the City of Darwin before commencement of any work within the road reserve.

## REASONS FOR THE DECISION

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

The Northern Territory Planning Scheme (NTPS) applies to the land, and the site is within Zone SD23 (Specific Use Darwin No.23) of the NTPS. The purpose of Zone SD23 is to facilitate the subdivision, use and development of the land as a residential estate that provides for housing choice through a range of lot size and housing types. Land may be developed for multiple dwellings with consent, where identified on the land use drawing endorsed under the zone. The land is identified for multiple dwellings on the land use drawing endorsed through the Muirhead subdivision and the proposal is consistent with that drawing.

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.

A variation to the Clause 7.3.1 (Additional Setback Requirements for Residential Buildings Longer than 18 m and for Residential Buildings over 4 Storeys in Height) is granted given that the proposal satisfies the purpose of the clause based upon the following reasons:

- The requirement of 4.5m setbacks for side boundaries on the lot adjacent to the north-west rear boundary will assist in providing a minimum 6m separation, and maintaining breeze penetration between dwellings. This increased separation will also assist in minimising any adverse effects of building massing when viewed from adjacent property.
  - The length of the building along the rear boundary is 24.40m and the non-compliance is limited to a length of 17.8m only. The remaining part of the building is setback 3m from the affected boundary.
  - the building design offers wall cladding and variation through the use of varying roof heights and angles to minimise the effect of building massing when viewed from adjoining land.
3. Pursuant to section 51(e) of the *Planning Act*, the consent authority must take into consideration any submissions made under Section 49, and any evidence or information received under section 50, in relation to the development application.

One public submission was received from the owners' of Lot 10725 (4) Trainer Street. Additional comments were also received from the submitter in response to the additional material submitted by the applicant.

While acknowledging the issue of drainage control has been addressed in the amended plans, the submitter raises concerns

regarding the position of the driveway on Trainer Street and open carpark and concreted driveway adjacent to the common side boundary of 4 Trainer Street and the proposed development. The Authority considered the submission in detail and noted that PWC (Power Networks) raised no concerns regarding location of power box on the driveway. Further, the Authority notes that the location of driveway is typically to the requirements of the relevant service authority (City of Darwin in this instance) and a condition has been included on the permit to ensure that the kerb crossovers and driveways meets the requirements of the service authority. In relation to the open carpark provided adjacent to the garage the NTPS does not stipulates any setback requirements for an open carpark. The amended plans provided by the applicant shows a slat screen fencing shall be provided along the boundary to the length of the car park for screening.

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 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.

No land capability concerns were identified as part of the assessment. The proposal complies with the anticipated density in this location and is situated within a newly created subdivision. Conditions on the development permit require submission of a construction management plan and a dilapidation report as requested by the City of Darwin.

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

The land is zoned to accommodate the development of multiple dwellings, and the proposal is consistent with the required dwelling density, height and landscaping requirements. No undue amenity impacts are anticipated.

**ACTION:** Notice of Consent and Development Permit

**ITEM 2**  
**PA2018/0158**  
**APPLICANT**

**OFFICE AND GROUND LEVEL COMMERCIAL TENANCIES IN A 10 STOREY BUILDING PLUS TWO LEVELS OF BASEMENT CAR PARKING LOT 2365 (38) CAVENAGH STREET, TOWN OF DARWIN MASTERPLAN NT**

That, pursuant to section 97(1) of the *Planning Act*, Ms Sherry Cullen a member of the Darwin Division of the Development Consent Authority declared a conflict of interest and was not present during or took part in the deliberation or the decision of the Division in relation to this item.

DAS tabled a further submission from PLan.

Mr Jack Priestley (MasterPlan), Mr Michael Grassi (Podia), Mr William Phillips (Sandran) and Ms Kirby Dickenson (Sandran).

Submitters in Attendance – Mr Dave Pearson (on behalf of Mantra Resorts Australia Pty Ltd), Mr Michael and Mrs Louise Michie.

**RESOLVED  
134/18**

That, pursuant to section 46(6)(b) of the *Planning Act*, the Development Consent Authority defer consideration of the application to develop Lot 2365 (38) Cavenagh Street, Town of Darwin for the purpose of office and ground level commercial tenancies in a 10 storey building plus two levels of basement car parking, to require the applicant to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

- Further information and lodgment of a variation application to address the impact of the development on Development Permits DV418 & DV898 which relate to the existing development at Lot 5396 Town of Darwin and the car parking which is required through those permits over Lots 2396 & 2397. The further information is required due to the related car park development over Lots 2396 & 2397 and to ensure that the parking for the existing development on Lot 5396 is properly considered.
- Further resolution of the traffic concerns raised in the technical comments by the City of Darwin dated 15 May 2018, including confirmation that the related car park development of Lots 2396 & 2397 and of the physical changes likely to be required to accommodate the development within the road network.
- To allow further submissions to be received on the additional material provided during assessment by interested persons that made submissions under section 49 of the *Planning Act*.
- Further information and/or amended plans to address sub-clause 8.2(m) of the Planning Scheme being the provision of landscaping to reduce the visual impact and providing shade and screening of open expanses of pavement and car parking for the related car park development at Lots 2396 & 2397.

**REASONS FOR THE DECISION**

1. Further information and lodgement of a variation application is required to ensure that the related development of Lots 2396 & 2397 addresses the parking requirements for the existing development at Lot 5396 Town of Darwin, having regard to the previous determinations of the consent authority and the development permits issued under the *Planning Act*.
2. 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 and the effect of the development on land and on other land. The consent authority requires an assurance that the related development of Lots 2396 & 2397 is capable of being accommodated within the road network, plus a greater level of understanding as to the likely changes required to the road network to enable the proper consideration of the application including to appreciate the impact of the development on the site and surrounding area.



3. Pursuant to section 51(m) of the *Planning Act*, the consent authority must take into account any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application. The deferral of the application allows additional time in which public submissions can be received in relation to further material provided during assessment, to ensure an adequate time for review for interested persons and consideration by the consent authority of those submissions. During the original exhibition of the proposal, 3 public submissions were received, plus 1 late submission. Prior to the public hearing, 2 further submissions were received citing that insufficient notice was provided to accept public comments.

Of the original submissions received and of those submissions made in person at the public hearing, the consent authority has taken into account the matters raised. The concerns include negative impacts to Mantra Pandanus including during demolition and construction, including traffic and noise impacts, the location of the driveway entrance on Litchfield Street, the proximity of the loading bay to an alfresco dining area on the adjacent land, the impacts of dust during construction, concern regarding asbestos removal, safety concerns including construction of the basement, the noise of air conditioning equipment, plus the impact of property values and matters concerning government spending on development projects.

The consent authority has considered the submissions made and has found that a number of the issues raised relate to the demolition of the existing building, which is not subject to approvals under the *Planning Act*. Conditions would be included on any permit issued relating to traffic management and dust as part of building construction. The City of Darwin has requested a traffic impact assessment be prepared with respect to the development and has confirmed that turning paths have been provided and allow for appropriate access for service vehicles using the loading bay. Further to this, the consent authority will request that the traffic impact assessment and also the waste management plan both confirm that waste collection from the site can occur within the designated loading area. Conditions would be included on any permit issued to require that all loading and unloading must occur on site including waste collection, and that the use and development of the land must be managed such that the amenity of the area is not detrimentally affected, through the transport of goods to/from the site, the appearance of the building, or the undue emission of noise or smells. The developer would have obligations under the *Waste Management and Pollution Control Act* if any asbestos was uncovered. Shoring and hording requirements for basement excavation, including for any seismic activity would be covered as part of building and structural certification requirements. A roof and screens are proposed to the plant level where air conditioning will be located which will assist in reduce noise transfer between buildings.

Further issues made at the public hearing related to a commitment of construction times. The *Noise Guidelines for Development Sites* produced by the Department of Environment and Natural Resources and provides that construction can occur from 7am Monday to Saturday and 9am on Sunday and public holidays. The consent authority notes that the applicant has made a commitment beyond this



such that construction works will not commence until 8am on site Monday to Saturday.

A concern also related to the design of the awning at street level with regard to the cantilevered design and glass materials. The consent authority noted the location of the colonnade at ground level providing an additional pedestrian accessible area for shelter and that the City of Darwin has requested the glass be appropriately tinted. Building certification will ensure the awning is appropriately designed to withstand cyclonic conditions.

There was also a concern that the application was submitted in two parts (office and car park developments), and whilst each could be separately determined, the authority will proceed with considering both applications in parallel.

4. Clause 8.2(m) of the Planning Scheme requires that developments provide landscaping to reduce the visual impact and provide shade and screening of open expanses of pavement and car parking. Further information in response to this clause should address the requirement to provide shade to open expanses of car parking and to explore opportunities for the inclusion of landscaping, for example through raised planter beds. The applicant's comments regarding the aisle widths being larger than that typically required through Clause 6.5.3 of the Planning Scheme to allow for appropriate vehicle access are noted. The authority also notes the applicant's commitment to funding to provide an improved pedestrian experience along Litchfield Street at ground level.
5. In addition to the deferral of the application, the consent authority made determinations with respect to a number of matters required to be taken into account pursuant to Section 51(a) of the *Planning Act* being the planning scheme that applies to the land to which the application relates.
  - (a) The purpose of Zone CB (Central Business) is to provide for a diversity of activities with a commitment to the separation of incompatible activities, and building form and design is expected to be sensitive to the needs to pedestrian movement and facilitate the creation of safe and active street frontages and public places and a vibrant commercial precinct. The building aligns with the broader intent of Zone CB in providing development which is of high architectural quality and presents well to the street frontages in terms of pedestrian amenity and activation, particularly the Cavenagh Street and Knuckey Street frontages. Variations to Clause 6.5.2 (Volumetric Controls in Central Darwin) have been considered and overall the building provides an overall height and scale comparable to a complying design expected in Zone CB.
  - (b) Clause 6.3.2 (Volumetric Control in Central Darwin) ensures that the siting and mass of buildings within Central Darwin promote a built form that maximises the potential for view corridors to Darwin harbour, the penetration of daylight and breeze circulation between buildings, privacy for residents of adjoining properties, and a built form that reasonably anticipates the future development of adjoining sites. This

clause requires that development be constructed with a Tier 1 / podium up to 25m with 6m setbacks applying to windows to habitable rooms, balconies and verandahs only, and a Tier 2 / tower above with a maximum floor area of 1,200m<sup>2</sup> per tower, setback 6m from each boundary with building lengths of not more than 75% of the total length of each adjacent boundary. Levels 6 – 9 of the building form part of Tier 2 as they are above the 25m height with non-compliances to the floor area, setbacks and dimensions. These levels form the extension of a taller Tier 1, up to a maximum height of 41m. Levels 6 - 8 extend boundary to boundary with the extent of non-compliance being less at level 8 given the location of balcony, and also less at level 9 given the larger setback to the screened plant enclosure. The building also includes a stairwell core along the north-west boundary at all levels.

The applicant presented special circumstances to the consent authority which satisfied the identification of special circumstances pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority), being:

- With respect to maximising the potential for view corridors to Darwin harbour, the applicant has demonstrated that the development is of relatively modest scale, with the impact of the volumetric controls affecting levels 6 – 9 only, and the building having a total height of 41m. The applicant has prepared comparison drawings indicating a building with the same net floor area with compliant car parking and volumetric controls demonstrating a striking impact on views of this comparison building.

The main opportunity for views are from the upper levels of buildings, along road corridors. Analysis of the road layout in the CBD shows that view corridors from the adjacent Lot 2364 Town of Darwin towards the south-east along Cavenagh Street from the site terminate, due to the existing developments at 13 & 15 the Esplanade (Harry Chan Avenue), which are developed as 9 storey buildings. Also, the potential for views along the upper levels of the Litchfield Street corridor terminate due to the road layout. The greatest impact for views from adjacent sites towards the Darwin harbour are along Knuckey Street, both towards the south-west and towards the north-east. The existing Mantra Pandanus building, and also the Evolution building predate the current Planning Scheme volumetric requirements and have narrow/nil setbacks to Knuckey Street. Having regard to (d) and the reasonable/future development of nearby development sites along the same side of Knuckey Street further to the south-west, views are already impacted by the existing buildings and are unlikely to be worsened. The applicant has prepared view perspectives of the impacted levels of the Mantra Pandanus building which demonstrate the very thin harbour aspect impacted and marginal impacts as a result of the reduced setbacks and larger floor area for levels 6 – 9. The perspectives also demonstrate that the lower building form results in a vastly improved amenity outcome from the residents of the adjacent Mantra Pandanus building. The design of the building is also noted as including larger setbacks to level 8 and 9 along the Knuckey Street view corridor.

The design includes internal atriums which whilst contributing to a larger non-compliance with the volumetric controls, provide an important amenity feature in a high quality commercial building, including for the provision of light and airflow.

- With respect to the penetration of daylight and breeze circulation, the applicant acknowledged that the existing 2 storey building at Lot 2364 to the north-west may one day be developed. The applicant undertook a breeze study to determine the impacts on the adjacent Lot 2364 Town of Darwin. The applicant identified that the design would not impact on the prevailing afternoon breezes from the north-west given the breezes would reach the adjacent site first. The applicant also identified that the design would have a modest impact on breezes at the four levels impacted by the volumetric controls (levels 6 – 9) for the prevailing morning breezes from the south-east, however that the benefits of a shorter building overall which does not interrupt breeze circulation at higher levels being a superior design outcome to that of a complying proposal. The applicant also presented that the effect of daylight would be most noticeable to lots to the south, however the building is separated by road frontages in this direction and the impact of the volumetric variations not likely to be undue on the penetration of daylight.
  - The inclusion of the basement car park in reducing the overall building height, which reduces the overall mass of the building and also as it improves the appearance of the building in terms of its interaction with the public realm and the benefit of encouraging passive surveillance over surrounding public spaces through the office floors (rather than above ground car parking levels).
  - That privacy is not impacted by the design due to the building having three street frontages and the north-west boundary wall preventing any impacts to any future development on the adjacent Lot 2364.
  - The height of the ground floor extending above a typical storey, which marginally increases the height of the overall building, however has merit in achieving the objectives of Clause 6.3.3 which encourage the use of full height clear glass frontages and alfresco dining in order to generate a greater interaction with the street. This is particularly important given the location of the building centrally within the Darwin CBD and having a high level of pedestrian activity. The building provides an excellent design outcome including an exceptional design standard, addressing the siting and mass of the building through coordinated facades, the variation of materials, colours and finishes and the banding of the overall form. This is particularly given the location of the building centrally located within the Darwin CBD. Overall the consent authority was satisfied that the impact of the non-compliances on the design is equal to that of a complying building and special circumstances identified to address the extent of variation sought.
- (c) The purpose of Clause 6.3.3 is to promote exemplary urban design in Central Darwin and requires active street frontages, providing awnings, and limiting services at street level. The building responds to requirements of this clause including in providing a covered pedestrian colonnade to the full length of Knuckey Street and for the majority of the Cavenagh Street frontage, which enables an area within the site which is attractive, safe and functional for pedestrians, in providing basement car parking, and in providing building entrances and clear glass windows to the Cavenagh Street and part of the Knuckey Street frontages. The design of the building at ground level was amended during assessment to reduce the extent of crossovers to the Litchfield

Street frontage and the building now exceeds the 75% active street frontage requirements.

The applicant has sought a variation to the part of this clause that requires full length awnings to each street frontage. The authority determined that the development will be required to extend the street awning along the Cavenagh and Litchfield Street frontages through a condition of any future development permit issued, such that full length awnings are provided to all street frontages as required by Clause 6.3.3. The circumstances suggested by the applicant to vary this part of the clause have been noted, including there being architectural merit in separating the stairwell core, that the adjacent site does not provide an awning, and that the ground level colonnade provides additional shelter beyond that which would normally be expected within the site boundary. The consent authority failed to find special circumstances to vary this part of the clause. The extension of awnings to the Cavenagh and Litchfield Street frontages will allow for a continuous pedestrian shelter as the development of the adjacent site can one day be anticipated and will also require a full length awning. The site is also centrally located within the Darwin CBD with a high level of pedestrian traffic along all street frontages.

- (d) Clause 6.6 (Loading Bays) provides for the loading and unloading of vehicles associated with the use of the land. The clause requires 7 loading bays be provided for an office development of this size however a single loading dock is provided. The provision of a single loading bay is considered acceptable given the predominant use of the building as offices and as the expected delivery needs for offices is lower than other retail uses. The applicant has outlined that the loading is sufficient to service the building with the design accepted by the City of Darwin. The consent authority also noted that the applicant has investigated the provision of basement loading however this would have impacts on the achievement of active frontages at street level due to access requirements. Conditions would be included on any permit issued to require that all loading and unloading must occur on site including waste collection, and that the use and development of the land must be managed such that the amenity of the area is not detrimentally affected, through the transport of goods to/from the site, the appearance of the building, or the undue emission of noise or smells.
  - (e) Clause 6.5.3 (Parking Layout) ensures that a car parking area is appropriately designed, constructed and maintained for its intended purpose. The design is functional, however a non-compliance identified where 2 x spaces are provided as the last space at the end of an aisle but the driveway adjacent does not extend 1m beyond the last space. A condition would be included on any permit issued requiring a suitably qualified person confirm the parking design meets the applicable Australian Standard where it varies from the Clause requirements.
6. The consent authority also noted a request from the City of Darwin to have conditions precedent that prior to the commencement of works, approval for driveway access and landscaping within the road reserve be sought and these would be included on any permit issued.

**ACTION**

Advice to applicant

**ITEM 3  
PA2018/0159  
APPLICANT**

**7 STOREY CARPARK (320 SPACES)  
LOTS 2396 & 2397 (14 & 12) LITCHFIELD STREET, TOWN OF DARWIN  
STEWART HOCKING**

That, pursuant to section 97(1) of the *Planning Act*, Ms Sherry Cullen a member of the Darwin Division of the Development Consent Authority declared a conflict of interest and was not present during or took part in the deliberation or the decision of the Division in relation to this item.

DAS tabled further submissions from PPlan and Mr Glen & Mrs Georgina Tatam.

Mr Jack Priestley (MasterPlan), Mr Michael Grassi (Podia) Mr William Phillips (Sandran) and Ms Kirby Dickenson (Sandran).

Submitters in attendance – Mr Ben Wollinski.

**RESOLVED  
135/18**

That, pursuant to section 46(6)(b) of the *Planning Act*, the Development Consent Authority defer consideration of the application to develop Lots 2396 (14) & 2397 (12) Litchfield Street, Town of Darwin for the purpose of a 7 storey car park, to require the applicant to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

- Further information and lodgement of a variation application to address the impact of the development on Development Permits DV418 & DV898 and the car parking which is required through those permits over the subject land. The further information is required due to the related car park development over Lots 2396 & 2397 and to ensure that the parking for the existing development on Lot 5396 is properly considered.
- Further resolution of the traffic concerns raised in the technical comments by the City of Darwin dated 15 May 2018, including the physical changes likely to be required to accommodate the development within the road network.
- To allow further submissions to be received on the additional material provided during assessment by interested persons that made submissions under section 49 of the *Planning Act*.
- Further information and/or amended plans to address sub-clause 8.2(m) of the Planning Scheme being the provision of landscaping to reduce the visual impact and providing shade and screening of open expanses of pavement and car parking for the development.

**REASONS FOR THE DECISION**

1. Further information and lodgement of a variation application is required to ensure that the development addresses the parking requirements for the existing development at Lot 5396 Town of Darwin, having regard to the previous determinations of the consent authority and the development permits issued under the *Planning Act*.
2. 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 and the effect of the development on land and on other land. The consent authority requires an assurance that the development is capable being accommodated within the road network, plus a greater level of understanding as to the likely changes required

to the road network to enable the proper consideration of the application including to appreciate the impact of the development on the site and surrounding area.

3. Pursuant to section 51(m) of the *Planning Act*, the consent authority must take into account any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application. The deferral of the application allows additional time in which public submissions can be received in relation to further material provided during assessment, to ensure an adequate time for review for interested persons and consideration by the consent authority of those submissions. During the original exhibition of the proposal, 4 public submissions were received, plus 1 late submission. Prior to the public hearing, 1 further submission was received citing that insufficient notice was provided to accept public comments.

Of the original submissions received and of those submissions made in person at the public hearing, the consent authority has taken into account the matters raised. The concerns include the height of the building impacting on the amenity of adjacent lots, that a car park was incompatible and that appropriate separation should be included, that breezes would be reduced, that no landscaping was included, that the building would retain heat, and that the use would create undue noise, cars would be reflective, there would be privacy impacts, that Litchfield Street is inadequate to provide for the development, and also with regards to building requirements. The submissions also proposed instead that spending be made on promoting bicycle access and public transport rather than car parking.

The authority considers that the purpose of Zone CB (Central Business) is to provide for a diversity of activities, and with a commitment to the separation of incompatible activities. The development of a car park in a mixed use zone is not considered an incompatible land use activity, and amenity should be considered in the context of the mixed use zone in which it is located. The changes made by the applicant during assessment of the application including separating the car park roof from the podium levels of the adjacent buildings by over 5m is noted as addressing the majority of concerns raised and is considered an appropriate degree of separation. One of the 4 submissions received confirmed no further objections to the car park as a result of the design amendments given the applicant has confirmed limits to lighting and the provision of roller doors to secure the building at night. As a result of the submissions received, further information has been requested with regard to the sub-clause 8.2(m) of the Planning Scheme.

There was also a concern that the application was submitted in two parts (office and car park developments), and whilst each could be separately determined, the authority will proceed with considering both applications in parallel.

4. Clause 8.2(m) of the Planning Scheme requires that developments provide landscaping to reduce the visual impact and provide shade and screening of open expanses of pavement and car parking. Further information in response to this clause should address this requirement.



The applicant's comments regarding the aisle widths being larger than that typically required through Clause 6.5.3 of the Planning Scheme to allow for appropriate vehicle access are noted. The authority also notes the applicant's commitment to funding to provide an improved pedestrian experience along Litchfield Street at ground level.

7. In addition to the deferral of the application, the consent authority made determinations with respect to a number of matters required to be taken into account pursuant to Section 51(a) of the *Planning Act* being the planning scheme that applies to the land to which the application relates.
  - (a) The purpose of Zone CB (Central Business) is to provide for a diversity of activities with a commitment to the separation of incompatible activities, and building form and design is expected to be sensitive to the needs to pedestrian movement and facilitate the creation of safe and active street frontages and public places and a vibrant commercial precinct. The car park is generally consistent with the broader intent of Zone CB with above ground car parking being a form of development anticipated. The car park aligns with the siting and mass of buildings as anticipated by Clause 6.3.2 (Volumetric Control in Central Darwin).
  - (b) The purpose of Clause 6.3.3 is to promote exemplary urban design in Central Darwin and requires active street frontages, providing awnings, and limiting services at street level. During assessment, revised plans were submitted which represent a significant improvement to the overall design of the car park, including articulated features, depth perception, colour variation and shading treatments to the upper levels. The car park now includes a full length awning to the Litchfield Street frontage and screens to the upper levels of car parking.

The clause also requires that 75% of the length of the site boundary at ground level is to provide an active street frontage through treatments such as building entrances, windows, landscaping, areas for pedestrians, alfresco dining and also by limiting services at street level. The consent authority has determined that compliance with the 75% active frontage requirement is impractical. Non-active components of the frontage include 2 x fire access stairs, and 2 x lift lobby accesses, plus the driveway which presents as a double width entrance ramp of 11.6m in width. The applicant states that the use as a car park creates a practical limitation in compliance with Clause 6.3.3, evident in the pedestrian and vehicle access requirements for the frontage of the building, and that the double width entrance is required to accommodate the peak car park demand. This is discussed in the traffic impact assessment report submitted with the application and is noted by the City of Darwin.

- (c) Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Planning Scheme, the consent authority may consent to a development that does not meet the standard set out in Parts 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.
- (d) Clause 6.5.3 (Parking Layout) ensures that a car parking area is appropriately designed, constructed and maintained for its intended



purpose. The design is functional, however a non-compliance identified where 2 x spaces on level 1 are provided as the last space at the end of an aisle but the driveway adjacent does not extend 1m beyond the last space. A condition is included requiring a suitably qualified person confirm the parking design meets the applicable Australian Standard where it varies from the Clause requirements.

- (e) Also, the traffic study included with the application identified conflict points in the design of the aisle turnaround, despite the minimum aisle widths being met. The study suggests that ideally the aisle widths would be increased, however the conflicts may be acceptable due to the access times reducing the number of conflicts (i.e. entrance in the morning / exit in the evening), as there is sight line distance available for the entering car to hold to wait for the exiting car, and as mirrors could be included to provide greater sight lines. A condition would be included on any permit issued to confirm that this is resolved.
- (f) Clause 6.6 (Loading Bays) provides for the loading and unloading of vehicles associated with the use of the land. The clause requires 1 loading bays given the 111m<sup>2</sup> commercial tenancy on the ground floor. The applicant has provided general comments that delivery vehicles are not expected to require access to the car park. The City of Darwin has also not raised any concerns with regard to the provision of loading for this application, and has in other instances indicated a preference for on-street loading. There is an existing loading zone in Litchfield Street which is proposed to be retained albeit relocated further to the south-east as part of the upgrade works intended along Litchfield Street.

The consent authority also noted a request from the City of Darwin to have conditions precedent that prior to the commencement of works, approval for driveway access and landscaping within the road reserve be sought and these would be included on any permit issued.

**ACTION:** Advice to applicant

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

**SUZANNE PHILIP**  
Chair

09 AUGUST 2018