



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 325 – FRIDAY 19 OCTOBER 2018

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

MEMBERS PRESENT: Suzanne Philip (Chair), John Gleeson, Simon Niblock and Sherry Cullen.

APOLOGIES: Doug Phillips and Mick Palmer

OFFICERS PRESENT: Poppy Zaronias (A/Secretary), Dawn Parkes, Richard Lloyd, Ben Wollinski, Susannah Penman and Amit Magotra (Development Assessment Services)

COUNCIL REPRESENTATIVE: James Whyte and Nick Rakkas

Meeting opened at 10.30 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 VERANDAH ADDITION TO AN EXISTING SINGLE DWELLING WITH A
PA2018/0349 REDUCED FRONT SETBACK
APPLICANT LOT 8834 (415) TROWER ROAD, TOWN OF NIGHTCLIFF
NOW RESOURCES PTY LTD

Mr Sam Hedger (Now Renovations) attended.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 7.3
171/18 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 8834 (415) Trower Road, Town of Nightcliff for the purpose of a verandah addition to an existing single dwelling with a reduced front setback, 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 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 or an alternate approved connection.

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. 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 plans in accordance with the authorities' requirements and relevant legislation at the time.
4. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin as the case may be to the satisfaction of the consent authority.
6. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES

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

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 primary purpose of Zone SD is to provide single dwellings on individual lots. The proposal continues to provide a single dwelling on the lot. The proposal does not deviate from the primary purpose of the zone.

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

Clause 2.5(4) (Exercise of Discretion by the Consent Authority) allows the authority to vary the provisions of Parts 4 or 5 only if it is satisfied that special circumstances justify the giving of consent.

In accordance with Clause 2.5 (Exercise of discretion by the consent authority) of the NT Planning Scheme, the following design features and site conditions are considered to be sufficient special circumstances to justify the granting of a variation to Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the scheme. The reasons for which are outlined below:

- The lot is located on a corner having dual street frontages.
- There is currently no access from the primary street frontage.

- The primary street setback unduly restricts development as the building is sited on the lot with:
 - The secondary street acting as the primary street with vehicle and pedestrian access.
 - The lot is sited as if the primary street was a side boundary.
- The proposed verandah stays consistent with the existing development character.
- There is a large nature strip between the front boundary and the road reducing impacts of building massing when viewed from the street.

A thorough assessment of the application against the *Planning Act* and Northern Territory Planning Scheme has been conducted by Development Assessment Services. A variation to the requirements of Clause 7.3 (Building Setbacks for Residential Buildings and Ancillary Structures) is supported as:

- Special circumstances exist to justify the giving of consent.
 - The encroachment into the front setback is minor in nature and is sited to provide an adequate level of visual amenity.
 - The proposed development is consistent with the primary purpose of the zone, being ancillary to a single dwelling and not having any detrimental effect on residential amenity.
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 relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The land is capable of supporting the proposed development as the verandah is ancillary to the main use and does not change the number of dwellings on the lot. Furthermore, the service authorities did not raise any concerns with land capability.

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.

The proposed verandah addition would be unlikely to have an adverse impact on the existing and future amenity of the area. The proposal is consistent with Zone SD (Single Dwelling), with verandahs reasonably expected within the zone.

ACTION: Notice of Consent and Development Permit

ITEM 2 **CHANGE OF USE FROM LICENSED CLUB TO LEISURE AND RECREATION**
PA2018/0369 **(YOGA STUDIO)**
APPLICANT **LOT 4933 (31) BISHOP STREET, TOWN OF DARWIN**
CHRISTINE LALOR

Ms Christine Lalor (Flametree Yoga) and Mr Tony O'Neil (Building owner) attended.

DAS tabled an email from the applicant requesting amended wording to proposed condition number 3.

**RESOLVED
172/18**

That, the Development Consent Authority reduce the car parking requirements pursuant to Clause 6.5.2 (Reduction in Parking Requirements), and vary the requirements of Clause 6.5.3 (Parking Layout) and Clause 9.1.1 (Industrial Setbacks) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 4933 (31) Bishop Street, Town of Darwin for the purpose of change of use from licensed club to leisure and recreation (yoga studio), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. The use and/or development as shown on the endorsed plans must not be altered without the further consent of the consent authority.
3. Large group classes must not operate between 8am and 5pm on weekdays (i.e. Monday to Friday). Smaller group classes, comprising ten (10) or less students, may operate within those hours.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
5. The car parking shown on the endorsed plan(s) must be available at all times for the exclusive use of the occupants of the development and their visitors/clients.
6. 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.
7. All new 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. Notwithstanding the approved plans, all signage is subject to Darwin Council approval, at no cost to Council.
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 applicant is advised to engage a building certifier, within the meaning of the Building Act, as to whether the building/s comply with the *Building Act* and associated Regulations.

4. 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.

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 NT Planning Scheme applies to the land and the site is located within Zone GI (General Industry). It is surrounded by lots developed for a range of uses consistent within this zone. The proposal is for a yoga studio located within an existing building in Zone GI (General Industry). The use aligns with the defined use of 'leisure and recreation' which is a discretionary use in Zone GI (General Industry).

The yoga studio will offer opportunities for all local employees to capitalise on the classes before or after work, thus providing a 'service' for the area as required by the purpose statement for Zone GI (General Industry). In addition, the site is within close proximity (within 240 metres) to various residential zones whose occupants will be able to walk or cycle to the subject place for yoga classes without having to rely on a vehicle.

The authority noted that the existing development in the immediate vicinity of the subject site consists mostly of office, shop, showroom sales and warehouse uses and therefore it is unlikely that the yoga studio will be impacted by undue noise, dust, smoke etc. normally associated with heavy industrial uses located within a GI zone. There is limited opportunity for heavy industrial uses to be introduced within the immediate area given the likely unsuitability of the existing buildings to accommodate such uses. Furthermore, the *Darwin Inner Suburbs Area Plan* has identified the area in Zone GI (General Industry), where the subject site is located, as a 'Potential Area for Change' to a 'Service Commercial Area', which in time will see the area evolve away from industrial uses to accommodate more commercial uses.

For the reasons discussed above, the authority determined that the proposed development of a yoga studio in this location was an appropriate use of the site under the current GI (General Industry) zoning and under the potential future SC (Service Commercial) zoning.

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 NT Planning Scheme where it is satisfied that special circumstances justify the granting of consent:

Submitter Mr Brad Cunnington (Northern Planning Consultants Pty Ltd) attended.

Mr Israel Kgosiemang tabled a stage one Environment Assessment Report prepared by Sonus Pty Ltd.

**RESOLVED
173/18**

That, pursuant to section 53(c) of the *Planning Act*, the Development Consent Authority refuse to consent to the application to develop Lot 8641 (4) Steele Street, Town of Darwin for the purpose of part change of use from warehouse to place of worship and a caretakers residence exceeding 50m², for the following reasons:

REASONS FOR 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 GI (General Industry). As per Clause 5.12 of the NTPS, the primary purpose of Zone GI is to provide for general industry. Offices are expected to primarily provide a service to the general industry in the zone and be of a size commensurate with the service provided and shops are expected to be limited to those that either service the needs of the general industry in the zone or would be in appropriate in a commercial zone.

The authority initially deferred consideration of the application to enable the applicant to provide further information as to why the proposal is a suitable land use in Zone GI (General Industry) and adequate justification to warrant a departure from the primary purpose of Zone GI being to provide for general industry.

In response to the Notice of Deferral the applicant provided the following information to demonstrate the suitability of the proposed place of worship in Zone GI:

- a written response to the matter of deferral;
- a locality plan showing existing uses surrounding the subject site (Lot 8641);
- a zoning plan of the Winnellie and Woolner area with details of existing uses; and
- noise levels generated from the adjacent existing industrial use (to the east) at Lot 8643.

The authority reconsidered the application and additional information in detail and noted that the applicant's claim regarding the suitability of the land for the purpose of a place of worship relies upon the fact that the existing land uses surrounding the subject site have been fully developed. The authority considered that while surrounding sites may currently be developed with uses resulting in relatively unobtrusive impacts on the surrounding amenity, the GI zoning allows for permitted uses that could by nature of their operation adversely affect the amenity of the surrounding locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise. These permitted uses include transport terminal, recycling depot, motor repair station, motor body works and general industry.

The authority noted the 'Stage One Environmental Noise Assessment' prepared by Sonus Pty Ltd. which was tabled by the applicant at the meeting. The assessment states that the *building incorporates masonry walls, will only be used during limited day and evening time periods with no music played as part of the proposal. As such, the proposal is considered to be innocuous from an environmental noise perspective.*

The authority did not dispute that the potential noise generated from the proposed place of worship would be at a level as to not cause concern to the surrounding industrial area, but were mindful of the reverse sensitivity issues that could occur from permitting a place of worship in an area that is surrounded, or has the potential to be surrounded, by general industry uses and their impacts such as those described above. The authority were also mindful of the Northern Territory Noise Management Framework Guideline recently released by the Northern Territory Environment Protection Authority (NTEPA) in that permitting a place of worship immediately adjacent to an existing general industry use could potentially subject the industrial use to investigation and enforcement of noise related issues under the NTEPA's applicable legislation.

In consideration of determining how the proposed place of worship provides a service to the general industry zone in which it is to be located, the authority noted that the applicant verbally advised that the proposed place of worship shall be used by the local employees working in the area, but that no further information to support this claim was provided by the applicant. Furthermore when questioned on the intended use and operation of the proposed place of worship, the applicant stated that it was for the use of a small community of worshipers with just ten (10) families likely to utilise the facility which would suggest that the facility would provide a limited service to the general industry zone.

Part 2 (Clause 4.0) of the Scheme lists a number of planning principles and framework to ensure that a use or development or proposed use or development is consistent with them. The Planning Scheme requires a consent authority to make determinations of development applications in a manner that, if not actively advancing those principles, is consistent with them or would not frustrate achievement of those principles.

Clause 4.1, provides planning principles and a land use framework map for the Northern Territory. Subclause (d) of this clause states that:

The administration of this planning is to:

*(d) ensure development does not unreasonably intrude on or compromise the privacy of adjoining residential uses and ensures its own **amenity is not compromised in the future.***

The authority considered that the response provided by the applicant did not adequately address the amenity impacts of the proposed use within Zone GI. The reverse sensitivity issues for the proposed use remain as the amenity could be compromised due to the changing operations of the adjacent buildings to a number of more intensive uses permitted within Zone GI.

The authority also noted that there is no area plan or planning scheme amendment to rezone the land currently proposed for this area. This suggests that it is not an area identified for land use change anytime in the

near future and is expected to continue to provide suitable land for general industrial purposes, further confirming that a place of worship is not a suitable use within this location.

2. The proposal is compliant with Clause 6.5.1 (Parking Requirements) of the NTPS in that ten (10) car parking spaces were required and ten (10) spaces are proposed, but the parking layout presents a non-compliance with Clause 6.5.3 (Parking Layout) of the NTPS as the internal driveway widths in part do not meet the minimum dimensions and the traffic circulation relies on access through part of the existing warehouse which is secured by roller shutters.

While the report by Development Assessment Services (DAS) recommended supporting a variation to this clause due to it being considered minor in nature and an acceptable level of vehicle access expected to be achieved (which could be confirmed by inclusion of a condition precedent on any permit issued requiring submission of written confirmation from a qualified traffic engineer that the car parking spaces comply with the relevant Australian Standards), the authority considered that in the absence of any preliminary advice from a qualified traffic engineer or other suitably qualified professional, that the functionality of the parking layout remained a serious concern.

When questioned by the authority on the proposed car parking layout and whether or not the roller shutters could be removed to allow permanent access to the rear of the site, the applicant admitted that this had been considered but the removal of the roller shutters would likely result in building compliance issues in terms of meeting the requirements of the Building Code of Australia. The applicant added that they did not consider the proposed parking layout would cause any issues as it is to service a use that has a low patronage and is able to predict vehicular movements to such an extent as they know who will be attending and at what times. While a parking management plan was provided with the application to demonstrate the appropriate provision and management of car parking on the site, which could be endorsed to form part of any permit issued, the authority's concerns in relation to the suitability of the proposed parking layout and its functionality remained.

3. In addition to the proposed place of worship the original proposal also sought consent for a caretaker's residence exceeding 50m². The caretaker's residence was originally proposed with a floor area of 117m², which then reduced to 78.5m² in response to concerns raised by DAS. The authority noted that while an area of 78.5m² is identified on the plans, this area does not include a kitchen and is likely to utilise the areas shown as 'meeting room' and 'communal kitchen area' as an extension of the function of the caretaker's residence and therefore the floor area of the caretaker's residence is likely to be even greater than 78.5m². The authority noted that the latest amended plan provided by the applicant in response to the Notice of Deferral further reduced the floor area to 49.88m² in an attempt to comply with the permitted floor area requirement of 50m².

In assessing the proposed caretaker's residence the authority noted that the layout tries to make use of the existing non-conforming internal arrangement which greatly exceeds 50m². The authority also noted that the proposed caretaker's residence does not include a kitchen, rather it relies on utilising

a communal kitchen shared with the place of worship, and that the current layout does not include any living area or laundry. The authority determined that the proposed caretaker's residence, while currently shown with a floor area of 49.88m², does not meet the purpose of Clause 7.10.3 (Caretaker's Residence) for the following reasons:

- The definition of a caretaker's residence means a **dwelling** which is ancillary to the lawful use of the land on which it is erected and which is used by the caretaker of the land. Furthermore, the definition of a dwelling means a building, or a part of a building, designed constructed or adapted as a self-contained residence. The authority considered that the proposed caretaker's residence consisting of two bedrooms, a walk-in-robe and a bathroom cannot be considered as a self-contained residence and as such it does not meet the definition of a dwelling and caretaker's residence.
- The areas that were shown within the originally proposed 117m² caretaker's residence, still exist, but have been re-allocated as office and store rooms which realistically also form part of the caretaker's residence. If the caretaker's residence was proposed as it currently exists in its non-confirming layout, it would have a floor area in excess of 130m² which cannot be supported by the authority as it is not appropriate to the site.
- Given the limited size of the proposed place of worship and that it proposes to operate for just 12 hours per week, the caretaker's residence has the potential to become the primary use of the land which is inconsistent with the purpose of the clause. The application fails to demonstrate how the proposed caretaker's residence would be ancillary to the lawful use of land.
- A caretaker's residence in excess of 50m² provides greater opportunity for families rather than individuals or couples to reside on the site. Given the location of the site in a GI zone, this is considered inappropriate as the surrounding uses are likely to negatively impact on the residents' amenity and the purpose of the clause requires that *the caretaker's residential use does not prejudice the use of the site or adjoining land in accordance with its zoning.*

4. 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.

Two public submissions were received in relation to the application. Of the two submissions received one submission was received under section 49(1) of the *Planning Act* and one late submission was received after the expiry of the exhibition period. The additional information provided by the applicant in response to the Notice of Deferral was also circulated to the submitters and additional comments were received from Northern Planning Consultants on behalf of the landowner of adjoining Lot 8643.

Mr Brad Cunnington of Northern Planning Consultants was present at the meeting and represented the proprietors of Penguin Ice which is situated immediately to the east of the subject site at Lot 8643 (2) Steele Street, Town of Darwin. Mr Cunnington explained that his client maintained their position explained in the written submission dated 3 July, and in the verbal representation made at the DCA meeting on 17 August 2018. Mr Cunnington provided the following additional comments:

- The noise report tabled by the applicant details an assessment of the suitability of the proposed use as a noise source with commercial and

residential receptors however the issue is suitability of the proposed use as a noise receptor due to the operation of the adjoining industrial use.

- The Northern Territory Noise Management Framework Guideline recently released by the Northern Territory Environment Protection Authority (NTEPA) provides that the recommended maximum assigned amenity noise level from an industrial noise source to a place of worship, to be taken internally and measured at times when the place of worship is in use, is 40dB(A). The 70dB(A) referred to in the applicant's submission as "acceptable Noise Levels within industrial area" relate to industrial – industrial interface only, not industrial – place of worship.
- The emphasis on limited hours of operation in the applicant's submission is irrelevant. A place of worship of any denomination is likely to function within a similar period, during which adverse amenity impacts from surrounding industrial properties can still occur.
- The applicant's assumption that the land uses surrounding the site are fully established and that the potential amenity impacts of these premises on the subject site are unlikely to change, is not appropriate.

The authority noted the signed petition in support of the proposal which was tabled by the applicant at the DCA meeting on 17 August 2018. The petition stated that there is currently insufficient places of worship for residents who embrace Islam as their religion and while there has been an increase in residents who are Muslim there had not been an increase in places of worship for residents to practice their faith. While acknowledging the comments made on the petition and the intended use of the proposed place of worship, the authority clarified that a place of worship as defined by the NTPS can be for the use of any religion and the application would be considered within that context.

In the written submission provided by Mr Cranley of Whittles Body Corporate for 6 Steele Street, concerns were raised regarding the provision of car parking and the potential for the proposed use to impact on adjacent land and the surrounding street network, and in particular the private property of 6 Steele Street. In response to those concerns the authority noted that in accordance with Clause 6.5.1 (Parking Requirements) of the NTPS the proposal requires 10 car parking spaces and 10 car parking spaces are proposed to be provided on site. The authority also noted however that the current parking layout proposed requires a variation to Clause 6.5.3 (Parking Layout) of the NTPS and this is discussed further in reason 2 above. In summary while sufficient car parking spaces are proposed on site, the parking layout does not meet the required standards and does not appear to be functional for its intended purpose.

The authority carefully considered the comments made within both the written and verbal submissions and has taken these comments into account when making its determination to refuse the application.

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

The potential impact on the existing and future amenity of the area in which the land is situated has been discussed in detail in reason 1 above. In summary the authority considered that the proposed use of a place of

worship in this location would adversely impact on, and be adversely impacted by, the existing and future amenity of the area.

ACTION: Notice of Refusal

**ITEM 4
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**

Pursuant to section 91(1) of the *Planning Act*, Mr John Gleeson a member of the Darwin Division of the Development Consent Authority declared a conflict of interest and was not present during and did not take part in any deliberation or decision of the Division in relation to this item.

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd), Mr Tom Wright and Mr Aaron Organ (Ecology and Heritage Partners), Mr Chris Grimm and Ms Keely Hutton (Defence Housing Australia) and Mr David Bramley attended.

Ms Deborah Hall, Mr Andris Bergs and Ms Margaret Clinch (PLan) and other members of the public attended.

**RESOLVED
174/18**

That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent Authority defer consideration of the application to develop Lot 4873 (577) Lee Point Road, Town of Nightcliff for the purpose of subdivision to create 513 lots in two stages, to enable the provision of the following information which is necessary in order to enable the proper consideration of the application:

- Advice from the NT Environment Protection Authority regarding the outcome of the Environment Impact Statement being considered for the development.
- Advice regarding the intended arrangement for the future management of stormwater infrastructure in Zone CN.

REASONS FOR THE DECISION

1. Pursuant to Section 46(4)(b) of the *Planning Act*, the consent authority may defer consideration of a proposal to allow the applicant to provide additional information it considers necessary to enable the proper consideration of the proposal and its impact on the site and surrounding area. Pursuant to Section 51(g) of the *Planning Act*, the consent authority must, in considering a development application, take into account that if a public environment report, and or 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 consent authority is awaiting advice from the NT Environment Protection Authority in relation to the assessment which is currently being carried out under the *Environmental Assessment Act*.
2. Pursuant to section 51(m) of the *Planning Act*, the consent authority must, in considering a development application, 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 subdivision is understood as proposing to discharge stormwater from detention basins at the north and south of the site to the 21.95ha lot along the western boundary in Zone CN. As the intended arrangement for the future management of stormwater infrastructure in Zone CN is currently unclear, it is recommended that the applicant provide further confirmation of this arrangement and the responsible authority.

ACTION: Notice of Deferral

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

SUZANNE PHILIP
Chair

25 October 2018