AGENDA ITEM: 1 MEETING DATE: 18/09/2020 FILE: PA2020/0245

APPLICATION: Ancillary education establishment addition to an existing organised recreation facility (Gardens Oval)
APPLICANT/CONTACT: Northern Planning Consultant Pty Ltd / Brad Cunnington
LAND OWNER: City of Darwin
BENEFICIARY: Waratah Football Club
SEDA Group Pty Ltd
LOCATION: Lot 3477 (66) Gilruth Avenue, Town of Darwin (Bookmark A)
ZONE: OR (Organised Recreation)
OVERLAYS: Land Subject to Storm Surge
STRATEGIC FRAMEWORK: Darwin Regional Land Use Plan
Darwin Inner Suburbs Area Plan
AREA: 36200m²

1. PROPOSAL

The application proposes to establish an ancillary education establishment use within the existing Waratah Sports Club clubrooms at Gardens Oval. The education establishment use comprises the subleasing of 335m² of floor space within the existing clubrooms (currently leased by the Waratah Football Club) to SEDA (Senior Secondary Education), to deliver education programs in sports and physical education to Years 10, 11 and 12 students. The education establishment shall operate from 8:30 am to 3:00 pm Monday to Friday with total student numbers between 20 and 25, depending on enrolment. A copy of the application is at Bookmarks B1 – B2. Figure -1 below shows the location of the education establishment within site.

Figure 1: Location of the proposed use with Garden Oval (one) and floor area of clubhouse utilised for education establishment use
2. REASON FOR APPLICATION AND LEVEL OF ASSESSMENT

The development of an education establishment is prohibited in Zone OR (Organised Recreation). In accordance with Clause 1.9(c) of the NT Planning Scheme 2020 (NTPS 2020) “an ancillary use or development not specified in the definition of the primary use requires consent and the level of assessment that applies to the ancillary use is ‘Impact Assessable’ if the ancillary use is prohibited in the zone.”

The proposed use, in the application, is described as ancillary to the Leisure and Recreation use (Primary Use) existing on site. However, an education establishment use is not specified as an ancillary use in the definition of leisure and recreation\(^1\) included under Schedule 2.1 (Defined Uses) under the NTPS 2020. The proposed ancillary use is, therefore, Impact Assessable and requires consent. Furthermore, Lot 3477 is located within the Primary and Secondary Storm Surge Area and by virtue of an Overlay 3.7 - LSSS (Land Subject to Storm Surge) the proposed use requires consent. The proposed ancillary use is subject to the following assessment criteria and development specific requirements:

<table>
<thead>
<tr>
<th>Zone OR (Organised Recreation)</th>
<th>Use</th>
<th>Assessment Category</th>
<th>Overlays</th>
<th>General Development Requirements</th>
<th>Specific Development Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Education Establishment (ancillary to the primary use)</td>
<td>Impact Assessable (as per Clause 1.9(c))</td>
<td>3.7 LSSS – Land Subject to Storm Surge</td>
<td>5.2.1 General Height Control 5.2.4 Vehicle Parking</td>
<td>5.5.3 Commercial and Other Developments in Zones HR,CV,CB,C,SC,TC,OR,CP FD and T 5.8.2 Education Establishment</td>
</tr>
</tbody>
</table>

The exercise of discretion by the consent authority that applies is clause 1.10 (4) of the NTPS 2020. This is discussed further in Section 7 of this Report.

3. ASSESSMENT SYNOPSIS

This report concludes that the Authority should approve the application subject to conditions on the development permit as detailed in section 8 of this report.

4. BACKGROUND

Lot 3477 (the site) is located at the corner of Gilruth Avenue and Gardens Road. The subject site forms part of the Gardens Oval complex which is developed as a sporting facility for football and cricket. The Gardens Oval complex comprises of Gardens Oval one, grandstands, toilets/change rooms and sporting club which are located on lot 3477, with Gardens Oval two and the cricket training nets located on the adjacent lot 5943. Gardens Oval one is the primary field within the complex, comprising a full-size AFL and cricket oval, with the playing surface, two grandstands, on the south-western boundary, Waratahs Sports Club and additional undercover seating/coaches and player interchange area. Additional tiered seating is provided to the south of the playing surface, with a grassed mound and amenities block to the north, and scoreboard to the north-east. Existing mature vegetation contributes to the amenity of the Gardens Oval complex, particularly along the fenced boundaries with Gardens Road and Gilruth Avenue, and between Gardens oval two and the cemetery on adjacent lot 3402. A location plan with site photographs is at Bookmark A.

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\(^1\) Schedule 2.1 (Defined Uses)

Leisure and recreation means the provision indoors or outdoors of recreation, leisure or sporting activities and includes cinemas, theatres, sporting facilities, gymnasiums and the like as a commercial enterprise but does not include a club or community centre. The use can include where ancillary a bar-small, café / take away, restaurant and shop.
Lot 3477 is in Zone OR (Organised Recreation), and the immediate locality comprises various zones developed with a range of uses defined in the zone. Table 1 below describes zones and uses in the immediate and broader locality.

Table 1: Locality surrounding the subject site

<table>
<thead>
<tr>
<th>Direction</th>
<th>Lot No.</th>
<th>Zone</th>
<th>Use Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Immediate Locality</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North</td>
<td>6524</td>
<td>PS</td>
<td>George Brown Darwin Botanic Gardens are comprising of 42 hectares of North Australian and other tropical plant species. Visitor facilities include an information centre, ornamental ponds and fountain, rainforest waterfall, public amenities and facilities, picnic areas and Eva’s Café (in the old Wesleyan Church building). This lot extends around the western side of the old PINT club on lot 6908 to include Birdsong Gully, forming the southern-most extent of the George Brown Darwin Botanic Gardens.</td>
</tr>
<tr>
<td></td>
<td>6908 and 6907</td>
<td>CP</td>
<td>Vacant</td>
</tr>
<tr>
<td>East</td>
<td>6524</td>
<td>OR</td>
<td>Darwin Amphitheatre. [B]</td>
</tr>
<tr>
<td></td>
<td>5702</td>
<td>OR</td>
<td>(A)</td>
</tr>
<tr>
<td></td>
<td>5257</td>
<td>OR</td>
<td>Gardens Tennis Courts. [E]</td>
</tr>
<tr>
<td></td>
<td>5772</td>
<td>TC</td>
<td>SkyCity Casino and Resort. [F]</td>
</tr>
<tr>
<td>South</td>
<td>5943</td>
<td>OR</td>
<td>Gardens Oval two. [G]</td>
</tr>
<tr>
<td></td>
<td>3402</td>
<td>CP</td>
<td>Gardens Cemetery. [H]</td>
</tr>
<tr>
<td></td>
<td>5944</td>
<td>OR</td>
<td>Gardens Park Golf Link (a nine-hole golf course with associated pro-shop, bar, beer garden, driving range and mini-golf course). [I]</td>
</tr>
<tr>
<td><strong>Broder Locality</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North</td>
<td>6524</td>
<td>OR</td>
<td>Extended part of George Brown Darwin Botanic Gardens. [A]</td>
</tr>
<tr>
<td></td>
<td>8986</td>
<td>PS</td>
<td>The extended part of Mindil Beach public recreation. [C]</td>
</tr>
<tr>
<td></td>
<td>5229</td>
<td>CP</td>
<td>Darwin High School. [J]</td>
</tr>
<tr>
<td>East</td>
<td>-</td>
<td>HR and MD</td>
<td>Residential areas of the Narrows, Darwin City and Larrakeyah. [K]</td>
</tr>
<tr>
<td>South</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A location plan of the surrounding locality is at figure 2 on the following page.
The City of Darwin currently owns lot 3477. There is no planning permit on record for the development of clubhouse and sporting facility on the subject lot. As ‘sports and recreation’ use and the clubhouse were permitted under the now superseded Darwin Town Plan 1990 therefore, development permit consenting to the existing development on Lot 3477 is taken to have been issued in this instance by section 45 of the Planning Act 1999 (the Act). The site has the following permit history:

- Development Permit DP19/0043 issued on 19 February 2019 for the addition of 4 x 32m high light poles to an existing organised recreation facility (Gardens Oval).
- Variation Permit DP17/0401 issued on 19 October 2017 for a variation to deemed permit for the addition of a shade structure over an existing beer garden area.
- Subdivision Permit DP00/0297 issued on 03 July 2000 for the subdivision to create one lot for lease more than 12 years. The Part V approval for DP00/0297 was granted on 01 December 2000.
- Development Permit DV2019 issued on 11 December 1985 to erect an advertising sign on to Gardens Hill Road.

5. PUBLIC EXHIBITION

The application was advertised in the NT News on 14 August 2020 and placed on public exhibition under the requirements of the NT Planning Act (Act). No public submissions were received under section 49(1) of the Act.

6. THIRD PARTY APPEAL RIGHTS

Pursuant to section 14(3)(d) of the Planning Regulations 2000, there are no rights of appeal by a third party under section 117 of the Act in respect of this determination as the land is located in Zone OR (Organised Recreation) and is not adjacent to residential zoned. Furthermore, no public submissions were received during the exhibition period.
Pursuant to section 51 of the Act, a consent authority must, in considering a development application, take into account relevant matters listed under section 51 of the Act.

Under section 51(3) when considering a development application under subsection 51(1), the consent authority must apply the relevant considerations to only those components of the development that triggered the requirement for consent under the planning scheme.

In this instance, the requirement for consent is that under the NTPS 2020, the proposed ancillary use is 'Impact Assessable' use. This is discussed further in the report.

(a) any planning scheme that applies to the land to which the application relates

The site is located in Zone OR (Organised Recreation) of the NTPS 2020 of which the purpose is to provide for the development of community and commercial facilities for organised recreation activities. The zone outcomes provide the following:

1. Development primarily for sport and recreation, leisure and recreation and community centre that cater for the organised active recreation needs of the community, including supporting infrastructure such as amenities blocks, outbuildings, spectator stands and lighting infrastructure.
2. Other development that is complimentary to and supports organised recreational activities, such as car park, club, food premises-restaurant and shop may also be established, where they do not compromise or conflict with the primary use of the land.

In addition to the above, the zone outcomes also provide for temporary or periodic uses, such as markets or outdoor entertainment events having regard to the amenity and character of the surrounding area.

The site forms part of the Gardens Oval complex which is developed as a sporting facility for football and cricket. The site comprises of the playfield, grandstands, toilets/change rooms and sporting club. The sporting club is leased to Waratahs Football Club.

The application proposes to establish an ancillary education establishment use within the existing Waratahs Football Club located at the site. The education establishment use comprises the subleasing of 335m² of floor space within the existing clubroom to SEDA to deliver education programs in sports and physical education to Years 10, 11 and 12 students. The development of an education establishment is prohibited in Zone OR (Organised Recreation).

In accordance with Clause 1.9(c) of the NTPS 2020 “an ancillary use or development not specified in the definition of the primary use requires consent and the level of assessment that applies to the ancillary use is 'Impact Assessable' if the ancillary use is prohibited in the zone.”

The consideration of the application requires, firstly, to determine whether the proposed education establishment is ancillary to the primary use of the land, and secondly, appraisal of the proposed use as Impact Assessable.

Turning to the first matter, the site is a public sporting oval that accommodates men’s and women’s training and competition events for cricket and football. Therefore, the primary use of the site is consistent with both the definitions of Leisure and Recreation and Sport and Recreation within Schedule 2 of the NTPS 2020. The proposed education establishment use shall provide NTCET and Certificate IV Sport and Recreation VET course which will offer students an in-depth look at the industry as a whole and enables the development of skills,
confidence and work habits to follow career pathways. The use shall operate from the clubhouse building with access to the playfield only for practical classes only. The course will be provided by SEDA, a sporting / community education provider, which provides sports programmes in cricket, football, AFL, Rugby League, basketball, tennis and netball, and partners with the sports' governing bodies to offer work and industry experience (including coaching and officiating). Discussions with the applicant confirm that the SEDA will provide sports programme for football, AFL and Rugby League sports from the proposed use.

Schedule 2.2 of the NTPS 2020 defines ancillary as “associated with but auxiliary and subordinate to the primary land use.”

In relation to the above, the applicant states that the proposed education establishment is entirely subordinate (i.e. lower in rank or position) to the primary use, and (albeit to a lesser degree) is auxiliary to the primary use through the provision of education services to advance sport and recreation education, and the direct assistance from SEDA staff and students to the Waratah Football Club (including that all students will be members of the Waratah Football Club). Accordingly, the proposed use is ancillary to the overarching benefit of the Gardens Oval Complex for sports and recreation.

The response provided by the applicant is noted and generally accepted. Particularly, the discussion related to the proposed use auxiliary and subordinate to the primary land use. The primary use of the site comprises of playfield and grandstands. The use shall operate from the clubhouse building which occupies a small portion of the site. The primary use of the site will continue to operate as a sporting facility for football and cricket. The application states that the premises will remain the Waratah Football Club, with the education component only occurring during periods of inactivity of the primary use. A condition is recommended on any permit that the use must not be altered without the further consent of the Authority.

The zone outcome provides that any development in Zone OR should have regard to the quality of built form and design, amenity of surrounding premises, traffic impacts on the local road network and impact on ecologically important areas.

The proposed use is located entirely within the existing building, and has no impact on existing or approved building heights. The built form and design of the clubhouse building is not altered as no additional facilities, or building works are proposed to accommodate the proposed use. The proposal will not alter the outward appearance of the subject land, and the land is not adjacent to an existing residential use. The proposal will increase the duration of use of the premises, providing some benefit to activity and passive surveillance during daytime hours. The site has immediate access to public transport, safe walking and cycling routes along Gilruth Avenue for the benefits of students.

Turning to the second matter, under Clause 1.10.4 (Exercise of Discretion by the Consent Authority) “In considering an application for consent for a use or development identified as Impact Assessable the consent authority must take into account all of the following:

a) the relevant requirements, including the purpose of the requirements, as set out in Part 5;
b) any Overlays and associated requirements in Part 3 that apply to the land;
c) the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Part 4; and

d) any component of the Strategic Framework relevant to the land set out in Part 2”.

This is discussed (in detail) below.
Relevant requirements, including the purpose of the requirements, as set out in Part 5:

A Technical Assessment of the proposed use against the performance criteria of Part 5 of the NTPS 2020 is provided at Bookmark C.

The proposal will utilise the existing club building with no change to the façade of the existing building proposed. The assessment against the minimum requirements of Part 5 of the NTPS 2020 finds the building continues to comply with the control relating to building height. There is a parking demand of 8 spaces for the education establishment. A site visit revealed that the subject land currently includes an off-street car parking area with parking for 59 vehicles in individual sealed, drained and line-marked parking spaces. Access to these car parks is provided from a sealed two-way driveway from Gilruth Avenue. The existing building provides shower and change room facilities. Bicycle storage is provided adjacent to the change rooms with access available from the pedestrian footpath and associated pedestrian access.

Clause 5.8.2 (Education Establishment)

The purpose of the clause is to ensure an education establishment:

(a) meets the needs of students and staff;
(b) contributes positively to the amenity of the surrounding area;
(c) does not unreasonably interfere with the safe and efficient operation of the local road and pedestrian network; and
(d) promotes access via public transport and active transport networks.

The requirement of sub-clause 4 is to locate tertiary education facilities in designated education precincts within or adjacent to activity centres that are connected to public transport.

The Administration of the clause enables the consent authority to consent to an education establishment that is not in accordance with sub-clauses 2-5 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, nature, scale and impact on surrounding amenity. The following assessment is provided to consider the establishment of the use on land outside of a designated education precinct.

- Whilst the proposed use is consistent with the definition of education establishment, the proposal provides specific sports-based education programs and will be entirely ancillary to the primary use of the land.
- The proposed education establishment shall offer a specific course having an enrolment of a maximum of 25 students per year.
- The proposed uses shall operate from the existing building, and the proposal does not alter the outward appearance or interaction with the public realm.
- The site has immediate access to public transport, safe walking and cycling routes along Gilruth Avenue for the benefits of students.

In summary, in the context of the site location, scale, and proximity to public transport and active transport networks, a variation to clause 5.8.2 (Education Establishment) sub-clause 4 is supported to enable a tertiary education establishment outside of an area designated for such a purpose.

Part 3 – Overlay (Clause 3.7 – Land Subject to Storm Surge)

The site is affected by both primary and secondary storm surge, with the extent of inundation during a primary and secondary event. The purpose of the clause is “to Identify areas with a known risk of inundation from primary or secondary storm surges and ensure that development in these areas demonstrates adequate measures to minimise the associated risk to people, damage to property and costs to the general community caused by storm surge.”
The administration of the clause is land subject to this Overlay is to be used or developed only with consent.

The requirements of sub-clause 5 is that the development in the PSSA (Primary Storm Surge Area) should be limited to uses such as open space, recreation, non-essential public facilities (wastewater treatment works excepted) and short-stay tourist camping/ caravan areas. The requirements of sub-clause 7 is residential uses, strategic and community services (such as power generation, defence installations, schools, hospitals, public shelters and major transport links) should be avoided in both primary and secondary storm surge areas (underline emphasis added).

The primary use of the site is recreation, and the proposal seeks approval for the use of an existing club building for the purpose of ancillary education establishment which will provide course specifically focused on sports and recreation education. The nature of the facility and the specific provision of education for the purpose of sport and recreation is consistent with the primary use of the site. No new building or changes to the existing is proposed as part of this proposal (means no increase in net floor area) as such there will be no increased risk to people, damage to property or costs to the general community as a result of the proposal. Students / staff will not be present during cyclone warning and/or periods of high risk for storm surge events.

Part 2 - Strategic Framework

The Darwin Regional Land Use Plan and the Inner Suburbs Area Plan are the two strategic frameworks relevant to the proposed development. The assessment of the proposed development against these two policy frameworks is provided below.

Darwin Regional Land Use Plan – (Bookmark D)

The Darwin Regional Land Use Plan was prepared by the NT Planning Commission and incorporated into the Northern Territory Planning Scheme in 2015. The plan provides a vision, goals and intended outcomes for the development of the Darwin Region, identifies regional opportunities and the intention for development into the medium and long term.

Page 28 of the plan provides the following objectives for Key Community Facilities:

- **appropriate provision and management of regional recreation facilities to encourage involvement of residents in sport, and to provide for healthy living and premier sporting activities.**
- **encouraging the co-location of recreation facilities with other community uses particularly schools to maximise potential for multi-use.**
- **recognising the role of parks and reserves in meeting the recreation needs of the community.**
- **appropriate provision of land for schools, child care centres, aged care and facilities for seniors and other community facilities via detailed plans for future urban and peri-urban areas, and in association with infill development and urban and rural activity centres.**

The proposed use will provide specific sports-based education programs for students at the senior secondary level and will be entirely ancillary to the primary use of the land. The curriculum will provide students with an in-depth knowledge of the industry as a whole and enables the development of skills, confidence to follow career pathways in the field of sports and recreation. The use will benefit the existing sporting clubs by providing trained coaches and officiating workforce. This is seen as consistent to encourage the involvement of residents in sport, and to provide for healthy living and premier sporting activities.

Furthermore, given the course highly relies on theory and practical elements, the immediate access to the sporting field will benefit the proposed use to hold practical sessions required under the course curriculum. Therefore, the establishment of the proposed education
establishment use ancillary to the main sports and recreation use is seen as consistent to encourage co-location of recreational facilities with schools (education establishments) to maximise the potential for multi-users.

**Darwin Inner Suburbs Area Plan (DISAP) – (Bookmark E)**

The DISAP provides a framework to guide progressive growth and development within the Inner Suburbs of Darwin. The Area Plan identifies the subject land for the continued purpose of Organised Recreation. Section 3.4 of the Area Plan provides the following objectives and acceptable responses for organised recreation areas.

The subject site forms part of the Gardens Oval complex which is developed as a sporting facility for football and cricket. The subject land comprises the Gardens Oval complex, specifically Gardens Oval One and the associated Waratah Football Club licensed clubrooms. The Gardens Oval complex comprises Gardens Oval one and two, with the main oval, grandstands, toilets / change rooms and clubrooms located on lot 3477, with Gardens Oval two and the cricket training nets located on the adjacent lot 5943.

The application proposes the development of an ancillary educational establishment within the existing clubrooms at Garden Oval. The proposed education establishment shall be leased by a sport and physical education provider to deliver programs in sports and education. As discussed previously in the report, the proposed education establishment is a definite form of development which provides education programs specifically for organised recreation, including within the subject land and the Top End more broadly. It is considered to be consistent with the recreational opportunities of the land. The primary use of the site will continue to operate as a sporting facility for football and cricket. The application states that the premises will remain the Waratah Football Club, with the education component only occurring during periods of inactivity of the primary use. A condition is recommended on any permit that the use must not be altered without the further consent of the consent authority.

**(h) the merits of the proposed development as demonstrated in the application**

The applicant submits that the proposal has the following merit:

“The proposal will increase the use of the existing facility and provide increased opportunities for recreation and sports-based education, providing direct benefits to organised recreation within the subject land and the Top End more broadly”.

**(j) 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 subject site is affected by both primary and secondary storm surge, with the extent of inundation during a primary and secondary event. The proposal comprises establishing an ancillary use (education establishment) ancillary to an existing recreational facility, and as such is suitable within both the PSSA and SSSA as stated under Overlays 3.7 of the NTPS 2020 (refer to the discussion provided under ‘Overlays’ under Section 7 of this report). The proposed ancillary use utilises the existing clubhouse building, and students/staff will not be present during cyclone warning and/or periods of high risk for storm surge events.

**(k)** the public facilities or public open space available in the area in which the land is situated and the requirement, if any, for the facilities, or land suitable for public recreation, to be provided by the developer

There is no requirement for the provision of public open space for this proposal. The subject land has immediate access to public transport, safe walking and cycling routes along Gilruth Avenue, immediately adjacent the site.

**(m)** 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 following service authorities and agencies for comment:

**City of Darwin (CoD) - Bookmark F1**

CoD acknowledges that it is the landowner and applicant for the proposal and standard policies and its responsibilities under the *Local Government Act* and the *Planning Act 1999* will be appropriately implemented should the application be approved.

**Power and Water Corporation (PWC) Power Division – Bookmark F2**

The Power Division has not identified any issues of concern.

**Power and Water Corporation (PWC) Water Services – Bookmark F3**

Water Services Division advises that the developer will need to upgrade the existing water service and sewer to the property. The owner / developer must install at their own cost backflow prevention device at the outlet of the water meter through which Power and Water Corporation supplies water to the land.

The applicant has submitted his objection to PWC’s requirement of installing a Backflow Prevention Device (BPD) at the outlet of the water meter (*Bookmark F3.1*). The applicant argues that the proposed development utilises the existing building and therefore, the requirement to install a backflow prevention device is not warranted. The applicant further states that the PWC uses the development approval process to upgrade the BPD’s to their current standards, regardless of the nature of the development type.

**DAS Position:** DAS recommends a standard condition, “*to enter into agreements with the relevant authorities for the provision of water and sewerage service*” (not specific to the installation of BPD device), on any permit issued for the development. The condition is to the satisfaction of the service authority. The applicant is encouraged to discuss this further with the PWC.

**Department of Environment and Natural Resources**

The Department of Environment and Natural Resources has not provided any comments for the subject application.
(n) **the potential impact on the existing and future amenity of the area in which the land is situated.**

The proposed use is located entirely within the existing building, and has no impact on existing or approved building heights. The built form and design of the clubhouse building is not altered as to no additional facilities, or building works are proposed to accommodate the proposed use. The proposal will not alter the outward appearance of the subject land, and the land is not adjacent to an existing residential use. The site has immediate access to public transport, safe walking and cycling routes along Gilruth Avenue for the benefits of students.

(p) **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;
(iii) access for persons with disabilities

In relation to community safety through crime prevention principles in design, the proposal will increase the duration of use of the premises, providing some benefit to activity and passive surveillance during daytime hours.

There are no relevant matters with respect to water safety.

The *Disability Discrimination Act* (DDA) is the primary legislation in Australia, addressing discrimination against people with disabilities. Discrimination is seen to occur when a person with a disability is treated less favourably than someone who does not have a disability. AS 1428 ‘Design for Access & Mobility’ includes a suite of standards that are applicable to pedestrians. The primary focus of the standard considers the requirements of people who may have a mobility disability or vision impairment.

It is noted that through the change in use, the requirements for a new Building Permit will ensure disabled compliance in the building fit out. It is noted that the disabled car parking spaces are provided in the existing car parking area.

(q) **for a proposed subdivision of land on which a building is, or will be, situated – whether the building complies, or will comply, with any requirements prescribed by regulation in relation to the building (including, for example, requirements about the structural integrity and fire safety of the building).**

Not applicable to this application.

(t) **other matters it thinks fit**

Under section 51(2) of the Act, “If a development proposal is required to be referred to the NT EPA under Part 4, Division 3 of the Environment Protection Act 2019, the consent authority must not make a decision under this Division in relation to a development application for the proposal unless:

(a) the NT EPA has determined that an environmental impact assessment is not required under that Act for that proposal; or

(b) if the NT EPA has determined that an environmental impact assessment is required – an environmental approval has been granted under that Act for the proposal and the decision is consistent with that approval; or

(c) the Environment Protection Act 2019 otherwise permits the making of the decision.”

The Department of Environment and Natural Resources has not provided any comments for the subject application.
8. RECOMMENDATION

That, the Development Consent Authority vary the requirements of Clause 5.8.2 (Education Establishment) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the Planning Act 1999, consent to the application to develop Lot 3477 (66) Gilruth Avenue, Town of Darwin for the purpose of Ancillary education establishment addition to an existing organised recreation facility (Gardens Oval), 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 as shown on the endorsed plans must not be altered without the further consent of the authority.

3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply and sewerage facilities to the development shown on the endorsed plan in accordance with the authorities’ requirements and relevant legislation at the time.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation’s servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. This permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory Building Act 1993 before commencing any demolition or construction works.

REASONS FOR THE RECOMMENDATION

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 site is located in Zone OR (Organised Recreation) of the NTPS 2020 of which the purpose is to provide for the development of community and commercial facilities for organised recreation activities. The zone outcomes provide the following:

1. Development primarily for sport and recreation, leisure and recreation and community centre that cater for the organised active recreation needs of the community, including supporting infrastructure such as amenities blocks, outbuildings, spectator stands and lighting infrastructure.

2. Other development that is complimentary to and supports organised recreational activities, such as car park, club, food premises-restaurant and shop may also be established, where they do not compromise or conflict with the primary use of the land.

In addition to the above, the zone outcomes also provide for temporary or periodic uses, such as markets or outdoor entertainment events having regard to the amenity and character of the surrounding area.
The site forms part of the Gardens Oval complex which is developed as a sporting facility for football and cricket. The site comprises of Gardens Oval one, grandstands, toilets/change rooms and sporting club. The sporting club is leased to Waratahs Football Club.

The application proposes to establish an ancillary education establishment use within the existing Waratah Football Club located at the site. The education establishment use comprises the subleasing of 335m² of floor space within the existing clubroom to SEDA to deliver education programs in sports and physical education to Years 10, 11 and 12 students. The development of an education establishment is prohibited in Zone OR (Organised Recreation).

In accordance with Clause 1.9(c) of the NT Planning Scheme 2020-2024 (NTPS 2020) “an ancillary use or development not specified in the definition of the primary use requires consent and the level of assessment that applies to the ancillary use is ‘Impact Assessable’ if the ancillary use is prohibited in the zone.”

The proposed use is assessed as ancillary to the existing sports and recreation use of the land with the following being noted:

- The proposed education establishment use shall provide Certificate IV course for football, AFL and Rugby League sports which is the primary use of the land.
- The nature of the facility and the specific provision of education for the purpose of sport and recreation is consistent with the primary use of the site.
- The proposed use is located entirely within the existing building and has no impact on existing or approved building heights.
- The proposal will not alter the outward appearance of the subject land, and the land is not adjacent to existing residential use.

The technical assessment against the relevant clauses of the NTPS 2020 indicates that the proposed development complies with a number of clauses including Clauses 5.2.1 (General Height Control), 5.2.4 (Vehicle Parking) and 5.5.3 (Commercial and Other Developments in Zone CB).

A non-compliance is identified against Clause 5.8.2 (Education Establishment) as the proposed use is not located in designated education precincts within or adjacent to activity centres that are connected to public transport. The assessment notes the following:

- Whilst the proposed use is consistent with the definition of the education establishment, the proposal provides specific sports-based education programs and will be entirely ancillary to the primary use of the land.
- The proposed use shall offer a specific course having an enrolment of a maximum of 25 students per year.
- The proposed uses shall operate from the existing building. The proposal does not alter the outward appearance or interaction with the public realm, and will not adversely impact the amenity of the surrounding areas.
- The site has immediate access to public transport, safe walking and cycling routes along Gilruth Avenue for the benefits of students.

It is considered that in the context of the site location, scale, and proximity to public transport and active transport networks, a variation to clause 5.8.2 (Education Establishment) sub-clause 4 is supported to enable a tertiary education establishment outside of an area designated for such a purpose.

According to Clause 3.7, sub-clause 5, the development in the PSSA (Primary Storm Surge Area) should be limited to uses such as open space, recreation, non-essential public facilities (wastewater treatment works excepted) and short-stay tourist camping/caravan areas. The requirements of sub-clause 7 is residential uses, strategic and community services (such as power generation, defence installations, schools, hospitals,
public shelters and major transport links) should be avoided in both primary and secondary storm surge areas (underline emphasis added).

The subject site is affected by both primary and secondary storm surge, with the extent of inundation during a primary and secondary event.

The assessment notes that the primary use of the site is recreation. The proposal seeks approval for the use of an existing club building for the purpose of ancillary education establishment which will provide course specifically focused on sports and recreation education. The nature of the facility and the specific provision of education for the purpose of sport and recreation is consistent with the primary use of the site. No new building or changes to the existing is proposed as part of this proposal (means no increase in net floor area) as such there will be no discernible risk to people, damage to property or costs to the general community as a result of the proposal. Students / staff will not be present during cyclone warning and/or periods of high risk for storm surge events.

In relation to Part 2 (Strategic Framework), the assessment notes that the proposed use aligns with the Planning Principles and Objectives of the Darwin Regional Land Use Plan and the Darwin Inner Suburbs Area Plan.

2. 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 subject site is affected by both primary and secondary storm surge, with the extent of inundation during a primary and secondary event. The proposal comprises establishing an ancillary use (education establishment) ancillary to an existing recreational facility, and as such is suitable within both the PSSA and SSSA as stated under Overlays 3.7 of the NTPS 2020. The proposed ancillary use utilises the existing clubhouse building and students / staff will not be present during cyclone warning and/or periods of high risk for storm surge events. Service authority requirements have been addressed by the inclusion of relevant conditions and notes on the development permit.

3. 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 use is located entirely within existing buildings and has no impact on existing or approved building heights. The built form and design of the clubhouse building is not altered as no additional facilities, or building works are proposed to accommodate the proposed use. The proposal will not alter the outward appearance of the subject land, and the land is not adjacent to an existing residential use. The proposal will increase the duration of use of the premises, providing some benefit to activity and passive surveillance during daytime hours.

AUTHORISED: ..........................

SENIOR PLANNER- DARWIN PLANNING
DEVELOPMENT ASSESSMENT SERVICES
PROPOSED DEVELOPMENT SITE

ADDRESS: LOT 201 TULLY RD DARWIN (FIRST AVE, THE CENTRE)
APPLICANT: FIRST AVE CONSULTANTS PTY LTD
PROPOSAL: ADDITION TO AN EXISTING BUILDING
CLOSING DATE FOR SUBMISSIONS: 22 FEBRUARY 2023
FOR APPLICATION DETAILS: www.ntde.nt.gov.au/planning/
1. Introduction

This report accompanies an application for Development Permit for a change of land use to enable an ancillary education establishment within the existing Waratah Sports Club clubrooms at Gardens Oval. The education establishment use comprises the subleasing of the existing clubrooms by the Waratah Football Club (the current lessee) to SEDA (Senior Secondary Education), a sports and physical education provider seeking to utilise community sporting facilities as the physical space to deliver student’s education programs. SEDA already utilises a number of community sporting venues, including stadiums, tennis and basketball facilities, and the ability to integrate internal and external (practical) teaching spaces is essential to the model of education provision. No modifications to the existing club rooms are required, and the primary purpose of the space will remain as the Waratah Football Club, with the education service entirely ancillary to the sport and recreation / leisure and recreation function of the Gardens Oval complex. This report details the nature of the subject land and locality, the proposed land use, considers the proposal against the relevant provisions of the Planning Scheme, and the relevant components of Section 46 of the Northern Territory Planning Act.

This report (and application) is to be read in conjunction with the following attachments:

- **Attachment A:** Site and Floor Plan
- **Attachment B:** Title

2. Section 46(3)(aa) – Interested Parties

**Applicant**
Northern Planning Consultants Pty Ltd (on behalf of Waratah Football Club). [Brad.cunnington@northernplanning.net](mailto:Brad.cunnington@northernplanning.net) / 0427 796 140

**Lessee**
Waratah Football Club (Rohan Langworthy, President). [admin@waratahfc@bigpond.com](mailto:admin@waratahfc@bigpond.com) / 0423 871 044

**Landowner**
City of Darwin. [darwin@darwin.nt.gov.au](mailto:darwin@darwin.nt.gov.au) / 08 8930 0300

**Proponent**
SEDA. [info@sedagroup.com.au](mailto:info@sedagroup.com.au) / 1300 777 332
3. **Subject Land**

![Figure 1: Lot 3477 Town of Darwin (66 Gilruth Avenue, The Gardens)](image)

- **Address:** Lot 3477 Town of Darwin (66 Gilruth Avenue, The Gardens)
- **Title Reference and Land Tenure:** CUFT 826 878 Estate in Fee Simple (Freehold)
- **Landowner:** City of Darwin
- **Land Area:** 3.62 Hectares
- **Easements:** Electricity Supply Easement to the Power and Water Authority
- **Zone:** OR (Organised Recreation)

The subject land comprises the Gardens Oval complex, specifically Gardens Oval One and the associated Waratah Football Club licensed clubrooms. The Gardens Oval complex comprises Gardens Oval one and two, with the main oval, grandstands, toilets / changerooms and clubrooms located on lot 3477, with Gardens Oval two and the cricket training nets located on the adjacent lot 5943.

Gardens Oval one is the primary field within the complex, comprising a full-size AFL and cricket oval, with the playing surface bordered on the south-western side by two grandstands (the Tiger Brennan Stand and the Hunter Harrison Stand), the Waratah Football Club and additional undercover seating / coaches and player interchange area. Additional tiered seating is provided to the south of the playing surface, with a grassed mound and amenities block to the north, and scoreboard to the north-east.
Access to the complex is via a gated vehicle driveway and pedestrian footpath from Gilruth Avenue, to a car parking area with 55 car parking spaces, as well as a pedestrian access to the Waratah Football Club. A changeroom, toilet block and storage yard is located immediately south of the access. Gardens Oval two is situated within lot 5943 immediately south of the primary oval and facilities, and also comprises a full-size AFL and cricket playing surface. Lot 5943 includes cricket training nets adjacent the north-east side of Gardens Oval two. Existing mature vegetation contributes to the amenity of the Gardens Oval complex, particularly along the fenced boundaries with Gardens Road and Gilruth Avenue, and between Gardens oval two and the cemetery on adjacent lot 3402.

3.1  **Site Images**

**Image 1: Existing clubrooms – main entrance**

**Image 2: Pedestrian and vehicle entrance from Gilruth Avenue**
3.2 Storm Surge

Gardens Oval is affected by both primary and secondary storm surge, with the extent of inundation during a primary and secondary event shown in figures 2 and 3 respectively.

Figure 2: Extent of Primary Storm Surge Inundation – lot 3477 Town of Darwin

Figure 3: Extent of Secondary Storm Surge Inundation – lot 3477 Town of Darwin
4. Locality

Figure 1 in section 2 of this report identifies the site and surrounding locality. The immediate locality comprises a range of community, open space, recreation and natural areas, including the George Brown Darwin Botanic Gardens, Darwin Amphitheatre and facilities therein, Mindil Beach, The Gardens Tennis Club and the Gardens Park Golf Links.

The George Brown Darwin Botanic Gardens are located on the eastern side of Gardens Road, opposite Gardens Oval, and fronting the eastern side of Gilruth Avenue and Gardens Road, between Salonika and Melville Streets, with some 42 hectares of North Australian and other tropical plant species. Visitor facilities include an information centre, ornamental ponds and fountain, rainforest waterfall, public amenities and facilities, picnic areas and Eva’s Café (in the old Wesleyan Church building).

Lot 6524 encapsulates the Botanic Gardens in their entirety, with the co-located Darwin Amphitheatre situated on Lot 5702. Lot 6524 extends around the western side of the old PINT club on lot 6908 to include Birdsong Gully, forming the southern-most extent of the George Brown Darwin Botanic Gardens.

Adjoining Gardens Oval is the Gardens Cemetery located on lot 3402, opened in 1919 and serving as the official Darwin Cemetery until 1970. The Cemetery is heritage listed and records indicate 931 persons being recorded as buried at the cemetery.

To the west of Gardens oval, the Mindil Beach public recreation and markets area, Gardens Tennis courts and the SkyCity Casino and Resort are located on the western side of Gilruth Avenue. The Gardens Park Golf Links, a nine-hole golf course with associated pro-shop, bar, beer garden, driving range and mini-golf course, is located on the southern side of Chin Quan Road, directly opposite Gardens Oval two. The first hole of the golf course includes three light towers.

To the east of the site, the residential area of The Gardens includes housing at medium densities, with limited service commercial properties along the eastern side of Gardens Hill Crescent. To the south-east, low-level residential development in The Gardens commences approximately 450 metres from the edge of the oval, with high-rise residential development in the area of Hood Terrace, McMinn Street and Finniss Street commencing approximately 690 metres away.

The extent of established and mature vegetation, maintained understorey and grass, public facilities and high proportion of open space contributes to a high amenity level within the immediate and broader locality. Northern Territory Planning Scheme Zones within the immediate locality generally reflect established land uses, including CP (Community Purpose), PS (Public Open Space) and OR (Organised Recreation), with TC (Tourist Commercial) zoning over the SkyCity Casino and Resort. Residential areas further south and east are generally zoned MD (Multiple Dwelling) ad HR (High Density Residential).
5. Proposed Development

The proposal seeks approval for the use of the existing Waratah Football Club for the purpose of ancillary education establishment to accommodate SEDA, a sporting / community education provider. SEDA will conduct combined NTCET and Certificate IV Sport and Recreation VET units within both the existing clubrooms and the adjoining Gardens Oval One, providing (predominantly) an alternative year 12 program focussed on sport and recreation education. The immediate access to sporting facility space is a critical component of the use, as the teaching component relies heavily on both theory and practical elements, generally with a different lesson / timetable ‘structure’ than a secondary school (for example where physical education classes are confined to a specific lesson period). The use will be consistent with programs currently run by SEDA at other active recreation facilities, including CDU stadium, DBA Stadium, Tennis NT and the Tracy Village Sports Club.

SEDA (Senior Secondary Education) are an education provider focussing on providing students with an opportunity to complete their academic studies in an industry-based setting (sport and recreation). The SEDA curriculum offers students an in-depth look at the industry as a whole and enables the development of skills, confidence and work habits to follow career pathways. Sports programs include cricket, football, AFL, Rugby League, basketball, tennis and netball, and SEDA partners with the sports’ governing bodies to provide work and industry experience (including coaching and officiating).

Specific details of the proposed use comprise:

- Education programs to be provided within the existing club and on adjacent Gardens Oval One, with no access required to Gardens Oval Two, the grandstands or other areas;

- Programs aligning with school terms, ie February – April, April – June, July – September and October – November;

- Education hours from 8:30am to 3:00pm Monday to Friday; and

- Total student numbers between 20 and 25, depending on enrolment.

The use of the oval and club by SEDA is intended to occur through a hire arrangement with the lessee (Waratah Football Club) with approval from the City of Darwin as the landowner. As a result of the proposed use, no modification to the existing premises will be required, and students / staff will have access to the main entrance and car parking area, club including ablutions, and the oval. The premises will remain the Waratah Football Club, with the education component only occurring during periods of inactivity of the primary use.

6. Section 46(3)(a) - NT Planning Scheme

The relevant provisions within the Northern Territory Planning Scheme (the Scheme) are referred to below.

Nature of Development

The proposed use is consistent with the definition of education establishment per Schedule 2 of the Northern Territory Planning Scheme.
“education establishment” means premises used for the purposes of providing education including an academy, college, lecture hall, pre-, primary or secondary school, vocational training college or university, but does not include a place of worship or community centre. The use can include, where ancillary, café / take-away, office or shop that directly service the needs of students and staff;

The Gardens Oval complex comprises activities that are consistent with both the definitions of Leisure and Recreation and Sport and Recreation within Schedule 2 of the Northern Territory Planning Scheme. The main distinction between the two definitions is whether or not commercial transactions are present. Given that commercial transactions are involved in the use of Gardens Oval, including user payments to Council, commercial transactions for entry to and within the facility, and the proposed hire arrangement, the proposal is most appropriately defined as Leisure and Recreation, meaning:

Means the provision indoors or outdoors of recreation, leisure or sporting activities and includes cinemas, theatres, sporting facilities, gymnasiums and the like as a commercial enterprise but does not include a club or community centre. The use can include where ancillary a bar-small, café / take away, restaurant and shop.

In addition, the subject land includes uses consistent with the Schedule 2 definition of club (Waratah Sports Club) and community centre (existing grandstands and ancillary buildings):

“club” means premises used by persons associated for social, political, sporting, athletic or other similar purposes for social interaction and entertainment. The use may include the sale of alcoholic beverages and food to members and their guests.

“community centre” means a building or part of a building used for providing artistic, social or cultural facilities and community support services to the public and may include the ancillary preparation and provision of food and drink.

The primary use of Gardens Oval remains for leisure and recreation, as “the use of land or premises to which all other uses are ancillary” per the definition in Schedule 2.2 of the Planning Scheme. Schedule 2.2 also defines ancillary as “associated with, but auxiliary and subordinate to the primary land use.” The proposed education establishment is entirely subordinate (ie lower in rank or position) to the primary use, and (albeit to a lesser degree) is auxiliary to the primary use through the provision of education services to advance sport and recreation education, and the direct assistance from SEDA staff and students to the Waratah Football Club (including that all students will be members of the Waratah Football Club). Accordingly, the proposed use is ancillary to the overarching use of the Gardens Oval Complex for leisure and recreation, and the leisure and recreation component is fundamental to the specific nature of education services provided by SEDA. As such, the proposed use is a Discretionary (Impact Assessable) form of development per Clause 1.9(1)(c) of the Planning Scheme:

An ancillary development not specified in the definition of the primary use in Schedule 2 requires consent and the level of assessment that applies to the ancillary development is either:

i. The assessment category specified in the assessment table for the zone in Part 4; or
ii. If undefined or Prohibited it is Impact Assessable.

Zone OR

The subject land is located within zone OR (Organised Recreation) per the Darwin Zone Plan and Clause 4.18 of the Northern Territory Planning Scheme. Clause 4.18 provides the following in relation to development in Zone OR:

Zone Purpose

Provide for the development of community and commercial facilities for organised recreation activities.

The nature of the facility and the specific provision of education for the purpose of sport and recreation is consistent with the provision of community facilities for organised recreation activities.

Zone Outcomes

1. Development primarily for sport and recreation, leisure and recreation and community centre that cater for the organised active recreation needs of the community, including supporting infrastructure such as amenities blocks, outbuildings, spectator stands and lighting infrastructure.

The proposal is ancillary to leisure and recreation and furthers the advancement of active recreation in the community through the provision of education services.

2. Temporary or periodic uses, such as markets or outdoor entertainment events, that can be reasonably accommodated by the existing facilities and do not unduly impact on the amenity and character of the surrounding area.

The proposed use will not impact on the amenity and character of the surrounding area.

3. Other development that is complimentary to and supports organised recreational activities, such as car park, club, food premises-restaurant and shop may also be established, where they do not compromise or conflict with the primary use of the land.

The proposal is complimentary to and supports organised recreational activities, and does not conflict with the primary use of the land.

4. All development, including public infrastructure and outbuildings, is located, designed, operated and maintained to:

   a) make a positive contribution to the locality by incorporating a high quality of built form and landscape design;

   b) minimise unreasonable impacts to the amenity of surrounding premises and any residential land;

   c) mitigate the potential for land use conflict with existing and intended surrounding development;
d) avoid adverse impacts on the local road network;

e) provides safe and convenient pedestrian and bicycle access within the development and strong connections to external transport networks;

f) avoid any adverse impacts on ecologically important areas; and

g) allow passive surveillance of public spaces.

The proposed use is consistent with the range of land uses anticipated in Zone OR and currently existing on the site, and will not compromise the use of the land for other active / organised recreation. The proposal does not alter the existing buildings, outward appearance or interaction with the public realm, and will not adversely impact amenity.

5. Development that is not defined in Schedule 2 (Definitions) may occur only when assessment has determined that the development is appropriate in the zone, having regard to the purpose and outcomes of this zone and such matters as the location, nature, scale and intensity of the development.

The proposed use is defined in Schedule 2.

Whilst not a form of organised recreation, the proposal provides education programs specifically for organised recreation. Furthermore, the workplace and industry experience components of the program integrate students with local sporting organisations (including the Waratah Football Club) to assist with volunteering, officiating and coaching.

Gardens Oval is a public sports reserve that currently accommodates men’s and women’s training and competition up to and including the top tier cricket and football leagues within the Northern Territory, including NTFL premier league and Darwin and District Cricket A Grade competition. As one of the primary sporting facilities for local-level competition, it is fitting that Gardens Oval include sporting and recreation-related education, located entirely within and on the existing facilities. Accordingly, whilst defined as a form of development Prohibited in Zone OR, the proposed use furthers involvement in organised recreational activities, including within the subject land and the Top End more broadly, and is considered to be consistent with the recreational opportunities of the land, thus is consistent with Clause 4.18.

Overlays

Clause 3.7 – Land Subject to Storm Surge

The subject land is located within the Primary and Secondary Storm Surge Areas. Clause 3.7 relates to land subject to storm surge and provides, as relevant to land identified as being affected by inundation from storm surge:
Purpose

Identify areas with a known risk of inundation from primary or secondary storm surges and ensure that development in these areas demonstrates adequate measures to minimise the associated risk to people, damage to property and costs to the general community caused by storm surge.

Requirements

5. Development in the PSSA should be limited to uses such as open space, recreation, non-essential public facilities (wastewater treatment works excepted) and short-stay tourist camping/ caravan areas.

6. Development within the SSSA should be confined to those uses permitted in the PSSA as well as industrial and commercial land uses.

7. Residential uses, strategic and community services (such as power generation, defence installations, schools, hospitals, public shelters and major transport links) should be avoided in the PSSA and the SSSA.

Whilst the proposed use is consistent with the definition of education establishment, the proposal provides specific sports-based education programs for students at senior secondary level. Despite the provision of education services, the proposal will be entirely ancillary to the primary use of the land, and the existing building will remain, fundamentally, a club. No additional facilities or building works will occur, and the relatively low number of students and adaptability of the SEDA programs (evident by their use of other organised recreation facilities) is such that there will be no discernible risk to people, damage to property or costs to the general community as a result of the proposal.

4. The consent authority may consent to a use or development that is not in accordance with sub-clauses 5-7 only if it is satisfied that the application demonstrates that there is no increased risk to people and property, including adjoining property.

As the proposal utilises existing built form, there is no increased risk to property on the subject or adjoining land, and students / staff will not be present during cyclone warning and/or periods of high risk for storm surge events.

General Development Requirements

Clause 5.2.1 – General Height Control

Clause 5.2.1 relates to general height control, and provides that:

The height of any part of a building is not to exceed 8.5m above the ground level, unless it is:

a. a flag pole, aerial or antenna; or

b. for the housing of equipment relating to the operation of a lift.
The proposed use is located entirely within existing buildings, and has no impact on existing or approved building heights. Whilst the existing grandstands are the tallest buildings on site (estimated between 8.5 and 10 metres above ground level), PA2018/0489, an application for the installation of 4 light towers to 32 metres above ground level, was approved by the consent authority at its 8 February 2019 hearing.

**Clause 5.2.4 – Vehicle Parking**

Clause 5.2.4.1 requires the provision of on-site car parking spaces at various rates relative to individual land uses, whilst clause 5.2.5.3 relates to the layout of car parking and driveway areas. The proposed facility will provide an alternative education facility for students equivalent to senior secondary school levels (ie years 11 and 12), and the development and/or use of land for the purpose of an education establishment requires (for a secondary school) 1 parking space per classroom, plus 1 additional space, plus an area for setting down and picking up passengers. Thus, the proposal requires two car parking spaces with additional drop-off / pick up area. Given the nature of the proposed education establishment and the senior secondary school level, the required parking for a tertiary education establishment is likely to more accurately reflect the demand for parking generated by the proposed use. Clause 5.2.4.1 requires parking for a tertiary education establishment at the rate of 1 per classroom, plus 1 space for every 6 students, plus 2 additional spaces. Thus, with a maximum of 25 students, a total of 8 parking spaces are required.

The subject land currently includes an off-street car parking area with parking for 55 vehicles in individual sealed, drained and line-marked parking spaces. Access is provided from a sealed two-way driveway from Gilruth Avenue.

The proposed use does not add net floor area to the existing premises, and will be utilised at times of low or no use by other parties. Accordingly, and given the significant number of car parking spaces available on site, no additional car parking is necessary. It is noted that a high level of pedestrian accessibility and public transport are provided along Gilruth Avenue, immediately adjacent the main entrance to the site.

In relation to Clause 5.4.2.3, the proposal does not alter the existing car park layout. The existing car park is sealed, drained and line-marked, with a two-way access / egress to Gilruth Avenue, and is sufficient to accommodate the car parking needs within the subject land.

**Clause 5.2.5 – Loading Bays**

Clause 5.2.5 relates to the provision of space for the loading and unloading of vehicles associated with the use of the land. Loading / unloading areas are not required by Clause 5.2.5 for the use of land as education establishment. The proposal will not impact on existing loading / unloading areas for the existing uses on site.

**Clause 5.2.6 – Landscaping**

Clause 5.2.6 provides general landscaping provision and design requirements. Whilst no specific criteria are provided for education establishments, the proposal will not impact existing landscaping within Gardens Oval, with planting well established, providing a landscaped outward appearance to adjoining public areas, and including a number of significant and well maintained trees.
Clause 5.5.3 – Commercial and Other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, FD and T

Clause 5.5.3 relates to commercial and other development in Zone OR (among others) and seeks to promote site-responsive designs of commercial, civic, community, recreational, tourist and mixed use developments which are attractive and pleasant and contribute to a safe environment. The Clause requires development:

2. preserve vistas along streets to buildings and places of architectural, landscape or cultural significance;

No alteration will occur to existing built form, and thus view corridors along the adjacent streets (particularly Gardens Road and Gilruth Avenue) will be maintained.

3. be sympathetic to the character of buildings in the immediate vicinity;

No physical alteration to the land will ensure the character of existing buildings is not compromised.

4. minimise expanses of blank walls;

No new/ amended buildings are proposed.

5. add variety and interest at street level and allow passive surveillance of public spaces;

Existing street presentation and passive surveillance opportunities will not be compromised.

6. maximise energy efficiency through passive climate control measures;

The consideration of passive climate control measures are not relevant in an application for ancillary land use.

7. control on-site noise sources and minimise noise intrusion;

Governing bodies currently implement codes of conduct controlling patron behaviour at all venues, including Gardens Oval. In addition, user agreements with the City of Darwin and conditions on the liquor license apply to control anti-social behaviour and associated unacceptable noise within the site. As the proposed use will occur at times of low/no on site use by other parties, on-site noise sources are unlikely to impact other users or the proposed use.

8. conceal service ducts, pipes, air conditioners, air conditioning plants etc;

No new or alterations to existing services are proposed.

9. minimise use of reflective surfaces;

No new or alterations to existing surfaces are proposed.
10. **provide safe and convenient movement of vehicles and pedestrians to and from the site;**

Vehicle access and pedestrian access is provided from Gilruth Avenue and will be maintained for the proposed use. Existing vehicle access comprises a two-way driveway to a sealed, drained and line-marked car parking area, with a separate pedestrian connection to the shared path and pedestrian crossings within the Gilruth Avenue road reserve. The existing access arrangements are appropriate and provide safe and efficient access and egress.

11. **provide convenient pedestrian links (incorporating access for the disabled) to other buildings and public spaces;**

Pedestrian links are provided to the public shared paths along Gilruth Avenue, with a dedicated pedestrian access separate to the car park entry.

12. **provide protection for pedestrians from sun and rain;**

Shelter for pedestrians is available to and within the existing club, as well as within the existing grandstands and seating areas around Gardens Oval One.

13. **provide for loading and unloading of delivery vehicles and for refuse collection;**

Loading, unloading and refuse requirements are accommodated within the existing facility.

14. **provide landscaping to reduce the visual impact and provide shade and screening of open expanses of pavement and car parking;**

Landscaping is currently provided around the car park and pedestrian entry areas, along with established landscaping throughout and around the periphery of Gardens Oval.

15. **provide facilities, including public toilets, child minding facilities, parenting rooms and the like where the size of the development warrants such facilities; and**

Facilities are provided within the existing club rooms.

16. **provide bicycle access, storage facilities and shower facilities.**

Bicycle storage is provided adjacent the existing change rooms, with shower facilities provided therein. Bicycle access is available from the pedestrian footpath and associated pedestrian access.

**Clause 5.5.3** also requires that:

1. A development application must, in addition to the matters described in sub-clauses 2-16, demonstrate consideration of and the consent authority is to have regard to the Community Safety Design Guide (as amended from time to time) produced by the Department of Lands and Planning.

The Community Safety Design Guide seeks to ensure development considers the principles of Community Protection through Environmental Design (CPTED).
The proposal will increase the duration of use of the premises, providing some benefit to activity and passive surveillance during daytime hours. The proposal will not compromise crime prevention and community safety outcomes within Gardens Oval and the surrounding area.

Specific Development Requirements

Clause 5.8.2 – Education Establishment

Clause 5.8.2 relates to the development and / or use of land for the purpose of education establishment, and provides:

Purpose

Ensure an education establishment:

  a) meets the needs of students and staff;

  b) contributes positively to amenity of the surrounding area;

  c) does not unreasonably interfere with the safe and efficient operation of the local road and pedestrian network; and

  d) promotes access via public transport and active transport networks.

Administration

1. The consent authority may consent to an education establishment that is not in accordance with sub-clauses 2-5 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, nature, scale and impact on surrounding amenity.

Requirements

2. Locate pre-school, primary and secondary school facilities to maximise access by public transport, safe walking and cycling routes, and are provided with safe vehicular drop-off zones.

3. Provide a designated student car park in secondary schools.

4. Locate tertiary education facilities in designated education precincts within or adjacent to activity centres that are connected to public transport.

5. Ensure mechanical plant and service areas are designed and screened to minimise adverse amenity impacts when viewed from adjoining streets and properties, and are not located where they adjoin an existing residential use.
The subject land has immediate access to public transport, safe walking and cycling routes along Gilruth Avenue, immediately adjacent the site. Ample internal space is available for student drop-off and pick-up. The proposal will not alter the outward appearance of the subject land, and the land is not adjacent an existing residential use. The existing car parking spaces will not be designated for students or teachers, however will be available to all users. The significant parking surplus and proposed use during little / no use of the land ensures ample parking will be available.

6.1 Darwin Regional Land Use Plan and Inner Suburbs Area Plan

The Darwin Regional Land Use Plan was prepared by the NT Planning Commission and incorporated into the Northern Territory Planning Scheme in 2015. The plan provides a vision, goals and intended outcomes for development of the Darwin Region, identifies regional opportunities and the intention for development into the medium and long term.

The Land Use Structure on Page 13 of the Plan identifies the subject land as Open Space / Natural Area. Page 27 of the Plan relates to Open Space / Natural Areas and seeks to ensure future development facilitates the retention of open space, significant vegetation and environmental areas. Commentary within the plan recognises the inclusion of a range of recreation areas within Open Space / Natural Areas, and seeks to ensure continued access to recreational facilities.

Page 28 considers Active Recreation, and seeks to encourage the involvement of residents in sport, to provide for healthy living and premier sporting activities, and identifies Gardens Oval as a continuing alternative venue for both local and regional events.

Given the OR Zoning of the land and the assessment provided above, specifically the ancillary and complimentary nature of the proposal advancing sport and recreation opportunities and education within the Top End, the proposal is consistent with the realisation of the objectives of the Regional Land Use Plan.

The Darwin Inner Suburbs Area Plan was finalised in June 2016 and incorporated into the NT Planning Scheme.

Section 3.4 – Organised Recreation within the Darwin Inner Suburbs Area Plan
The Pan provides a framework to guide progressive growth and development within the Inner Suburbs of Darwin. The Area Plan identifies the subject land for the continued purpose of Organised Recreation. Section 3.4 of the Area Plan provides objectives and acceptable responses for organised recreation areas.

As with the Regional Land Use Plan, the ancillary and complimentary nature of the proposal advancing sport and recreation opportunities and education within the Top End ensures the proposal is consistent with the remaining primary use of the land for organised recreation. Further the proposal benefits existing sporting clubs, and thus organised recreation in general, by enabling use of the space during periods of little or no use.

7. **Section 46(3)(b) – Interim Development Control Order**

There are no Interim Development Control Orders currently applicable to the subject land.

8. **Section 46(3)(c) – Environmental Assessment Act, Waste Management and Pollution Control Act**

Formal consideration under the Northern Territory Environmental Assessment Act is unlikely to be required, and the proposal does not likely to impact on any environment protection objective under the Waste Management and Pollution Control Act.

9. **Section 46(3)(d) – Merits of Proposed Development**

The proposal will increase the use of the existing facility and provide increased opportunities for recreation and sports-based education, providing direct benefits to organised recreation within the subject land and the Top End more broadly.

10. **Section 46(3)(e) – Subject Land, Suitability of Development and effect on other land**

Sections 3 and 4 of this report describe the subject land and surrounding locality. Section 6 considers the potential impact on surrounding land, and given the nature of the proposed use, reliance on existing site facilities and built form, and low number of attendees (particularly relative to sporting events within the facility), the proposed development is considered suitable and will not unreasonably impact amenity.

11. **Section 46(3)(f) – Public Facilities and Open Space**

The proposal comprises an additional use within an existing public facility comprising an area of public open space. The use will not impact the useability of the existing public facility. Additional public open space and facilities occur in immediate proximity to the subject land, including the George Brown Darwin Botanic Gardens, Mindil Beach and the Gardens Park Golf Links (owned by Council but operated by a private entity).

12. **Section 46(3)(g) – Public Utilities and Infrastructure**

The subject land is connected to reticulated power, water and sewer services. The proposed use will not impact the capacity of services available to the subject land.
13. **Section 46(3)(h) – Impact on Amenity**

Given the nature of the proposed use, reliance on existing site facilities and built form, and low number of attendees (particularly relative to sporting events within the facility), the proposed development is considered suitable and will not unreasonably impact amenity.

14. **Section 46(3)(j) – Benefit/Detriment to Public Interest**

The proposed use will further education opportunities in sport and recreation fields, and will enable the use of public facilities during times of little or no use. No detrimental impact on public interest is expected.

15. **Section 46(3)(k) – Compliance with the Building Act**

No subdivision is proposed, thus **Section 46(3)(k)** is not relevant.

16. **Section 46(3)(l) – Development of Scheme Land**

The application does not comprise alterations to or the further subdivision of land under a unit titles scheme. Accordingly **Section 46(3)(l)** is not relevant.

17. **Conclusion**

The application seeks approval for an additional use of the existing clubrooms for the purpose of **education establishment**, specifically the provision education courses in sport and recreation-related fields. The proposal will enable the use of the land during times of little or no use, and is entirely ancillary to the overriding **leisure and recreation** function of the subject land. The proposal does not compromise the relevant provisions of the Planning Scheme, and will not impact on the useability of the subject land or amenity of surrounding land.

*Brad Cunnington*
Northern Planning Consultants Pty Ltd

31 July 2020
TECHNICAL ASSESSMENT OF PROPOSED DEVELOPMENT AGAINST RELEVANT PROVISIONS OF THE NORTHERN TERRITORY PLANNING SCHEME

Application No: PA2020/0245
Lot number: 03477 (66) Gilruth Avenue
Town/Hundred: Town of Darwin
Zone: OR (Organised Recreation)
Site Area: 36200m²
Proposal: Ancillary education establishment addition to an existing organised recreation facility (Gardens Oval)
Plans used for assessment: Site Plan – Garden Oval Number One (dated – 04/08/2020)
Date assessment finalised: 01 September 2020

The proposed development requires consent under the Northern Territory Planning Scheme 2020. This has been triggered as described below:

The development of an education establishment is prohibited in Zone OR (Organised Recreation). In accordance with Clause 1.9(c) “an ancillary use or development not specified in the definition of the primary use requires consent and the level of assessment that applies to the ancillary use is ‘Impact Assessable’ if the ancillary use is prohibited in the zone.” The proposed use is described as an ancillary use to the existing leisure and use existing on site. The proposed use is Impact Assessable under NTPS 2020.

<table>
<thead>
<tr>
<th>Zone OR (Organised Recreation)</th>
<th>Use</th>
<th>Assessment Category</th>
<th>Overlays</th>
<th>General Development Requirements</th>
<th>Specific Development Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Education Establishment</td>
<td>Impact</td>
<td>3.7 LSSS – Land Subject to Storm Surge</td>
<td>5.2.1 General Height Control 5.2.4 Vehicle Parking</td>
<td>5.5.3 Commercial and Other Developments in Zones HR,CV,CB,C,SC,TC,OR,CP,FD and T 5.8.2 Education Establishment</td>
</tr>
</tbody>
</table>

This is a technical assessment of the proposal against the requirements of the Northern Territory Planning Scheme 2020 (NTPS2020) and is no indication of whether or not approval will be given by the Development Consent Authority. It is noted that clause 1.10 provides for the Consent Authority to exercise discretion in making a decision on a development in particular circumstances.
2.4 Strategic Framework – Darwin Inner Suburbs Area Plan (DISAP)

The DISAP provides a framework to guide progressive growth and development within the Inner Suburbs of Darwin. The Area Plan identifies the subject land for the continued purpose of Organised Recreation. Section 3.4 of the Area Plan provides the following objectives and acceptable responses for organised recreation areas.

![Organised Recreation](image)

The subject site forms part of the Gardens Oval complex which is developed as a sporting facility for football and cricket. The subject land comprises the Gardens Oval complex, specifically Gardens Oval One and the associated Waratah Football Club licensed clubrooms. The Gardens Oval complex comprises Gardens Oval one and two, with the main oval, grandstands, toilets / change rooms and clubrooms located on lot 3477, with Gardens Oval two and the cricket training nets located on the adjacent lot 5943. The application proposes the development of an ancillary educational establishment within the existing clubrooms at Garden Oval. The proposed education establishment shall be leased by a sport and physical education provider to deliver programs in sports and education.

The primary use of the site is leisure and recreation and no change to the primary use of the site is proposed. The application states that the proposed education establishment shall align with the school terms and shall remain inactive during periods of events occurring on primary use.

CAN COMPLY – There is no net loss of organised recreation area. The primary use of Gardens Oval remains for sport and recreation and will continue to function as per the existing. A condition can be included on any permit issued which confirms the education establishment use to remain ancillary to the primary use of the site.

3.7 Overlays – Land Subject to Storm Surge

**Purpose**

Identify areas with a known risk of inundation from primary or secondary storm surges and ensure that development in these areas demonstrates adequate measures to minimise the associated the risk to people, damage to property and costs to the general community caused by storm surge.

The subject land is located within the Primary and Secondary Storm Surge Areas – **NOTED.**
Administration
1. Land subject to this Overlay is to be used or developed only with consent.
2. This Overlay does not apply to:
   (a) outbuildings and extensions to existing dwellings; or
   (b) extensions to existing commercial or industrial buildings;
   which, but for this Overlay, would not require consent.

No such extensions are proposed. The application is for the establishment of an education establishment in an existing club building. The proposed use requires consent. – NOTED

3. In this Overlay:
   (a) “AEP” means Annual Exceedance Probability, which is the likelihood, in percentage terms, of inundation by storm surge;
   (b) “PSSA” means Primary Storm Surge Areas, which are those coastal areas within a 1% AEP of inundation by storm surge as defined on mapping produced by the NT Government;
   (c) “SSSA” means Secondary Storm Surge Areas, which are those coastal areas adjacent to the PSSA with a 0.1% AEP of inundation by storm surge as defined on mapping produced by the NT Government; and
   (d) “storm surge” means the elevation in sea level which accompanies the movement of a cyclone particularly near, or over, a coastline, attributed to a cyclone’s intensity and wind stress build-up.

NOTED

4. The consent authority may consent to use or development that is not in accordance with sub-clauses 5-7 only if it is satisfied that the application demonstrates that there is no increased risk to people and property, including adjoining property.

Requirements
5. Development in the PSSA should be limited to uses such as open space, recreation, non-essential public facilities (wastewater treatment works excepted) and short-stay tourist camping/caravan areas.
6. Development within the SSSA should be confined to those uses permitted in the PSSA as well as industrial and commercial land uses.
7. Residential uses, strategic and community services (such as power generation, defence installations, schools, hospitals, public shelters and major transport links) should be avoided in the PSSA and the SSSA.

The application proposes to establish an education establishment use in PSSA and SSSA area. – CAN COMPLY. Refer the discussion in the departmental report to the Development Consent Authority

4.18 Zone OR – Organised Recreation

Zone Purpose
Provide for the development of community and commercial facilities for organised recreation activities.

Zone Outcomes
1. Development primarily for sport and recreation, leisure and recreation and community centre that cater for the organised active recreation needs of the community, including supporting infrastructure such as amenities blocks, outbuildings, spectator stands and lighting infrastructure.

The subject land comprises the Gardens Oval complex which provides facilities for the leisure and active recreation needs of the community. The proposal seeks approval for the development of ancillary educational establishment which will deliver education programs in sports and recreation. The proposed use
shall operate from the existing club building and will operate only during periods of inactivity of the primary use.

The consent authority need to be satisfied that the nature of the proposed use (education establishment) is ancillary to the primary use (leisure and recreation) of the land.

REFER TO THE DISCUSSION PROVIDED IN THE DEPARTMENTAL REPORT TO THE DCA.

2. Temporary or periodic uses, such as markets or outdoor entertainment events, that can be reasonably accommodated by the existing facilities and do not unduly impact on the amenity and character of the surrounding area.

No such uses are proposed – NOT APPLICABLE.

3. Other development that is complimentary to and supports organised recreational activities, such as car park, club, food premises–restaurant and shop may also be established, where they do not compromise or conflict with the primary use of the land.

The proposed ancillary use shall operate from the existing club building. The students / staff will have access to the main entrance and car parking area of the club building including, ablutions facilities.

4. All development, including public infrastructure and outbuildings, is located, designed, operated and maintained to:
   (a) make a positive contribution to the locality by incorporating a high quality of built form and landscape design;
   (b) minimise unreasonable impacts to the amenity of surrounding premises and any residential land;
   (c) mitigate the potential for land use conflict with existing and intended surrounding development;
   (d) avoid adverse impacts on the local road network;
   (e) provides safe and convenient pedestrian and bicycle access within the development and strong connections to external transport networks;
   (f) avoid any adverse impacts on ecologically important areas; and
   (g) allow passive surveillance of public spaces.

The proposed use shall operate from the existing building. The proposed use does not alter the existing buildings outward appearance or interaction with the public realm. No changes to the building façade is proposed.

5. Development that is not defined in Schedule 2 (Definitions) may occur only when assessment has determined that the development is appropriate in the zone, having regard to the purpose and outcomes of this zone and such matters as the location, nature, scale and intensity of the development.

The proposed ancillary use (education establishment) is defined in Schedule 2 (Definitions). However, it is not defined in the definitions of the primary use and therefore requires consent under Clause 1.9c of the NT Planning Scheme.

5.2.1 General Height Control

Purpose
Ensure that the height of buildings in a zone is consistent with development provided for by that zone.
Administration
1. This clause does not apply:
(a) within Zones CB or DV or TC; or
(b) to education establishments or hospitals within zones CL or CP or, subject to clause 5.4.2, Zone C; or
(c) where a height is specified elsewhere in this Planning Scheme.

2. The height of any point of a building is to be measured from ground level vertically below that point and includes the height of a mound specifically provided or made to elevate the building.

3. The consent authority may consent to a development that is not in accordance with sub-clause 4 if it considers the height of the building or structure achieves the zone purpose, having regard to such matters as its location, nature, scale and potential impact on adjoining property.

Requirements
4. The height of any part of a building is not to exceed 8.5m above the ground level, unless it is:
   (a) a flag pole, aerial or antenna; or
   (b) for the housing of equipment relating to the operation of a lift; or
   (c) a telecommunications facility.

The application proposes to establish the education establishment use in the existing single storey club building. There are no implications as the application proposes a change of use with no physical alterations to the existing development.

COMPLIES

5.2.4.1 PARKING REQUIREMENTS

Purpose
Ensure that sufficient off-street car parking, constructed to a standard and conveniently located, is provided to service the proposed use of a site.

Administration
1. The consent authority may consent to a use or development that is not in accordance with the table to this clause only if it is satisfied the use or development is appropriate to the site having regard to the purpose of this clause and the potential impact on the surrounding road network and the amenity of the locality and adjoining property.

2. If a proposed use or development which is not listed in the table to this clause requires consent, the number of car parking spaces required for that use or development is to be determined by the consent authority.

3. The consent authority may require the provision of car parking spaces for any ancillary use or development in addition to that specified for the primary use or development in the table to this clause.

DAS has determined that the proposal is a tertiary education establishment given the nature of the courses and training offered.

Table to this clause specifies that a tertiary education establishment is required to provide 1 parking bay per classroom plus 1 parking bay for every 6 students plus 2 additional spaces. The applicant has advised that there is one classroom as part of the proposal with a class size of between 25 to 30 students. Therefore, a total of 7.1 (~8) car parking bays are required.

The site is currently owned by City of Darwin and the subject area containing the clubhouse is leased by the Waratah Football Club. There is no planning permit on record for the construction of the clubhouse. Review
of the building file for the site reveals that the existing building on the site was legitimately constructed in 2001. The existing use of the site at that time was considered as 'sport and recreation' which is permitted under the now superseded Darwin Town Plan 1990. A development permit consenting to the clubhouse development use is taken to have been issued in this instance by virtue of section 45 of the Planning Act 1999.

A site visit revealed that the subject land currently includes an off-street car parking area with parking for 59 vehicles in individual sealed, drained and line-marked parking spaces. Access to these car parks is provided from a sealed two-way driveway from Gilruth Avenue.

**COMPLIES**

### 5.2.4.3 PARKING LAYOUT

**Purpose**

Ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose.

**Administration**

1. The consent authority may consent to a car parking area that is not in accordance with sub clause 3 if it is satisfied that the non-compliance will not:
   (a) result in adverse impacts on the local road network or internal functionality of the car parking area; and
   (b) unreasonably impact on the amenity of the surrounding locality.

**Requirements**

2. A car parking area is to be established, used and maintained for the purpose of vehicle parking only.

3. A car parking area is to:
   (a) be of a suitable gradient for safe and convenient parking;
   (b) be sealed and well drained;
   (c) be functional and provide separate access to every car parking space;
   (d) limit the number of access points to the road;
   (e) allow a vehicle to enter from and exit to a road in a forward gear;
   (f) maximise sight lines for drivers entering or exiting the car parking area;
   (g) be not less than 3m from a road, and the area between the car parking area and the road is to be landscaped with species designed to lessen the visual impact of the car parking area;
   (h) be in accordance with the dimensions set out in the diagram to this clause;
   (i) have driveways with a minimum width of 6m for two-way traffic flow or 3.5m for one-way traffic flow; and
   (j) be designed so that parking spaces at the end of and perpendicular to a driveway be with 3.5m wide or so that the driveway projects 1m beyond the last parking space.

4. Despite sub-clause 3, dust suppression may be an acceptable alternative to sealed surfaces in non-urban areas.

The proposal does not alter the existing car park layout. The existing car park is sealed, drained and line-marked, with a two-way access / egress to Gilruth Avenue, and is sufficient to accommodate the car parking needs within the subject land.

**COMPLIES**
5.5.3 Commercial and Other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, FD and T

**Purpose**
Promote site-responsive designs of commercial, civic, community, recreational, tourist and mixed use developments which are attractive and pleasant and contribute to a safe environment.

The proposal will utilise the existing club building with no change to the façade of the existing building proposed. The extent of change of use complies noting there are pre-existing non-compliances which remain unchanged.

In relation to bicycle access, storage and shower facilities the applicant states that bicycle storage is provided adjacent the existing change rooms, with shower facilities provided therein. Bicycle access is available from the pedestrian footpath and associated pedestrian access.

**COMPLIES**

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**Clause 5.8.2 Education Establishment**

**Purpose**
Ensure an education establishment:
(a) meets the needs of students and staff;
(b) contributes positively to amenity of the surrounding area;
(c) does not unreasonably interfere with the safe and efficient operation of the local road and pedestrian network; and
(d) promotes access via public transport and active transport networks.

**Administration**
1. The consent authority may consent to an education establishment that is not in accordance with sub-clauses 2-5 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, nature, scale and impact on surrounding amenity.

**Requirements**
2. Locate pre-school, primary and secondary school facilities to maximise access by public transport, safe walking and cycling routes, and are provided with safe vehicular drop-off zones.
3. Provide a designated student car park in secondary schools.
4. Locate tertiary education facilities in designated education precincts within or adjacent to activity centres that are connected to public transport.
5. Ensure mechanical plant and service areas are designed and screened to minimise adverse amenity impacts when viewed from adjoining streets and properties, and are not located where they adjoin an existing residential use.

The proposed use is a tertiary education facility not within a designated education precinct.

**DOES NOT COMPLY** - Refer the discussion in the departmental report to the Development Consent Authority.
Community Facilities and Services

Key Community Facilities Objectives

• Maintain a high standard of community service provision through:
  ○ appropriate provision and management of regional recreation facilities to encourage involvement of residents in sport, and to provide for healthy living and premier sporting activities
  ○ encouraging the co-location of recreation facilities with other community uses particularly schools to maximise potential for multi-use
  ○ recognising the role of parks and reserves in meeting the recreation needs of the community
  ○ appropriate provision of land for schools, child care centres, aged care and facilities for seniors and other community facilities via detailed plans for future urban and peri-urban areas, and in association with infill development and urban and rural activity centres

The provision of a range of facilities and services to meet the needs of local communities assist in the creation of local character and identity that contribute to the creation of strong and healthy communities.

Active Recreation

Facilities to cater for the sports and active recreation needs of the community range from premier regional sporting facilities for regional peak bodies and high profile international and national sporting events, to local facilities to meet local needs.

Regional

Parks and reserves in the Darwin Region offering significant recreational opportunities for residents and visitors can be divided into a number of broad categories, each providing differing experiences:

• reserves within or adjacent to urban areas that provide recreational resources for residents and are within easy reach of visitors, such as Casuarina Coastal Reserve that attracts around 700,000 visitors annually
• parks and reserves providing outstanding wildlife experiences for interstate and international visitors, such as Fogg Dam Conservation Reserve and Windows on the Wetlands
• other parks and reserves offering more visitor orientated experiences including Berry Springs Nature Park and Manton Dam Recreation Reserve
• showcases for the Territory’s unique experiences, such as the Territory Wildlife Park and George Brown Darwin Botanic Gardens.

Litchfield National Park, to the west of Coomalie, is a popular destination for residents and visitors to the region. It provides opportunities to experience Top End landscapes, scenic waterfalls, safe swimming, camping, four wheel driving and bush walking.

Recreation facilities at the Marrara Sports Complex provide a range of premier sporting facilities catering for local, regional, national and international events.

The Freds Pass Recreation Reserve also provides for a range of recreational activities, including equestrian activities (polocrosse and dressage), and Palmerston has a range of premier sporting facilities distributed across the urban area. The historic Gardens Oval complex, the original regional facility, continues to provide an alternative venue for both local and regional events. All three complexes have club rooms and spectator facilities and Marrara and Freds Pass provide opportunities for expansion and improvement.

While Marrara will remain the principal location in the region for premier sporting facilities, additional facilities will be required in future urban areas. The specific location of these facilities will be addressed in more detailed future planning, with particular attention given to ready access to the arterial road and public transport networks.

The Hidden Valley Motor Sports Complex and Micket Creek Shooting Complex meet specific recreation needs. Future development of these facilities is anticipated to meet the needs of continued population growth.

As the regional population continues to grow there will be an increased demand for additional specialist facilities that have relevance to residents and visitors, including a national standard aquatic centre and improved facilities for equestrian events.

Local

Detailed planning for urban areas and rural activity centres will focus on opportunities to collocate local sporting facilities with other community facilities, particularly schools. This approach encourages multi-use and increased activation of local areas.

Education Facilities

The ongoing provision of adequate and affordable land to accommodate a range of educational facilities is a key imperative in this plan. Specific requirements and sites for new school infrastructure will be determined by a number of factors including:

• the location of greenfield and infill development
• the contribution of government and non-government sectors
• the impacts of Defence personnel movement
• convenience with respect to public transport services
Legend
- Potential area for change

Planning Principles:
- Community Purpose
- Public Open Space
- Organised Recreation

Concepts:
- **A** Refer to Parap Community Hub Concept
- **B** Refer to Salonika Precinct Neighbourhood Parks Concept
- **C** Refer to Stuart Park Primary School and Recreation Area Concept
- **D** Refer to Stuart Highway, Stuart Park District Park Concept
- **E** Refer to Somerville Gardens Neighbourhood Park Concept
- **F** Refer to Vestey's Art, Community and Education Precinct Concept
- **G** Refer to Darwin Amphitheatre Concept
## 3.4 Social Infrastructure

### Planning Principles

<table>
<thead>
<tr>
<th>Community Purpose</th>
<th>Acceptable Responses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Objectives</strong></td>
<td><strong>Acceptable Responses</strong></td>
</tr>
<tr>
<td>1. Provision of necessary community facilities.</td>
<td>Social support services, residential care, seniors accommodation, retirement living, public housing, affordable housing, community accommodation services and other community purpose uses that meet the needs of residents.</td>
</tr>
</tbody>
</table>
| 2. Better utilisation of community purpose sites. | Re-use of land currently designated Zone CP for:  
- uses consistent with Zone PS (Public Open Space), Zone OR (Organised Recreation) or Zone CN (Conservation); or  
- future development that accords with any other theme outlined within this Area Plan. |
| 3. Redevelopment and expansion of education facilities. | Darwin Middle and High Schools and Parap and Ludmilla Primary Schools developed within the boundaries of those specific sites.  
Expansion of the Stuart Park Primary School in accordance with the Concepts section of this theme and the Parap Village and Woolner Concept Plan at Attachment 1. |
| 4. Allow for the development of new child care centres and medical centres. | Child care centres are incorporated in mixed use developments within activity centres or on appropriately located community purpose land. |
### Public Open Space

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Acceptable Responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Retention of current parkland and foreshore spaces for cultural, social and environmental purposes.</td>
<td>No net loss of public open space or development other than to provide:</td>
</tr>
<tr>
<td></td>
<td>• low scale public amenities associated with the public open space function of the land;</td>
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<td></td>
<td>• further enhancement of the function of these spaces; or</td>
</tr>
<tr>
<td></td>
<td>• maintain and install essential infrastructure and services.</td>
</tr>
<tr>
<td>2. Protection of public access to foreshore spaces and established park spaces associated with the foreshore, including the George Brown Botanic Gardens.</td>
<td>Upgraded play equipment, park furniture, shade and landscaping provided in public open spaces.</td>
</tr>
<tr>
<td>3. Enhancement of existing public open spaces.</td>
<td>In accordance with the communal and open space requirements of the NT Planning Scheme.</td>
</tr>
<tr>
<td>4. Additional public open space within large developments.</td>
<td></td>
</tr>
</tbody>
</table>

### Organised Recreation

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Acceptable Responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Retention and enhancement of land currently used for organised recreational activities.</td>
<td>No net loss of organised recreation land, unless an existing Specific Use Zone allows for change of use on a specific site.</td>
</tr>
<tr>
<td></td>
<td>Redevelopment of facilities associated with the water sport clubs, the Darwin Bowls Club and the Sky City Casino only:</td>
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<tr>
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<td>• within the boundaries of those specific sites;</td>
</tr>
<tr>
<td></td>
<td>• in a manner consistent with the relevant provisions of the NT Planning Scheme.</td>
</tr>
<tr>
<td>2. New active and passive recreation uses.</td>
<td>Development of new recreation facilities on underutilised land within existing organised recreation areas.</td>
</tr>
</tbody>
</table>
Friday 28 August

Ms Dawn Parkes
Manager Urban Planning
Department of Infrastructure, Planning & Logistics
GPO Box 1680
DARWIN NT  0801

Dear Ms Parkes

Parcel Description: Lot 3477 - Town of Darwin
66 Gilruth Avenue, The Gardens

Proposed Development: Ancillary education establishment addition to an existing organised recreation facility (Gardens Oval)

Thank you for the development application referred to this office 14 August 2020, concerning the above.

City of Darwin acknowledges that it is the landowner, and has provided authorisation to the applicant to submit the above proposal.

Should the application be approved, City of Darwin’s standard policies and its responsibilities under the Local Government Act and the Planning Act will be appropriately implemented.

If you require any further discussion in relation to this application, please feel free to contact me on 8930 0683.

Yours faithfully

BRIAN SELLERS
ACTING MANAGER CITY PLANNING
Amit Magotra  
Development Assessment Services  
Development Consent Authority  
GPO Box 1680  
Darwin NT 0801

Dear Amit

Re: Lot 3477 (Gardens Oval) Gilruth Avenue The Gardens Town of Darwin

In response to your letter of the above proposal for the purpose of ancillary education establishment addition to an existing organized recreation facility (City of Darwin Gardens Oval), Power and Water Corporation has no comment with reference to electricity matters.

City of Darwin authorizes SEDA Group to use existing Waratah Sports Club clubrooms without any modification at Gardens Oval to deliver student’s sports and physical education programs.

If you have any further queries, please contact Andrew Venhuizen, Senior Customer Connections Officer on 8924 5700.

Yours sincerely

Thanh Tang  
Manager Distribution Development  
18 August 2020
Dear Amit,

RE: PA2020/0245 - Lot 3477 Town of Darwin 66 Gilruth Ave The Gardens - education addition to an existing recreational facility (Gardens Oval)

In response to your letter of the above proposal for development application purpose, Power and Water Corporation Water Services advises the following with reference to water and sewer enquiries:

1. The developer may need to upgrade the existing water and sewer service and should contact Services Development prior to start of construction.

2. The developer must install the backflow prevention device at the water service. The backflow prevention device must be installed in accordance with the requirements of the AS/NZS 3500.1 – Plumbing and Drainage-Water Supply. It must be maintained in accordance with AS/NZS 2845.1 Water Supply. Contact BackflowPrevention.PWC@powerwater.com.au for all backflow prevention enquires.

3. Power and Water advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) must be contacted via email a minimum of 1 month prior to construction works commencing.

If you have any further queries, please contact the undersigned on 899 55882, or email waterdevelopment@powerwater.com.au

Yours sincerely

Sarah Hemopo
Services Development

18th August 2020

cc: Brad Cunnington – Northern Planning Consultants Pty Ltd
email: brad.cunnington@northernplanning.net
Amit Magotra

From: Brad Cunnington <Brad.Cunnington@northernplanning.net>
Sent: Wednesday, 2 September 2020 3:41 PM
To: Amit Magotra
Subject: RE: PA2020/0245 - Ancillary education establishment addition to an existing organised recreation facility (Gardens Oval)

Noted, thanks. Will chase up directly with SEDA.

PWC have previously advised they use the Development approval process to require BPD’s to be upgraded to their current standards, regardless of the nature of the DA. We’ve previously objected to this use of the Development Approval process to both the DCA and PWC.

Regards
Brad

Brad Cunnington

M: 0427 796 140  E: Brad.Cunnington@NorthernPlanning.net
A: Darwin Corporate Park, Unit 6, T212, 631 Stuart Highway, Berrimah  P: PO Box 36004 WINNELLIE NT 0821

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From: Amit Magotra [mailto:Amit.Magotra@nt.gov.au]
Sent: Wednesday, 2 September 2020 3:39 PM
To: Brad Cunnington <Brad.Cunnington@northernplanning.net>
Subject: RE: PA2020/0245 - Ancillary education establishment addition to an existing organised recreation facility (Gardens Oval)

Sorry, Brad, I selected the wrong field in the beneficiary. See below the details required for SEDA:
Hi Amit
I’m not really sure what you mean? Are you looking for a specific contact person within SEDA?
Will get the site plan changed.

Please note we have some concerns with the request from PWC to install a BPD, as such a requirement is not triggered by this proposal.
If you could confirm the beneficiary details you need I’ll chase up with the client.
Thanks
Brad

Brad Cunnington
M: 0427 796 140  E: Brad.Cunnington@NorthernPlanning.net
A: Darwin Corporate Park, Unit 6, T212, 631 Stuart Highway, Berrimah  P: PO Box 36004 WINNELLIE NT 0821

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Also, please provide a blown-up floor plan of the clubhouse showing area under education establishment use.

Kind regards,

Amit Magotra
Senior Planner
Development Assessment Services
Department of Infrastructure, Planning and Logistics

Level 1, Energy House, 18-20 Cavenagh Street, Darwin GPO Box 1680, Darwin, NT 0800

t. 08 8999 8938
nt.gov.au

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