



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 342 – FRIDAY 6 SEPTEMBER 2019

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

MEMBERS PRESENT: Suzanne Philip (Chair), Mark Blackburn, Marion Guppy, Mick Palmer and Peter Pangquee

APOLOGIES: Nil

OFFICERS PRESENT: Breanna Lusty (A/Secretary), Dawn Parkes, Emmet Blackwell, Amit Magotra and Richard Lloyd (Development Assessment Services)

COUNCIL REPRESENTATIVE: James Whyte and Brian Sellers

Meeting opened at 10.30 am and closed at 11.35am

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

PA2019/0260 CARPORT AND VERANDAH ADDITION TO AN EXISTING SINGLE DWELLING WITH A REDUCED SIDE SETBACK LOT 1126 (58) KESTREL CIRCUIT, TOWN OF SANDERSON

APPLICANT/S AB Consulting (NT) Pty Ltd

Ben & Hanna Cormack (Landowners) and Annette Joseland (AB Consulting (NT) Pty Ltd) attended.

Peter Kelly (Submitter) attended.

**RESOLVED
150/19**

That the Consent Authority vary the requirements of Clause 7.3 (Building Setbacks of Residential Building and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 1126 (58) Kestrel Circuit, Town of Sanderson for the purpose of a carport and verandah addition to an existing single dwelling with a reduced side setback, subject to the following conditions:

CONDITIONS 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 local 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 surface flow direction, downpipe direction and any connection to Council connection points.
2. 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, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage, and the use of City of Darwin land during construction. The ECMP is also to address the protection of existing assets, the protection of public access, and include a risk assessment.
3. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

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

5. The owner of the land must enter into agreements with the relevant authorities for the provision of drainage and electricity services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
6. 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.
7. 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.
8. 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.
9. 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.

Notes

1. 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.
2. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
3. Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and the 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 servicing requirements and the need for upgrading of infrastructure.
4. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, 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. Lot 1126 Town of Sanderson is identified within Zone SD (Single Dwelling Residential) of the NTPS and is surrounded by lots predominantly developed as single dwellings. The primary purpose of Zone SD is to provide for single dwellings on individual lots. The

application is for a carport and verandah addition to an existing single dwelling, which complies with the zone purpose.

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

The proposal presents a non-compliance with Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the NTPS. A variation to the side setback requirements to allow four columns to encroach is supported as the variations are considered to have a negligible impact and do not alter the ability to meet the purpose of the clause. The proposal is consistent with what is ordinarily expected within Zone SD and due to the skewwhiff orientation of the dwelling on the lot, requires the columns to encroach to enable the carport to be fit for purpose.

3. Pursuant to Section 51(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence received under section 50, in relation to the development application.

One submission was made under section 49 in relation to the application from the owner of the adjacent site (Lot 1125, Town of Sanderson). The submission raised concerns with the reduced setback and the impacts on visual amenity and breeze penetration. The submitter requested the provision of a new corrugated iron fence of at least 2m in height.

The Authority noted the submitter's concerns. The non-compliance with Clause 7.3 is discussed in reason 2 above. As the encroachment is limited to the columns of the carport and verandah structure the Authority considered that there would be no adverse effect on breeze penetration or visual amenity, given that the roof/eaves were also located a minimum 600mm from the boundary and fully compliant. The request for the provision of a new fence was not supported by the Authority as a condition of approval as it was not considered to relate directly to the variation being sought and would therefore be an unreasonable condition to impose.

The Authority noted the applicant's intention to re-landscape along the boundary with Lot 1125 which may in time provide the submitter with the necessary privacy being sought.

4. Pursuant to section 51(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates and 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.

No land capability issues were identified during the assessment of this application. The scale of the proposed development is consistent

with the SD (Single Dwelling Residential) zoning and is consistent with surrounding development.

5. Pursuant to section 51(n) of the *Planning Act 1999*, 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 carport and verandah addition is a form of development reasonably anticipated within Zone SD (Single Dwelling Residential) and is not expected to impact on the existing or future amenity of the area. The proposed development will however provide significant increased amenity to the occupants of the land by providing undercover car parking and entertainment space.

ACTION: Notice of Consent and Development Permit

ITEM 2

PA2019/0283

GARAGE AND SHED ADDITION TO AN EXISTING SINGLE DWELLING WITH A REDUCED FRONT SETBACK

LOT 854 (24) CLARKE CRESCENT, RAPID CREEK, TOWN OF NIGHTCLIFF

APPLICANT/S

FERNANDA LUNA ROSE DUPAL & HENRY GEORGE DUPAL

Fernanda & Henry Dupal sent their apologies.
DAS tabled and read aloud a letter provided by the applicants.

**RESOLVED
151/19**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 854 (24) Clarke Crescent Town of Nightcliff, for the purpose of a garage and shed 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 (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground 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 and connection details.
2. 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, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage, and the use of City of Darwin land during construction. The ECMP is also to address the protection of existing assets, the protection of public access, and include a risk assessment.
3. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within

the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

4. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of drainage and electricity services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
6. 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.
7. 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.
8. 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.
9. 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.
10. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street to the requirements of the City of Darwin, to the satisfaction of the consent authority.
11. 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.
12. The garage and shed additional shall not be utilised as a self-contained dwelling or a habitable building.

Notes

1. 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.
2. Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and the 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 servicing requirements and the need for upgrading of infrastructure.

3. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.
4. City of Darwin advises that all street trees shall be protected at all times during construction. Any tree on a footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of the General Manager Infrastructure, City of Darwin. A Tree Protection Zone (TPZ) shall be constructed for all existing trees to be retained within the development, in accordance with Australian Standards – AS 4970-2009 “Protection of Trees on Development Sites”. Copies of AS 4970-2009 “Protection of Trees on Development Sites” can be obtained from the Australian Standards website.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The land is located in Zone SD (Single Dwelling Residential) of which the purpose is to provide for single dwellings on individual lots. The application is for garage and shed additions to an existing single dwelling, which complies with the zone purpose.

2. The application seeks a variation to Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) where a 1m setback is proposed to the Ryland Road boundary when a 6m setback is required. The purpose of Clause 7.3 is to ensure that residential buildings and ancillary structures are located so:
 - they are compatible with the streetscape and surrounding development including residential buildings on the same site;
 - as to minimise any adverse effects of building massing when viewed from adjoining land and the street;
 - as to avoid undue overlooking of adjoining properties; and
 - as to encourage breeze penetration through and between buildings.

Pursuant to Clause 2.5 (Exercise of Discretion of the Consent Authority) the consent authority has the discretion to vary Clause 7.3 if special circumstances are found for the variation sought. The special circumstances identified in varying this clause are:

- The large frangipani tree on site would need to be removed in order to make the setback comply, there is value in its preservation;
- The proposed development is compatible with the existing streetscape as it will be well screened by existing vegetation that is proposed to be retained along the front boundary line;
- The proposed development is a small scale, single storey non-habitable building which does not result in any adverse effect of building massing from the street or adjoining property;
- There are no windows facing the street or adjoining property which will prevent any issues of overlooking or breach of privacy;

- Historically, the other street frontage (Clarke Crescent) has been treated as the primary street setback; and
- Being a corner lot next to a roundabout and traffic islands on both street frontages, there is a shortage of available on-street car parking for the site.

These circumstances are expected to ensure that there are no undue or adverse effects of building massing when viewed from the adjoining land, that no overlooking issues are created, and that an adequate level of breeze penetration between properties is maintained.

3. Pursuant to section 51(j) of the *Planning Act 1999*, 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 1999*, 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 proposal comprises a garage and shed as an addition to the existing single dwelling and there are no concerns with regards to the capability of the land. The land is not affected by flooding, storm surge or aviation constraints.

4. Pursuant to section 51(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The development is limited to the addition of a combined garage and open sided shed structure to an existing single dwelling and will not broadly impact on the amenity of the area. The amenity of the streetscape and for the adjoining lot has been considered with respect to the variation sought to Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and overall no undue amenity impacts are expected as a result of the development. A condition has been included requiring maintenance of the landscaping to ensure that the development is well screened from the street.

ACTION: Notice of Consent and Development Permit

ITEM 3

PA2019/0273

LEISURE AND RECREATION (GRANDSTAND) ADDITION TO AN EXISTING HORSE RACING FACILITY COMPRISING BAR, DINING, FUNCTION AREAS AND OUTDOOR VIEWING DECKS IN A 3 STOREY BUILDING LOT 5298 (20) DICK WARD DRIVE, FANNIE BAY, TOWN OF DARWIN

APPLICANT/S

NORTHERN PLANNING CONSULTANTS PTY LTD

Keith Stacey (Darwin Turf Club CEO) and Brad Cunnington (Northern Planning Consultants Pty Ltd) attended.

Janet & Jeff Farnell (Submitters) attended.

Mrs Farnell tabled 2 x photos of the bins and poorly maintained trees on the Darwin Turf Club property.

**RESOLVED
152/19**

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 6.1 (Building Height) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 5298 (20) Dick Ward Drive, Town of Darwin for the purpose of leisure and recreation (grandstand) addition to an existing horse racing facility comprising bar, dining, function areas and outdoor viewing decks in a 3 storey building, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must be generally in accordance with that submitted with the application and must include: a. details of screen tree planting for the car parking areas along the creek / fence line of Playford Street.
2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the local 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 surface flow direction, downpipe direction and any connection to City of Darwin stormwater connection points.
3. Prior to the endorsement of plans and 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, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage, and the use of City of Darwin land during construction. The ECMP is also to address the protection of existing assets, the protection of public access, and include a risk assessment.

GENERAL CONDITIONS

4. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity

facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

6. 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.
7. 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.
8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin, to the satisfaction of the consent authority.
9. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
10. 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.
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. Before the use/occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
13. The landscaping is to be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
14. External lights must be designed, baffled and located to the satisfaction of the consent authority to prevent any adverse effect on adjoining land, roads, and on the operation of the RAAF Base Darwin and Darwin International Airport.

NOTES

1. 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.
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 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.

3. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>. The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS provided by DENR. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be noncompliance with the Act.
4. The applicant is advised that the provision of lighting at the site is required to be consistent with the CASA Manual of Standards (MOS-139) Aerodromes to minimise the potential for conflict with aircraft operations. The design of lighting is a developer responsibility and if it is later found that lights or glare endangers the safety of aircraft operations, the Department of Defence or the Civil Aviation Safety Authority may require the lighting to be extinguished or suitably modified.
5. The site is subject to the 'Defence Areas Control Regulations (DACR)'. All structures, including temporary structures, higher than 15m above ground level, including, but not limited to, additional buildings, light poles, cranes used during construction, vegetation etc., require approval from the Department of Defence.
6. The Department of Defence has advised that organic waste and/ or storage of commercial waste bins associated with the proposed development might be attractive to vermin and/or birds and will potentially increase the risk of bird strike for aircraft, therefore organic waste should be managed appropriately.
7. The development and use hereby permitted should be designed, constructed, registered and operate in accordance with the National Construction Code of Australia, the *Public and Environmental Health Act 2011* and Regulations, the *Food Act 2004* and National Food Safety Standards.
8. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to Council.
9. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.

10. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The development proposes a leisure and recreation (grandstand) addition to the existing horse racing facility at the Fannie Bay Racecourse comprising bar, dining, function areas and outdoor viewing decks in a 3 storey building. The proposal is consistent with development anticipated in Zone OR (Organised Recreation) of which the purpose is to provide areas for organised recreational activities.

The proposal has been assessed against the relevant clauses of the NT Planning Scheme that apply to Zone OR, and a non-compliance was identified against Clause 6.1 (General Height Control), Clause 6.5.1 (Parking Requirements), and Clause 6.5.3 (Parking Layout).

The assessment identifies that the proposal generates the requirement for 228 car parking spaces but with the existing development on the site of the proposed grandstand (Ted's Bar), generating 87 spaces, there is a technical shortfall of 141 parking spaces as no new parking spaces are proposed.

A reduction to the parking required under Clause 6.5.1 (Parking Requirements), pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Scheme is supported based upon the following reasons:

- The site is zoned OR (Organised Recreation) under the Planning Scheme and it is unlikely that this zoning will change in the future.
- The total number of parking spaces for the site as a whole is currently 198 sealed and 323 unsealed parking spaces (a total of 521 spaces), and the total existing parking requirement for the site technically can be estimated at 292 spaces, which means that the parking shortfall of 141 spaces for the new grandstand can be adequately accommodated on the site in general.
- The site is serviced by the public bus network being Route 4 between the Darwin and Casuarina interchanges. Additional public transport is provided to the racecourse for major race days (e.g. Darwin Cup).

Authority member Mr Blackburn raised a safety concern regarding the overflow parking area in the centre of the racecourse in that a horse could potentially jump the race track railings into it but acknowledged that it was not a matter pertinent to the current application. Mr Stacey and Mr Cunningham noted Mr Blackburn's concern.

Mr Blackburn asked the applicant why the parking area approved for the Schweppes Pavilion (formally known as the Skyline Pavilion), through development permit DP09/0942, was not constructed. Mr Cunnington stated that he was not involved with that application but would take the question on notice and look into the matter. The Authority suggested that a variation application should be lodged if the parking is not to be provided to ensure that there is no breach of DP09/0942.

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 standards set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The assessment identifies that the height of the grandstand exceeds the 8.5m height limit by 5.95m. It is however acknowledged that a number of grandstands elsewhere in OR zones exceed 8.5m in height and large grandstands are generally of an exceptional nature in that they are only developed on sites which host major sporting activities, so spectators can comfortably view the particular sport. It is also noted that a grandstand with a height above 8.5m has existed on the racecourse since 1993 (Ted Bailey Grandstand - 12.9m), and the proposed grandstand (14.45m), will be sited directly next to it.

The assessment also identifies that the overflow parking area of 323 parking spaces is not sealed or line marked. It is considered that given the uniqueness of the site's use for horse racing mostly at weekends during the dry season, there is no real need for the overflow parking area to be sealed and line marked. Additionally, leaving the area unsealed will reduce the potential for stormwater runoff issues and the creation of a heat-sink.

3. Pursuant to Section 51(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence received under section 50, in relation to the development application.

One submission was made under section 49 in relation to the application during the exhibition period which concerns visual and lighting impacts, landscaping, rubbish storage and collection, use of Brown Street for construction and general racecourse traffic and ability for the public to view the environmental and construction management plans for the new grandstand.

These concerns are particularly addressed through:

- A condition precedent requiring the landscaping plan to include details of screen tree planting for the car parking areas along the creek / fence line of Playford Street.
- A condition requiring external lights to be designed, baffled and located to the satisfaction of the consent authority to prevent any adverse effect on adjoining land and roads.
- A condition precedent for an Environmental and Construction Management Plan (ECMP), which includes a requirement that traffic

control and haulage routes during construction must be detailed in the plan.

The submitters had an opportunity to speak further to their written submission at the DCA meeting and were able to clarify a number of matters with the City of Darwin and the applicant/CEO of the Darwin Turf Club through the Authority. The submitters were satisfied that compliance with the proposed conditions of approval should address their concerns.

The City of Darwin clarified that the location of waste bin storage on a commercial site is a matter for the applicant to determine but that the storage areas must be screened in accordance with City of Darwin's Waste Management Policy 054.

4. Pursuant to Section 51(m) of the *Planning Act 1999*, the consent authority must consider 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 application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of conditions and/or notations on the development permit.

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 potential impact of the proposal on the existing and future amenity of the area is considered low particularly as the proposal is consistent with the zone OR (Organised Recreation), and will be approximately 53m from the nearest boundary of the 43ha site. The grandstand will also have an orientation away from that boundary and towards the racetrack. Additionally, the provision of landscaping will contribute to the proposal not adversely impacting amenity.

ACTION: Notice of Consent and Development Permit

ITEM 4

PA2019/0271 ALTERATIONS AND ADDITIONS TO AN EXISTING RESTAURANT, INCLUDING DEMOUNTABLE STRUCTURE (WINE STORAGE) BUILDING LOT 7595 (68A) ESPLANADE, DARWIN CITY, TOWN OF DARWIN
APPLICANT/S NORTHERN PLANNING CONSULTANTS PTY LTD

Brad Cunnington (Northern Planning Consultants Pty Ltd) attended.

Jan Riley (submitter) sent her apologies.

RESOLVED 153/19

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Building Lot 7595 (68A) Esplanade, Town of Darwin for the purpose of alterations and additions to an existing restaurant, including a demountable structure (wine storage), subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale and must generally be in accordance with the plans submitted with the application but modified to show:
 - a. Removal of reference to the existing shipping container; and
 - b. Location of new columns supporting the proposed demountable structure.
[The location of footings for new columns should be as per the Arborist recommendation.]
2. Prior to the endorsement of plans and prior to commencement of works (including site preparation) the applicant is to provide written confirmation from an Arborist that the location of the footings for new columns supporting the demountable structure will have no impact on the root system of the existing mature tree.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval is required for the balcony to the Knuckey Street frontage to the requirements of the City of Darwin, to the satisfaction of the consent authority.
4. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the local 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 surface flow direction, downpipe direction and any connection to Council connection points.
5. 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, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage, and the use of City of Darwin land during construction.
6. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

7. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity

services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

9. 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.
10. 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.
11. Before the use/occupation of the development starts, the landscaping works (associated with the green wall) shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
12. The landscaping (associated with the green wall) 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.
13. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
14. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.
15. All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the consent authority.
16. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.

NOTES

1. Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and the 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 servicing requirements and the need for upgrading of infrastructure.
2. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.

3. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* 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*.
4. 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.
5. Notwithstanding the approved plans, any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin Policy Number 42 – Outdoor Advertising Signs Code.
6. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the *Act*), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the *Act*, including the General Environmental Duty under Section 12 of the *Act*. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the *Act*. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/wastepollution/guidelines/guidelines>. The proponent is advised to take notice of the SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS provided by DENR. The *Act*, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the *Act*.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The subject site is in Zone CB (Central Business). The primary purpose of Zone CB is to provide for a diversity of activities, including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities with a commitment to the separation of incompatible activities. In Zone CB, building form and design is expected to be sensitive to the needs of pedestrian movement and facilitate the creation of safe and active street frontages and public places and a vibrant commercial precinct.

The proposed works relate to an existing restaurant and fall within the range anticipated in Zone CB. Furthermore, the existing use of the building creates a vibrant commercial precinct in Zone CB. The proposal aligns with the broader intent of Zone CB and a review of the applicable clauses relating to buildings in Central Darwin determines that the proposed works provides additional amenity for

pedestrians and facilitate the creation of safe and active street frontages.

The application proposes alterations and additions to the existing restaurant comprising construction of an elevated awning/walkway above the existing Knuckey Street entrance, a new lift and stairs addition to the proposed awning/walkway, alterations to the layout of the first-floor function area, kitchen, bar and toilets and addition of refrigerated container elevated to the first floor. While the addition of a refrigerated container (demountable structure) requires consent, the assessment notes that other components of the proposed development are exempt from planning requirements pursuant to Clause 1.3(2)(x) of the Northern Territory Planning Scheme.

Clause 6.8 (Demountable Structures) of the NT Planning Scheme (NTPS) ensures that demountable structures do not detract from the visual amenity of an area. The clause requires that the authority may only consent to the placement of a demountable structure on land if it is satisfied that there will be landscaping or architectural embellishments to the demountable structure that will enhance the appearance of the structure and that the demountable structure will be visually consistent with adjoining or nearby development. The clause also provides that the authority may consent without these requirements being satisfied, given the proposed use and location of the demountable structure from public areas.

The proposal comprises an elevated single demountable structure (refrigerated wine storage) situated behind the existing tree fronting Knuckey Street. The development includes treatments to the exterior of the demountable structure, including a green wall system utilising the Atlantis Gro-wall system to screen the structure from the public realm. This response is considered acceptable such that the demountable structures will be visually consistent with adjoining or nearby development. Conditions are included on the permit to provide amended plans showing the removal of reference to the existing shipping container and location of columns supporting the proposed demountable structure as per the Arborist recommendation.

2. Pursuant to section 51(e) of the *Planning Act 1999*, 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.

Two public submissions were received under section 49 for the application with the main concerns being that consideration be given to soundproofing of the ceiling/roof while doing the wall soundproofing as part of proposed works to avoid noise disturbance to adjacent residents. Notwithstanding that the existing use can create noise during functions/ events, the site is located within the central areas of the Darwin CBD in which such venues are anticipated. The applicant in his response stated that the proponent is happy to discuss any noise concerns with the residents. A condition is included on the permit to provide acoustic treatment to any external plant equipment located on the demountable structure.

3. Pursuant to Section 51 (m) of the *Planning Act 1999*, the consent authority must consider 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 application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of conditions on the development permit. The City of Darwin commented that the proposal includes a balcony within the Knuckey Street road reserve and recommends that the applicant first seek approval for the proposed balcony in accordance with their policy for awnings, balconies and verandahs on Council Property. The requirement is addressed through inclusion of a condition precedent on the permit.

At the hearing the applicant expressed to the Authority how important the balcony proposed within the Knuckey Street road reserve is to the development and acknowledged that the appropriate approval would need to be sought from the City of Darwin. The City of Darwin explained to the Authority that the proposed balcony is a habitable space within the Knuckey Street road reserve and does not comply with their current policy of awnings over Council property. However, the City of Darwin is willing to work with the applicant for the approval of the structure in its current form. The Authority took these comments into consideration and expressed that it has no concerns with the proposed balcony provided it complies with the applicable City of Darwin policy.

4. Pursuant to section 51(n) of the *Planning Act 1999*, 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 impact on amenity should be considered in the context of the site and its surrounds. The proposal aligns with the broader intent of Zone CB, and the ongoing and increased use of parts of the building will continue to facilitate a vibrant commercial precinct. The proposal provides an awning over the pedestrian entrance from Knuckey Street which improves pedestrian amenity and connectivity from the public realm to the subject land.

An assessment against Clause 6.8 (Demountable Structures) of the NTPS concludes that the proposed green wall to screen the demountable structure can achieve an acceptable level of amenity when viewed from the street.

Furthermore, the amenity of the existing development is heavily influenced by established mature vegetation, including large and medium-sized trees, hedges, shrubs and groundcovers. A condition is included on the permit to ensure that the structural work associated with the demountable structure does not impact the root system of the existing mature tree.

5. Pursuant to section 51(j) of the *Planning Act 1999*, 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 development will allow alterations and additions to an existing restaurant use, and no concerns regarding the capability of the land or building have been identified. A condition is included on the permit to ensure that the footings of the demountable structure supporting columns does not impact roots of a mature tree existing on-site. The effect of the development on the land and on other land is generally discussed as it relates to amenity in reason 4 above.

6. Pursuant to section 51(p) of the *Planning Act 1999*, the consent must take into consideration the public interest, including (if relevant) how the following matters are provided for in the application:
- i. community safety through crime prevention principles in design;
 - ii. water safety; and
 - iii. access for persons with disabilities

The proposed development provides increased opportunities for passive surveillance through further activation of the Knuckey Street frontage, with the upper-level balcony enabling further views over the street. No issues with regards to water safety are identified. The access for persons with disabilities is enhanced through the addition of a new glass elevator connecting first-floor function/dining area.

7. Pursuant to Section 51 (r) of the *Planning Act 1999*, the consent authority must take into consideration any potential impact on natural, social, cultural or heritage values, including, for example, the heritage significance of a heritage place or object under the *Heritage Act 2011*.

The subject land comprising Part Building Lot 7595 Town of Darwin, containing Old Admiralty House and currently occupied by Char Restaurant, is a declared heritage place under the *Heritage Act 2011*. The application includes approval from the Heritage Council for the proposed works and comments received from the Heritage Branch of the Northern Territory Government during assessment of the application confirmed no heritage issues of concern with the proposed development.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP

Chair

11 September 2019