



## **DEVELOPMENT CONSENT AUTHORITY**

### **DARWIN DIVISION**

### **MINUTES**

**MEETING NO. 439 – FRIDAY 21 MARCH 2025**

**AGORA ROOM  
HUDSON BERRIMAH  
4 BERRIMAH ROAD  
BERRIMAH**

**MEMBERS PRESENT:** Suzanne Philip (Chair), Mark Blackburn and Monica Baumgartner

**APOLOGIES:** Marion Guppy, Peter Pangquee and Mick Palmer

**LEAVE OF ABSENCE:** None

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Amit Magotra and Madison Harvey (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Apology

**Meeting opened at 10.00 am and closed at 12.30 pm**

## Darwin DCA Meeting No 439 – Friday 21 March 2025

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

The Chair, Development Consent Authority, under section 93(1) of the *Planning Act 1999*, appointed Monica Baumgartner who is a member in relation to the Batchelor Division, to act as a member for Marion Guppy in relation to the Darwin Division from 10 March 2025 to 31 March 2025 as Marion Guppy is prevented from performing her duties of office because of absence.

### ITEM 1 PA2024/0392

#### RECONSIDERATION - MIXED USE DEVELOPMENT COMPRISING OFFICES, A COMMUNITY CENTRE, A PLACE OF ASSEMBLY, A FOOD PREMISES AND A CAR PARK IN A 21 STOREY BUILDING INCLUDING 4.5 LEVELS OF ABOVE GROUND LEVEL CAR PARKING

### SUBJECT SITE APPLICANT

#### LOT 3981 (17) HARRY CHAN AVENUE, DARWIN CITY, TOWN OF DARWIN CUNNINGTON ROSSE TOWN PLANNING AND CONSULTING

Pursuant to Section 97 of the *Planning Act 1999*, Peter Pangquee and Mick Palmer Community Members of the Darwin Division of the Development Consent Authority (the Authority) disclosed an interest and were an apology for the DCA meeting Friday 21 March 2025 therefore were not present during, contributed to or took part in the deliberation or decision of the Division in relation to this item.

Development Assessment Services (DAS) tabled 3 additional submissions received from Peter Forrest, NT Institute of Architects and Allan Garraway. DAS also tabled architectural renders that were omitted from the DAS report to the Authority. DAS provided copies of the tabled documents to the submitters present at the meeting.

Applicant: Brad Cunnington (Cunnington Rosse Town Planning and Consulting), Lachlan Michell (DCOH Pty Ltd), John Hoyes (CA Architects) and Andrew Kudra attended. Mr Cunnington tabled a letter prepared by the City of Darwin that addressed the referral authority conflict of interest.

Submitters who sent their apologies: Carolyn Whyte and Allan Garraway.

Submitter who attended via Teams Link: Miriam Wallace (NT Chapter President of the Australian Institute of Architects).

Submitters who attended in person: Margaret Clinch, Laurie Palfy, Janice Hills, Joanna Rees (Ajar Architects - member NT Chapter Australian Institute of Architects), and Olivia-Grace Hill (Solicitor - De Silva Hebron Barristers and Solicitors acting for Geoff and Kerry Nourse).

Ms Clinch tabled a copy of lease 244 to the Corporation of the City of Darwin dated 17 November 1970 for Lot 3981 Town of Darwin, bordered by Harry Chan Avenue/Smith Street and Esplanade.

Ms Palfy tabled a copy of an information flyer prepared by the City of Darwin in relation to the Darwin Civic Centre redevelopment.

Interested party in attendance: Verity Clough

**RESOLVED  
24/25**

That, the Authority reduce the car parking requirements pursuant to Clause 5.9.2.12 (Reduction in car parking spaces in Darwin City Centre) and vary the requirements of Clauses 5.2.4.4 (Layout of Car Parking Area), 5.2.5 (Loading Bays), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.5.15 (Design in Commercial and Mixed Use Areas), 5.5.16 (Active Street Frontages), 5.9.2.2 (Volumetric Control) and 5.9.2.13 (Design of Car Parking Areas and Vehicle Access), 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 3981 Town of Darwin, 17 Harry Chan Avenue, Darwin for the purpose of mixed use development comprising offices, a community centre, a place of assembly, a food premises and a car park (202 spaces) in a 21 storey building including 4.5 levels of above ground level car parking, subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
  - a) Full set of development plans, including elevations, showing details of the active frontage as demonstrated in the development changes provided in the deferral response plans, DA-003 Revision 6 (Ground Level Site Plan – Proposed) and DA-101 Revision 5 (Site Plan) provided on 3 March 2025. The plans must include details of colours, materials, and any other changes submitted in the deferral response dated 03 March 2025.
  - b) Location of heritage interpretation signage reflecting the heritage of the site, particularly in relation to Chinese presence and history in Darwin, link from Travellers Walk to the Tree of Knowledge and the WWII oil tunnels.
  - c) Location of wayfinding signage in relation to pedestrian, cyclist and vehicle access.
  - d) A lighting design plan showing details of all external lighting to ensure that accessways are adequately illuminated.
  - e) Annotation stating that the building finishes will not exceed 20% external reflectivity levels.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), an amended landscaping plan, to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will form part of the permit. The amended landscaping plan is to reflect the sustainability initiative to utilise water sensitive urban design principles in the public open space and landscaping.
3. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.

## Darwin DCA Meeting No 439 – Friday 21 March 2025

4. Prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.
5. Prior to the commencement of works (including site preparation), a Heritage and Unexpected Archaeological Finds Management Plan shall be submitted to and approved by the Heritage Branch of the Department of Lands, Planning and Environment, to the satisfaction of the consent authority.
6. Prior to the commencement of works (including site preparation), a dilapidation report covering infrastructure within the road reserve is to be prepared to the requirements of City of Darwin, to the satisfaction of the consent authority.
7. Prior to the commencement of works (including site preparation), a waste management plan addressing the City of Darwin's Waste Management Guidelines must be prepared, to the requirements of the City of Darwin, to the satisfaction of the consent authority.
8. Prior to the commencement of works (including site preparation), an Site and Construction Management Plan (SCMP) is to be prepared to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land during construction. The SCMP should include details of the location of the crane and any holding areas.

### GENERAL CONDITIONS

9. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
10. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notations 1, 2 and 3 for further information.

11. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin, to the satisfaction of the consent authority.
12. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
13. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
14. Before the use or occupation of the development starts, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
  - a) constructed;
  - b) properly formed to such levels that they can be used in accordance with the plans;
  - c) surfaced with an all-weather-seal coat;
  - d) drained;
  - e) line marked to indicate each car space and all access lanes; and
  - f) clearly marked to show the direction of traffic along access lanes and driveways

to the satisfaction of the consent authority.

Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.

15. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street, in accordance with the requirements of City of Darwin, to the satisfaction of the consent authority.
16. "No entry/no exit" signs and arrows directing the internal traffic movement on site shall be provided at completion of building to the requirements and satisfaction of the consent authority.
17. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Darwin, to the satisfaction of the consent authority.
18. Before the use or occupation of the development, a car parking allocation plan must be submitted to the consent authority, demonstrating the allocation of 258 car parking spaces to the office, place of assembly, community centre, and retail premises (restaurant/café) uses, and 202 spaces allocated to the car park use.
19. Written confirmation from a qualified traffic engineer that the car parking spaces and access lanes associated with the development comply with the relevant Australian Standards for car parking must be provided in instances where the car parking does not comply with the minimum requirements of 5.2.4.4 Layout of Car Parking Area of the Northern Territory Planning Scheme 2020, to the satisfaction of the consent authority.
20. Before the use/occupation of the development starts, the landscaping works and sustainability initiatives shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
21. The landscaping and sustainability initiatives shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
22. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
23. The owner shall:
  - a) remove disused vehicle and/ or pedestrian crossovers;
  - b) provide footpaths/ cycleways;
  - c) collect stormwater and discharge it to the drainage network; and
  - d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
24. Any security boom, barrier or similar device controlling vehicular access to the premises must be located a minimum of six metres inside the property to allow vehicles to stand clear of the Harry Chan Avenue pavement and footpath, to the requirements of the City of Darwin, to the satisfaction of the consent authority.
25. Storage for waste disposal bins is to be provided to the requirements of City of Darwin, to the satisfaction of the consent authority.
26. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.

## Darwin DCA Meeting No 439 – Friday 21 March 2025

27. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.
28. All substation, fire booster and water meter arrangements are to be appropriately screened to soften the visual impact of such infrastructure on the streetscape, to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority in consultation with the Power and Water Corporation, and NT Fire and Emergency Services.
29. Before the use or occupation of the development, heritage interpretation signage is to be installed, to the satisfaction of the Heritage Branch of the Department of Lands, Planning and Environment, to the satisfaction of the consent authority.
30. The sustainability initiatives, as detailed in the sustainability report, must be implemented and maintained at all times, to the satisfaction of the consent authority.
31. Before the use or occupation of the development, confirmation is to be provided by an appropriately qualified person that the building finishes do not exceed 20% external reflectivity levels, to the satisfaction of the consent authority.
32. All roof top plant equipment, equipment relating to the operation of the lift and any other equipment (such as any vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).
33. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building.

### NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto:powerdevelopment@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. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind)
3. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>

## Darwin DCA Meeting No 439 – Friday 21 March 2025

4. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
5. Darwin International Airport advises that separate requests for assessment and approval must be submitted to Darwin International Airport and the Department of Defence NT for any cranes used during construction that will infringe on either the Obstacle Limitation Surfaces (OLS) or Procedures for Air Navigation Services – Operations (PANS-OPS) surfaces for Darwin Airport.
6. The applicant is advised that the provision of lighting at the site is required to be consistent with the CASA Manual of Standards (MOS-139) Aerodromes to minimise the potential for conflict with aircraft operations. The design of lighting is a developer responsibility and if it is later found that lights or glare endangers the safety of aircraft operations, the Department of Defence NT or the Civil Aviation Safety Authority may require the lighting to be extinguished or suitably modified.
7. The City of Darwin advises that all street trees shall be protected at all times during construction. Any tree on a footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of the General Manager, Infrastructure of the City of Darwin. A Tree Protection Zone (TPZ) shall be constructed for all existing trees to be retained within the development, in accordance with Australian Standards – AS 4970-2009 “Protection of Trees on Development Sites”. Copies of AS 4970-2009 “Protection of Trees on Development Sites” can be obtained from the Australian Standards website.
8. A “Permit to Work Within a Road Reserve” may be required from City of Darwin before commencement of any work within the road reserve.
9. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.
10. The permit holder is advised that it is an offence to disturb or destroy prescribed archaeological places without consent under the *Heritage Act 2011*. Should any heritage or archaeological material be discovered during the clearing operation, cease operation and please phone Heritage Branch of the Department of Lands, Planning and Environment.
11. Part of the subject lot is a declared heritage place, and no work is to be carried out within the declared heritage place without following appropriate processes under the terms of the *Heritage Act 2011*.
12. This development 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.
13. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the



commencement of any construction activity. NT Build should be contacted via email ([info@ntbuild.com.au](mailto:info@ntbuild.com.au)) or by phone on 08 8936 4070 to determine if the proposed works are subject to the Act.

14. The Department of Infrastructure and Logistics (previously known as Department of Infrastructure, Planning and Logistics) released a discussion paper on electric vehicles in 2019 and new developments in Central Darwin should consider incorporation of this infrastructure in the design phase to support future investment in sustainable transport, including parking/charging points.

## **REASONS FOR THE DECISION**

1. The application sought approval for a mixed-use development comprising offices, a community centre, a place of assembly, a food premises and a car park in a 21-storey building including 4.5 levels of above ground level car parking. The application was submitted by Mr Brad Cunnington of Cunnington Rosse Town Planning and Consulting. At the meeting, Mr Cunnington advised that the beneficiary details, DCOH Land Pty Ltd, provided in the original application were incorrect and that the correct beneficiary is DCOH Pty Ltd. Mr Cunnington also provided details of shareholding pattern and Company Directors. Mr Cunnington clarified that the City of Darwin is the landowner and provided a signed owners authorisation which formed part of the application. The Authority notes that this amendment to the application provides clarification and improves transparency and does not necessitate re-exhibition of the proposal.
2. The application is located on Lot 3981 Town of Darwin, which is defined as the site pursuant to Schedule 2 of the Northern Territory Planning Scheme 2020 (NTPS 2020). The site comprises the existing City of Darwin Civic Centre and associated car parking and Civic Park. The proposed development is located on a 4694.35m<sup>2</sup> portion on the north-eastern corner of the site and is referred to herein as the development site. The development site was re-zoned from Zone CP (Community Purpose) to Zone B1 (Central Business) on 12 June 1991.

The development site is irregular in shape with a northern and eastern curved frontage to Harry Chan Avenue and is currently developed as a car park associated with the existing City of Darwin Civic Centre, comprising 95 car parking spaces and some landscaping.

The application was first considered by the Authority at its meeting on 07 February 2025. The application was subsequently deferred to enable the applicant to provide the additional information that the Authority considered necessary in order to enable proper consideration of the application. This is discussed further at reason 3 below.

During its consideration of the original application, the Authority concluded that the site cannot be considered in isolation and must be assessed within the context of its surrounding area. The Authority viewed that the locality of the site includes all land bordered by and within the north-western side of Bennett Street, the north-eastern side of Cavenagh Street, Harry Chan Avenue, and the Esplanade to both the south-west and south-east.

The land uses in the locality are primarily civic / community, commercial or residential in nature notably consisting of:

- On the north-eastern and south-eastern side of Harry Chan Avenue are various office, mixed-use and residential buildings ranging in height from 6 to 13 storeys.



## Darwin DCA Meeting No 439 – Friday 21 March 2025

- On the corner of Smith Street and the Esplanade is Christ Church Cathedral, a declared heritage place, and associated car parking and landscaped areas.
- On the southern side of Smith Street is the State Square Precinct which consists of the future State Square Art Gallery (currently under construction), the Supreme Court, Parliament House and Administrator's Office.
- On the north-western side of Bennett Street are various mixed use and office buildings ranging in height from one to 20 storeys.

The Authority noted that the locality, as described above, is categorised by a range of extant lower scale buildings and more robust taller contemporary buildings and comprises a mix of uses. The locality also includes areas of significant community, cultural and heritage values. More broadly, the development site and the locality form part of Darwin's Central Business District (CBD).

The Authority also noted that, during the previous consideration of this matter, questions of conflict of interest were dealt with. It again confirmed its position in relation to the present deliberations that the Community Members, Peter Pangquee, Mick Palmer and Jimmy Bouhoris, disclosed an interest pursuant to Section 97 of the *Planning Act 1999*, and have had no part in any of the discussions or considerations in relation to this application and have no input into the determination made. Further, the Authority previously addressed concerns regarding perceived conflict of interest in relation to specialist DCA member, Mark Blackburn, and confirmed its position that no relationship which requires disclosure under either Section 97(1)(a) or (b) exists; nor does any question of apprehended bias generally prevent Mr Blackburn from taking part in the consideration and determination of this application.

3. The application was initially deferred by the Authority on 07 February 2025 to require that the applicant provide a more extensive consideration of Clauses 5.5.3 (General Building and Site Design) and 5.5.15 (Design in Commercial and Mixed Use Areas) of the NTPS 2020, including, how the proposal is sympathetic to the character of buildings in the immediate locality and how the expanses of blank walls and reflective glare is minimised. Furthermore, the deferral also to requires amended drawings reflecting a re-design of the ground floor of the building along Harry Chan Avenue to achieve better compliance with Clause 5.5.16 (Active Street Frontage).

In response to the Notice of Deferral, the applicant provided the following information:

- Written response to the matters raised in the deferral letter;
- Revised Architectural Plans prepared by CA Architects;
- Revised Landscaping Plans prepared by Clouston Associates;
- Architectural Design Statement prepared by CA Architects;
- Facade Advice prepared by ADG Engineers;
- Traffic Advice prepared by Urbis; and
- Street Level Services Summary prepared by WSP

On that basis and given that the information required by the Notice of Deferral was addressed by the Applicant, reconsideration of the application took place at the 21 March 2025 Development Consent Authority meeting.

Mr Brad Cunnington (applicant) attended the hearing and spoke further to the application and responses to the points of deferral. Mr Cunnington advised that various amendments had been made to the proposed design along with a suite of additional supporting documentation provided in response to the Authority's deferral request.

Mr Cunningham summarised that the key design changes along the Harry Chan Avenue interface included:

- increased glazing to the commercial – food premises tenancy.
- addition of areas of full height vertical landscaping.
- additional interpretative signage space, street furniture and congregating space.
- amended ground floor layout to consolidate access to and location of building services.
- increased building setback which allows for additional shade trees and landscaping to screen the building from the street and provide amenity to the streetscape.

Mr Cunningham referenced the inclusion of the following additional supporting documentation:

- Amended / expanded architectural statement.
- Façade advice clarifying the approach to low reflectivity in the façade design.
- Traffic advice confirming the safety and efficiency benefits to having separate service and private vehicle access.
- Servicing advice report which outlines the design and legislative and service authority requirements for each street level service component.

The Authority's consideration of the applicant's responses to the deferral points, along with the Development Assessment Services' (DAS) assessment of clauses is provided below.

#### Clause 5.5.16 Active Street Frontage

In relation to Clause 5.5.16 Active Street Frontage, the Authority notes that the development site is not identified in the Central Darwin Area Plan 2019 (CDAP 2019) as located along a priority activated frontage. As such, Clause 5.9.2.5 (Development along Priority Activated Frontages) of the NTPS 2020 does not apply.

The Authority further notes that the purpose of Clause 5.5.16 is *'to provide a site responsive interface between commercial buildings and the public domain that:*

- *is attractive, safe and functional for pedestrians;*
- *encourages activity within the streetscape; and*
- *encourages passive surveillance of the public domain'.*

The Authority highlighted the original proposal did not comply with sub-clause 5 and 6 of Clause 5.5.16, noting the relevance of sub-clauses 3 – 6 as outlined below:

3. *'Landscaping may be counted toward the percentage of active street frontage required under sub-clause 6 if it is comprised of: (a) significant existing vegetation; or (b) vertical landscaping for the full height of the ground level street frontage; and the development still meets the purpose of the clause (sub-clause 3).*
4. *Every application should include written acknowledgment from the agencies responsible for power and water, fire rescue services and the relevant local government council to confirm that all reasonable measures were taken to minimise the impact of servicing requirements on active street frontages (sub-clause 4).*
5. *Services on street level frontages are to be limited to:*
  - a. *a single vehicle entry and exit point to and from the building (except on larger sites where additional access points are supported by a Traffic Study for the site);*
  - b. *a direct single point of access to service equipment for all service authorities;*

- c. required fire egress; and
  - d. required fire booster connection points (sub-clause 5).
6. Buildings are to provide a minimum of 60% of the length of each site boundary that fronts a primary or secondary street, or public open space, as active street frontage, made up of any combination of the following components, where the distance between individual components is no more than 1.5m:
- a. windows that maintain clear views to and from the street, with openings that have dimensions not less than 0.9m wide and 1.2m high;
  - b. operational and legible entrances (excluding fire egress) that are directly accessible from the public domain;
  - c. areas within the site that are used for alfresco dining that provide visual interaction with the street/public open space; or
  - d. well-designed spaces that allow for pedestrian movement and/or seating' (sub-clause 6).'

In relation to sub-clause 4, the Authority noted the additional information provided by the applicant, confirming that all reasonable measures were taken to minimise the impact of servicing requirements on active street frontages. The Authority noted WSP's advice, which outlines that fire control and sprinkler systems must be accessible and acoustically separated for safety, and that booster cabinets require proximity to a hardstand for fire appliance access. Furthermore, the advice confirms that the substation is appropriately set back from the street, and the main switch room includes external doors and connects to an internal corridor, providing compliant emergency egress.

In addition, the Authority noted the applicant provided traffic advice which concluded that *'the provision of two access points is considered to be a safer and more efficient outcome for the site and surrounding road network'*.

Taking into account the above advice from the WSP and traffic, the Authority considered that the application demonstrates better compliance with sub-clause 5, noting the traffic advice confirms compliance with sub-clause 5(a). However, the Authority also noted that the proposal remains non-compliant with sub-clauses 5(b) to 5(d), as it includes more than one point of access for service equipment (5b), and services along the street frontage are not limited to the required fire egress (5c) and fire booster connection points (5d).

At the meeting held on 21 March 2025, Mr Cunnington confirmed that 32.7% of the Harry Chan Avenue boundary is considered 'active street frontage', this was increased from 21.6% in the previously considered in design. Mr Cunnington identified the elements of the design that contribute to the 'active street frontage' to include:

- Glazing along the north-east elevation of the library and the pedestrian thoroughfare that runs along the north-western side of the building, resulting in 10 metre width of 'active street frontage'.
- Glazing along the south-east of the food premises and the pedestrian thoroughfare that runs along the south-western side of the building, resulting in 13 metre width of 'active street frontage'.
- Two separate areas of street furniture, resulting in 12 metres of 'active street frontage'.
- Full height ground floor vertical landscaping with a width of 5 metres contributing to 'active street frontage'.

Ms Monica Baumgartner, a member of the Authority, asked Mr Cunnington to clarify what the percentage of 'activated street frontage' would be if all components of vertical landscaping were included. Mr Cunnington was unable to provide the percentage at the time but confirmed the overall length of the Harry Chan Avenue boundary.

Mr Cunnington highlighted that the design response seeks to activate the interface with the future civic plaza and the identified priority pedestrian/cycleway network in the CDAP 2019. Mr Cunnington emphasised that the design changes are intended to enhance street frontage and improve the overall appearance; however, a variation is still required to sub-clause 6.

Mr Cunnington posited that the variation to sub-clause 6 of clause 5.5.16 needs to be considered in the context of the site, particularly in relation to the proposed re-orientation of active components of the building along the north-west and south-west elevations.

In response to the question raised by the Chair of the Authority regarding how the 're-orientation' of active street frontage responds to the requirements of sub-clause 6, given the north-western and south-western boundaries do not front 'public open space', Mr Cunnington clarified that the intent of the proposed pedestrian footpaths (along the south-western and north-western boundaries of the site) are to be publicly accessible thoroughfares. Mr Cunnington further clarified that these paths are designed to align with the identified priority pedestrian/cycleway network identified in the CDAP 2019.

The Authority noted the changes made to the design and considers that this achieves better compliance with sub-clause 6 of clause 5.5.16. Notwithstanding this, it is acknowledged that the proposed development continues to require a variation to the requirements of sub-clause 5 and 6 of Clause 5.5.16.

Administratively, sub clause 2 specifies *'that the consent authority may consent to a development that is not in accordance with sub clauses 5, 6 and 7 if:*

- a) an alternative solution effectively meets the purpose of this clause;*
- b) the site design reflects the established character of the area; or*
- c) it is satisfied that compliance would be impractical considering servicing requirements and any advice provided under sub clause 4.'*

In accordance with sub-clause 2(a), the Authority acknowledged that the proposed development has been deliberately designed to activate the development site internally, through the provision of glazing and a pedestrian thoroughfare along the north-western and south-western boundaries of the site providing access to and integrating with the priority pedestrian/cycleway network identified in the CDAP 2019. Notwithstanding, the Authority noted that the purpose of the clause specifically references the interface between *'commercial buildings and the public domain'*. The only interface between the proposed development and the public domain occurs along the Harry Chan Avenue frontage and therefore the alternative solution must be in reference to this frontage. The Authority further noted that the building's north-west façade, which delivers 100% active frontage, adjoins the existing Civic Centre—a predominantly public building. The proposed alternative solution provides a site-responsive interface between the commercial development and the public domain. In addition, the proposal incorporates a range of landscaping elements, including vertical greenery, public seating, and extensive glazing along the Harry Chan Avenue frontage. These measures collectively contribute to achieving the intent of the clause.

In accordance with sub-clause 2(b), the Authority noted that the existing streetscape character of Harry Chan Avenue is varied and there are numerous examples of buildings that, if assessed today, would not comply with the activation requirements. The Authority considered that the proposed development provides extensive landscaping within the Harry Chan Avenue setback which responds to the character of the area whilst providing greater amenity to the streetscape.

In accordance with sub-clause 2(c), as outlined above, the Authority has reviewed the WSP and traffic advice and accepts this as verification that all reasonable measures were taken to minimise the impact of servicing requirements on active street frontages. The Authority acknowledged that strict adherence with the requirements of this clause would result in an outcome that fails to positively respond to the Civic Park interface and is ultimately unfeasible given servicing authorities would not be able to access the services if proposed to front Civic Park and / or the Christ Church Cathedral.

**Clause 5.5.3 – General Building and Site Design and Clause 5.5.15 Design in Commercial and Mixed Use Areas**

A detailed discussion on the proposed development's compliance with sub-clause 2,3, 4 and 9 of Clause 5.5.3 and sub-clause 12 and 14 of Clause 5.5.15 is provided below.

***Sub-clause 2 'preserve vistas along streets to buildings and places of architectural, landscape or cultural significance'***

In relation to sub-clause 2, CA architects stated in their architectural design statement that *'the proposed development does not impact any existing vistas along streets to buildings and places of architectural, landscape or cultural significance. The ground level is set in to maintain a visual connection at eye level from Cavanagh St through to Harry Chan Avenue. The development sleeves the south east perimeter of the site in order to preserve the view corridor from Cavanagh Street through to Galamarrma the Tree of Knowledge'*.

The Authority noted the statement provided by CA Architects and further emphasised that existing vistas of Galamarrma the Tree of Knowledge across the development site are blocked by the existing City of Darwin Civic Centre and vistas of the Church Christ Cathedral are obtained from Smith Street – not across the development site.

The Authority also notes that the vistas to Civic Park are preserved through the provision of pedestrian thoroughfares along the north-western and south-western sides of the building.

The Authority considered that the proposed development will not impact on any existing vistas along streets to buildings and places of architectural, landscape or cultural significance and therefore complies with sub-clause 2 of Clause 5.5.3.

***Sub-clause 3 'be sympathetic to the character of buildings in the immediate vicinity'.  
Sub-clause 12 'building design is to be sympathetic to the character of buildings in the immediate locality'***

In relation to sub-clause 3 and 12, CA architects stated in their architectural design statement that *'the character of surrounding buildings is diverse in both scale and appearance. Adjacent buildings along Harry Chan Ave consist of a variety of lobbies, services*

*including substations and hydrant boosters, solid walls and various crossovers and garage doors. Typologies and scales are mixed, with multi storey apartment buildings making up the bulk of adjacencies, in addition to multi storey offices, The William Forster Barrister chambers, and a small amount of commercial and private residential (Figure 5). The character of adjacent architecture is highly varied. The DCC is designed with the approach of being sympathetic to local character via material selection, colours, and textures that harmonize with the surrounds (Figure 6) while allowing for contemporary interpretation. The tower itself is set back from the podium to reduce its perceived scale and visual impact. The development is designed to limit its volumetric impact on buildings in the locality by siting of the tower to the corner of the site, adjacent to buildings of similar scales. In most instances, the ground plane recessed in and has planting zones sleeving where the building connects with the ground plane’.*

The Authority noted the statement provided by CA Architects. Of relevance, in its deferral the Authority described what it considered to be the ‘locality’ of the site, this is described in reason 2 above.

At the meeting, Mr Cunnington expressed agreement with the Authority’s description of locality. Mr Cunnington emphasised that the deferral response reflects consideration of the ‘immediate’ locality / vicinity as required under sub-clause 3 and 12.

Mr Cunnington explained that the location of the development site on the eastern portion of the site, allows for the demolition of the existing civic centre and the future provision of a public plaza whilst also maintaining separation at both ground and tower levels, to existing development on the opposite side of Harry Chan Avenue. Mr Cunnington further advised that the proposed built form, principally the location of the tower component, provides for and maintains separation to those existing larger more contemporary buildings on the opposite side of Harry Chan Avenue.

With reference to responding to the immediate locality, Mr Cunnington highlighted that the architectural design statement prepared by CA Architects noted the use of material selection, colours, textures, setbacks at the podium base, the height of the podium being less than the surrounding built form and the built form responding to its Gateway location.

At the request of the Authority, Mr John Hoyes (CA architects) described ‘sympathy’, from an architectural and design point of view, as the means by which the development can respond in a manner that is less impactful to the surrounding context. Mr Hoyes explained the challenge of the development site is that the character of the surrounding area is highly diverse and therefore sympathy is dealt with through building setbacks, form, program and materiality.

The Authority noted that the locality is characterised by built form diversity and that the development site is located in Zone CB and is considered currently underutilised as a car park. Furthermore, the development site is constrained by its unique interface with Civic Park and curved frontage to Harry Chan Avenue. The Authority also notes that the locality encompasses areas of significant community, cultural and heritage values.

In the context of the above, the Authority considered that the design response responds to the context and characteristics of the locality and therefore complies with sub-clause 3 of Clause 5.5.3 and sub-clause 12 of Clause 5.5.15.



*Sub-clause 4 'minimise expanses of blank walls'.*

*Sub-clause 9 'minimise use of reflective surfaces'.*

*Sub-clause 14 'building design is to minimise the expanse of blank walls facing the street and public open spaces and limit external finishes that could cause nuisance to residents or the general public, such as materials that would result in excessive reflected glare'.*

In relation to blank walls, the Authority noted that CA architects stated in their architectural design statement that *'wherever possible, services including refuse, tanks and stores are accessed internally via the service vehicle loading dock in order to minimise the impact on the Harry Chan Avenue streetscape. Air conditioner plant is elevated to roof and an intermediate plant level, which are both fully screened from neighbouring properties. Where services must be boundary adjacent, planting is proposed with the entirety of the Harry Chan Avenue boundary sleeved with full height vegetation. The ground plane facing Harry Chan Avenue has been recessed below the ramp, with access doors rationalised in order to maximise planting opportunity and push service door access below the shadow of the building'.*

Mr Mark Blackburn, a member of the Authority, asked Mr John Hoyes to explain the design changes to reduce the extent of blank walls. Mr Hoyes explained that the ground floor along Harry Chan Avenue has been further setback to allow the shadow of podium of the building to screen building services and to allow more landscaping opportunity. Mr Hoyes also told the Authority that the car park ramp external façade has been altered from a solid wall to a perforated solution.

The Authority accepted the design statement of CA Architects and considers that the proposed development has sought to limit extent of blank walls to that which are necessary. Where elements of blank walls are necessary, particularly through the provision of servicing, landscaping is proposed to both screen and filter views of the proposed development.

In relation to reflective surfaces / reflected glare, CA Architects stated in their architectural design statement that *'the development utilises a high level of façade glazing, however, the extent of glazing has been rationalised to that which is required for the amenity of future users of the building. Whilst glass is a reflective surface, modern glare-reducing glazing is proposed to minimise visible light reflectance. Furthermore, glazing is it an effective material to promote site activation through enhanced visibility, transparency, and interaction between spaces. The partial reflectivity that does occur can be an effective tool in reflecting the surrounding environment which enhances a site's presence, particularly at night where illuminated interiors create a welcoming glow, keeping the site activated even after dark. Visual connectivity and passive surveillance (figure 8) are improved, whilst a high degree of amenity is provided to internal building users through perceived spaciousness and natural light access'.*

The proposed development inherently incorporates extensive areas of glazing. The advice of CA architects is accepted regarding that modern glare reducing glazing is proposed to minimise reflectivity. This advice is supported by façade advice prepared by ADG which advises *'low-emissivity glass is being adopted to reduce solar energy (heat) gains within the building by rejecting solar light in the infra-red and ultra-violet light wavelengths. Infra-red and ultra-violet light wavelengths are not visible to the human eye. Consideration is being given to selecting glass with external light reflectivity levels (within the visual light wavelengths) that is within generally accepted tolerances established by local authorities in Australia. Such thresholds generally do not exceed 20% external reflectivity levels'.*



Mr Mark Blackburn asked the applicant to clarify if there is an industry standard in relation to reflectivity of external finishes. Mr Lachlan Michell (DCOH Pty Ltd) explained that there are no prescribed reflectivity level standards, however, there is good practice. Mr Cunningham also advised that once detailed design is further progressed that the applicant would be able to provide more precise information relating to the glazing.

The Authority applied a condition precedent to the permit to require an annotation on the architectural plans to state *'the external building finishes will not exceed 20% external reflectivity levels'* and a general condition to require, prior to the commencement of the use or occupation of the development, confirmation by an appropriately qualified person that the external building finishes do not exceed 20% external reflectivity levels.

With reference to the above assessment, the Authority considered that the proposed development complies with sub-clause 4 and 9 of Clause 5.5.3 and sub-clause 14 of Clause 5.5.15.

4. Pursuant to section 51(1)(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 NT Planning Scheme 2020 (NTPS2020) applies to the land and offices, a community centre, a place of assembly, food premises – café /restaurant and a car park require consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(1)(c)(v), therefore Part 2: Strategic Framework (CDAP 2019), Part 3: Overlay (Clause 3.13 Gateway Locations), Part 4: Zone Purpose and Outcomes of Clause 4.10 – Zone CB (Central Business) and Part 5: Development Requirements, including Clauses 5.2.1 General Height Control, 5.2.4.4 Layout of Car Parking Area, 5.2.5 Loading Bays, 5.2.6.2 Landscaping in Zone CB, 5.3.7 End of Trip Facilities in Zones HR CB C SC and TC, 5.5.1 Interchangeable Use and Development, 5.5.3 General building and site design, 5.5.4 Expansion of Existing Use or Development in Zones CB C SC and TC, 5.5.11 Food Premises, 5.5.15 Design in Commercial and Mixed Use Areas, 5.5.16 Active Street Frontages, 5.8.4 Exhibition Centre, Place of Assessment and Place of Worship and 5.9.2 Darwin City Centre, need to be considered.

The Authority noted that in relation to Part 2 of the NTPS 2020, the development site is located in the CDAP 2019 and is identified for Civic and Community Purpose within a Gateway Precinct. The priority pedestrian/cycleway network is identified though the development site and along Harry Chan Avenue, green links are identified along Harry Chan Avenue and the Heritage Oil Tunnels are identified running beneath the development site. In this context, the Authority highlighted that Clause 1.7 of the NTPS 2020 clarifies that area plans do not prevail over the assessment category set out in the Part 4 assessment tables. The development site is zoned CB for the purposes of those tables which allow for a variety of uses including offices, community centre, place of assembly, food premises and car park as sought in the present application.

The Authority elucidated that the CDAP 2019 specifies that the objectives and acceptable responses serve as action based policy statements to guide land use and development. They do not prevent the use of land consistent with the current zoning of the site. CDAP requires that objectives and acceptable responses must be addressed as part of future development of land to which this Area Plan applies. Alternatives to the acceptable responses that demonstrate an equal or better response to the objective will also be considered.

## Darwin DCA Meeting No 439 – Friday 21 March 2025

In this context, the Authority considered the proposed development has addressed CDAP 2019 through its incorporation of acceptable responses into the design.

Acceptable responses that are incorporated into the design include:

### *Mixed Use Theme:*

- Provision of additional storeys of height as part of the building design addresses the Gateway Precinct.

### *Social Infrastructure Theme:*

- A local level public library.
- New public open space comprising a variety of landscaping, public seating and public bicycle hoops to integrate with existing public open space and to complement the function of the proposed public library and civic centre.
- New pedestrian thoroughfares along the north-western and south-western boundaries of the site provides access to and integrates with the identified priority pedestrian/cycleway network. Trees are proposed along the southern boundary which will assist in cooling the city and encourage pedestrian use of the thoroughfare.

### *Culture and Heritage Theme:*

- The development site is directly adjacent to the Tree of Knowledge (Galamarrma) and Christ Church Cathedral Heritage Precinct which are both declared heritage places under the Heritage Act 2011. In addition, the Heritage WWII Oil Tunnels are located beneath the site, the application confirmed that 'the building layout avoids directly overlying the existing oil tunnels, and retains the opportunity for future connectivity to recognise the heritage values'.
- All advice provided by the Heritage Branch of the Department of Lands, Planning and Environment has been applied as condition precedents and general conditions. Detailed consideration of heritage matters are discussed below.
- At the meeting held on 7 February 2025, the Authority asked the applicant if an arborist report had been prepared regarding the Tree of Knowledge. Mr Cunningham confirmed that the City of Darwin had prepared an arborist report and that it recommended a minimum 15 metre Tree Protection Zone (TPZ) and noted that the development site is beyond the TPZ.

### *Movement and Transport Theme:*

- The provision of pedestrian thoroughfares along the north-western and south-western sides of the building that provide access to and integrate with the identified priority pedestrian/cycleway network and access through the development site.
- The proposed extent of landscaping and provision of end of trip facilities and public bicycle hoops provides an enhanced pedestrian and cyclist amenity. A general condition is applied to require drawings be updated to show details of signage identifying pedestrian and / or cyclist networks and end of trip facilities.

### *Essential Infrastructure Theme:*

- The proposed services are incorporated into the building and will be screened from the streetscape via the proposed landscaping. The proposed diesel generator, located in the Harry Chan Avenue setback, will be screened via a 1.8m high aluminium batten screen.

## Darwin DCA Meeting No 439 – Friday 21 March 2025

- Comments from service authorities have been accommodated through standard permit conditions applied to the permit.
- In response to encouraging innovation and sustainability, ESD measures will be incorporated into the building design. In addition, a permit note is applied to encourage consideration to Electric Vehicle (EV) parking / charging points in the detailed design phase to support future investment in sustainable transport.

Regarding Part 3 of the NTPS 2020, the development site is affected by the Gateway Overlay which requires assessment of Clause 5.9.2.8 of Part 5 of the NTPS 2020 and this is further considered at reason 4 below. The CDAP 2019 impacts for Gateway sites are considered above.

In relation to Part 4 of the NTSPS 2020, the Authority noted that the development site is located in Zone CB (Central Business) which seeks to *'promote an active and attractive mixed-use environment that maximises its function as the commercial, cultural, administrative, tourist and civic centre for the surrounding region that is integrated with high density residential development'*. The proposed development aligned with the intent of Zone CB to provide a mixed-use environment that maximises its function.

5. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
- The purpose and administration clauses of the requirement; and
  - The considerations listed under Clause 1.10(3) or 1.10(4).

The Authority noted the proposal has been assessed against the Part 5 requirements and complies with all applicable clauses except Clauses 5.2.4.4 Layout of Car Parking Area, 5.2.5 Loading Bays, 5.3.7 End of Trip Facilities in Zones HR CB C SC and TC, 5.5.15 Design in Commercial and Mixed Use Areas, 5.5.16 Active Street Frontages, 5.9.2.2 Volumetric Control and 5.9.2.13 Design of Car Parking Areas and Vehicle Access.

The Authority's determination of the variation to Clause 5.5.16 Active Street Frontages and compliance with Clauses 5.5.3 (General Building and Site Design) and 5.5.15 (Design in Commercial and Mixed Use Areas) are provided at reason 3 above. The Authority's consideration of the application's remaining non-compliances with the requirements of the NTPS2020 are discussed below.

### Clause 5.2.4.4 Layout of Car Parking Area

The purpose of the clause is to *'ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose'*.

The Authority noted that with reference to sub-clause 6(a), the proposed car parking area has a minimum setback of 308mm from any lot boundary and therefore does not comply with the requirement. In addition, with reference to sub-clause 8(c), 2 small car parking spaces are proposed that do not comply with the dimensions set out in the diagrams to this clause.

Administratively, sub-clause 3 specifies that *'the consent authority may consent to a car parking area that is not in accordance with sub-clause 6 if it is satisfied that the non-compliance will not unreasonably impact on the amenity of the surrounding locality'*. In

*addition, sub-clause 4 specifies that 'the consent authority may consent to a car parking area that is not in accordance with sub-clauses 7 and 8 if it is satisfied that the design and construction is safe and functional with regard to the location of the development'.*

The Authority considered the proposed variation to the car parking area setback and the provision of 2 small car spaces as appropriate for the following reasons:

- The proposed car parking area is located above ground level and a 3-metre landscaped setback has been provided along the lot boundary to assist with screening and filtering the proposed development when viewed from the streetscape and adjoining properties.
- The proposed car parking area will be constructed of aluminium vertical screening which provides texture and articulation minimising the visual bulk, when viewed from the streetscape and adjoining properties.
- In relation to the 2 small car parking spaces, the application confirmed that *'these bays will be marked accordingly, and provide parking for small vehicles maximising the use of space whilst (noting the surplus of car parking) ensuring parking is available for all vehicle types'*. A general condition is applied to require car parking directional signage be installed.

#### Clause 5.2.5 Loading Bays

The purpose of the clause is *'to provide for the loading and unloading of vehicles associated with the use of land'*.

Sub-clause 2 specifies that *'for the purposes of this clause, where an exhibition centre, food premises (fast food outlet and restaurant), office, place of assembly, shop or shopping centre are part of an integrated development, the minimum number of loading bays is to be calculated based on the combined net floor area of the integrated uses'*.

The Authority noted that in accordance with the requirements of sub-clause 2 and 3, the proposed food premises – restaurant, office and place of assembly has a combined net floor area of 14714m<sup>2</sup> which requires 7.3 loading bays rounded up to 8 loading bays. The community centre and car park use do not have any loading bay requirements. The Authority notes proposed development provides 3 loading bays which does not comply with the requirements of sub-clause 3.

In addition, of the proposed loading bays, 2 are designed to comply with the requirements and one does not comply with the width requirements of sub-clause 4.

Administratively, sub-clause 1 specifies that *'the consent authority may consent to a use or development that is not in accordance with sub-clauses 3 and 4 only if it is satisfied sufficient, safe and functional loading areas are available to meet the needs of the use with regard to:*

- *the scale of the use and development on the site;*
- *any potential adverse impacts on the local road network; and*
- *any agreements for off-site loading and unloading of vehicles, such shared loading areas or approval to carry out loading activities in a laneway or secondary street'*

The Authority considered the proposed variation to the minimum number of loading bays to be provided as appropriate given the application is accompanied by a traffic impact assessment which concludes that *'the proposed uses for this site involve moderate-scale*

*commercial and community use precinct, which generate less frequent and less intensive servicing needs than the planning scheme specifies... the scale of the development would result in efficiencies of scale and therefore a reduced requirement for the overall number of loading dock spaces...'* The traffic impact assessment recommended that a service vehicle management plan be implemented to facilitate the operation of the loading area.

In addition, the Authority considered the proposed variation to the width of the external loading bay as appropriate as traffic impact assessment advises that *'smaller vehicles (Vans/Utes etc) would be directed to use the parallel loading dock and use the turning area to undertake a three-point turn'*.

To ensure the on-going functionality of the loading bays, a general condition is included in the permit to require the development to implement the recommendations of the traffic impact assessment.

#### Clause 5.3.7 End of Trip Facilities in Zones HR CB C SC and TC

The purpose of the clause is to *'ensure that new commercial and high density residential buildings provide sufficient safe, quality and convenient end of trip facilities to enable active travel choices by residents, visitors, workers and customers for the proposed use of the site'*. The Authority noted that the proposed end of trip facilities comply with sub-clauses 3 – 6, however do not comply with sub-clause 2 specifically because only 51 bicycle parking facilities are provided where 52 are required.

Administratively, sub-clause 1 specifies that *'the consent authority may consent to a use or development with fewer bicycle parking spaces, lockers and/or showers and changing facilities than required by sub-clauses 2-6 if satisfied that either:*

- *there are alternative end of trip facilities (on or off the site), where:*
  - *the same function is provided which can accommodate the same number of bicycles and/or users required by the clause;*
  - *access to the alternative end of trip facilities is safe and convenient for users;*
  - *the alternative end of trip facilities are sheltered and secure; and*
  - *the size and layout of alternative storage areas allows for safe and comfortable storage and access to bicycles and/or personal items; or*
- *it would be unreasonable to provide the end of trip facilities as required by this clause with regard to, but not limited to, the location of the development and likely commute distances; or*
- *it would be unreasonable to provide shower and changing facilities for a small development, where the development becomes unfeasible should such facilities be required.'*

The Authority considered the proposed variation to the minimum number of bicycle parking spaces to be appropriate given the proposed development provides an additional 25 bicycle parking spaces in the form of bicycle hoops along the north-western and south-western sides of the building. The bicycle hoops integrate with the existing public open space and complement the function of the public library and civic centre.

#### Clause 5.5.15 Design in Commercial and Mixed Use Areas

The purpose of the clause is to *'encourage a diverse mix of commercial and mixed use developments that are safe, contribute to the activity and amenity of commercial centres, are*

*appropriately designed for the local climate, and minimise conflicts between different land uses within and surrounding the commercial centre’.*

The Authority noted that the proposed design complies with sub-clauses 12 – 16 and 18 – 23.

To ensure compliance with subclause 13, a condition is applied to the permit which requires the commitments of the sustainability report be implemented and maintained.

The Authority highlighted that an assessment against Community Safety and Design Guidelines (CSDG) has been undertaken as part of the technical assessment and the development includes appropriate surveillance, sightlines, building exterior, openings, lighting, way finding, movement predictors and entrapment locations. A condition is included, which requires a detailed lighting plan and wayfinding signage to be incorporated into the design.

The Authority noted that the proposed design does not comply with sub-clause 17 specifically because an awning is not provided to the Harry Chan Avenue street frontage. Specific consideration of compliance with sub-clauses 12 and 14 of Clause 5.5.15 is provided at reason 3 above.

Administratively, sub-clause 5 specifies that *‘the consent authority may consent to a development that is not in accordance with sub-clause 17 if it is satisfied that:*

- the development provides a considered response to the established character of the streetscape; and*
- the development provides an alternative response for shading’.*

The Authority considered the proposed variation to the requirement to provide an awning to be appropriate for the following reasons:

- The existing streetscape character of Harry Chan Avenue does not include the provision of awnings, noting that this is an area where most buildings are either fully or partially setback from the boundary abutting the road.
- The proposed development provides landscaping along the Harry Chan Avenue frontage to contribute to the amenity and character of the area and some shading of the existing footpath.
- The proposed upper levels overhang and landscaping along the south western boundary also provides an alternative response to shading to the proposed pedestrian thoroughfare.

#### Clause 5.9.2.2 Volumetric Control

The purpose of the clause is to *‘ensure the siting and mass of buildings within the Darwin city centre promotes urban form that is of a scale appropriate to the locality, and provides adequate separation to allow:*

- potential for view corridors to Darwin Harbour;*
- breeze circulation between buildings;*
- penetration of daylight into habitable rooms; and*
- reasonable privacy for residents’.*

Sub-clause 5 and 6 required that development be constructed with a podium up to 25m with 6m setbacks applying to windows to habitable rooms, balconies and verandahs only,



and a tower above with a maximum floor area of 1,200m<sup>2</sup> per tower, setback 6m from each boundary with building lengths of not more than 75% of the total length of each adjacent boundary. The Authority noted that the tower component of the development does not comply with the maximum footprint and minimum setback requirements.

Administratively, sub-clause 3 specifies that *'the consent authority may consent to a development, excluding development located within the Smith Street Character Area, that is not in accordance with sub-clauses 5 and 6 if it is satisfied the development:*

- is appropriate to the location considering the scale of the development and surrounding built form; and*
- will not unreasonably restrict the future development of adjoining sites'.*

The Authority considered the proposed variation to the requirement to the tower footprint and minimum setbacks to be appropriate for the following reasons:

- The building is appropriate its location with regard to the CB zoning and to the existing surrounding built form that is of a higher density, ranging from 2 – 11 storeys in height.
- The design addresses bulk and scale through its variable form, setbacks, landscaping and architectural treatments that provides articulation and will create an appropriate level of visual interest and expression of form that will enhance the urban setting.
- The site is setback from all boundaries and will not impact on the development potential of adjoining sites. Furthermore, it is considered that the proposed development will not cause an unacceptable level of amenity impact as:
  - The proposed new building is separated by existing roads to the closest dwellings, which allows a suitable transition to these more sensitive interfaces and will ensure that the use will not prejudice or preclude the ongoing use of nearby land in Zone CB for residential use.
  - The proposed use, particularly the library and civic centre, will directly service local community needs.
  - There are extensive opportunities for meaningful landscaping around the perimeter of the site which will make an improved contribution to the streetscape.
  - Sufficient on-site car parking, safe access and appropriately designed accessways are provided.
  - The proposal incorporates sufficient waste storage and collection facilities onsite.

#### Clause 5.9.2.13 Design of Car Parking Areas and Vehicle Access

The purpose of the clause is to *'promote design of car parking, vehicle access points and onsite movement that:*

- is easily adapted to meet changing demand;*
- minimises visual impact to the street and other public areas; and*
- minimises impacts to pedestrian and cyclist movement'.*

The Authority noted that the proposed development does not comply with sub-clause 5, as 2 separate crossovers are provided, one for passenger vehicles and one for loading vehicles.

Administratively, the *'consent authority may consent to a development that is not in accordance with sub-clauses 3-6 if it is satisfied the use or development is appropriate to the*



*site having regard the potential impact on the surrounding road network and the amenity of the locality’.*

The Authority considered that the proposed variation to the requirement for consolidated vehicle access to be appropriate for the following reasons:

- The applicant argued that *‘separate service / loading and car park access is provided to avoid conflict between service vehicles and cars, and the service access and loading areas, including waste collection, are consolidated in a single location in the north-eastern part of the building’*. This response is noted and generally accepted, given the proposed size of the car parking area and the proposed car park land use, it is practical to separate these functions of the building.
- In regard to the amenity impacts, the traffic impact assessment submitted with the application advises that the traffic impacts are considered *‘appropriate to the city centre area’* and *‘within the character of the surrounding road network’*.

A condition is applied to require all works recommended be the traffic impact assessment to be completed.

#### Clause 5.9.2.8 Development in Gateway Locations

The purpose of the clause is to *‘ensure buildings are designed to accentuate prominent corner locations to aid wayfinding and establish a strong sense of arrival into the Darwin City Centre city centre’*.

The Authority concluded that the proposed development complies with the requirements of the clause through inclusion of an increased building height of at least one storey compared to adjacent buildings and signage incorporated into the building design.

#### 5.9.2.11 Car parking spaces in Darwin City Centre

In relation to car parking, the Authority considered that there is a clear distinction between the car parking component of the development required by Clause 5.9.2.11 and the “Car Park” use sought to be approved in this application. Schedule 2 of the NTPS 2020 definition of the “Car Park” use limits it to *‘the parking of motor vehicles otherwise than as an ancillary use of land’*. To the extent that car parking is required to be provided for the development by Clause 5.9.2.11, it cannot be considered to form part of the separate “Car Park” use.

The purpose of the clause is to ensure that *‘sufficient off-street car parking spaces, constructed to a standard and conveniently located, are provided to service the proposed use of a site’*.

Subclause 5 specifies that use and development is to include the minimum number of car parking spaces specified in the table to this clause (rounded up to the next whole number).

The proposed land uses of office, community centre, place of assembly and food premises-café/restaurant have a statutory rate of 2 for every 100m<sup>2</sup> of net floor area and generates a requirement for 309.38 car parking spaces (rounded up 310 car parking spaces).

The proposed land use of “Car Park” requires the minimum number of car parking spaces to be determined by the Authority.

In relation to car parking spaces, the assessment noted that the proposed development provides 460 car parking spaces (including 10 DDA spaces and 2 small car spaces) and applicant advised that *'the distribution, ownership and allocation of car parking spaces for the individual use elements will ensure that compliance with the car parking requirements under Clause 5.9.2.11 / Clause 5.9.2.12 are achieved'*.

In order to differentiate between the spaces provided as ancillary to the development, the purpose of the permit reflects the specific number of car parking spaces to be provided for the "Car Park" component of the development.

5.9.2.12 Reduction in car parking spaces in Darwin City Centre

The Authority noted that the assessment found that pursuant to Clause 5.9.2.11 Car parking spaces in Darwin City Centre, there is a surplus of 150 car parking spaces.

The purpose of Clause 5.9.2.12 is *'to provide for a use or development with fewer car parking spaces than required by clause 5.9.2.11 (Car parking spaces in Darwin City Centre)'*.

The applicant has sought consent to apply the reductions available pursuant to sub-clause 1 and sub-clause 2. However, the Authority noted that reduction of car parking requirements under Clause 5.9.2.12 is at its discretion.

The Authority acknowledged the various calculations made by DAS and the applicant in relation to the percentage reductions under the clause. The Authority whilst supportive of a reduction in the car parking requirements, is not satisfied with the amount of reduction sought. In this case, having had regard to the primary requirement in Clause 5.9.2.11 *'to ensure that sufficient off-street car parking, constructed to a standard and conveniently located, is provided to service the proposed use of a site'*, the Authority determined that the amount of the reduction should be varied by an additional 51.5 spaces to the amount of 310 spaces assessed by DAS, so that the total parking car parking requirement for the development is 258 spaces.

In reaching its determination with respect to the car parking reduction, the Authority took into account the concerns of the public submitters and also noted in respect of the 5% reduction category 2(c) of the table to Clause 5.9.2.12 that there appears to be limited availability of parking at Nichols Place and the proposed development will effectively remove 95 existing spaces in the on-site car park which it will replace. In addition, the applicant argued that category 2(b) rather than 2(c) can be applied, as the proposed development includes the provision of public car parking within the development exceeding 100 spaces. The Authority did not support this interpretation given the table's specific reference to 'existing' car parks.

In accordance with sub-clause 1 of Clause 5.9.2.12, the Authority noted the development proposes 16 motorcycle spaces and in accordance with subclause 1(a) determined to reduce the car parking space requirement by 5 car parking spaces. The applicant argued that in accordance with sub-clause 1(b) the inclusion of 24 bicycle spaces above the minimum requirement in Clause 5.3.7 results in a further reduction of 2.4 car parking spaces. The Authority did not support this interpretation, given the 24 additional bicycle spaces are provided in the publicly accessible open space which is not considered a safe location with adequate security or protected from the weather, for the purposes of bicycle parking facilities.

## Darwin DCA Meeting No 439 – Friday 21 March 2025

In accordance with category 1(a) of sub-clause 2 of Clause 5.9.2.12, the Authority determined an additional reduction of 15% can be applied, as the development site is located within a 200m walking distance of the Darwin Bus Interchange.

As a result, a reduction of 51.5 car parking spaces can be applied ( $309.38 - 51.5 = 257.88$ ) and rounded up 258 car parking spaces are required. After applying the reduction there is a surplus of 202 car parking spaces.

The Authority determined the surplus 202 car parking spaces, that are not ancillary to the proposed office, community centre, place of assembly and food premises, are allocated to the proposed public car park. To ensure the car parking spaces are differentiated between those ancillary to the proposed development and those for the “car park”, a general condition is applied requiring the submission of a car parking allocation plan demonstrating the of spaces for both the proposed uses and the public car park.

6. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

The application was exhibited between 6 December and 20 December, in accordance with the requirements of the *Planning Act 1999* and the *Planning Regulations 2000*. Twenty public submissions were received during the exhibition period under Section 49 of the *Planning Act 1999* and two late submissions were received.

The main concerns raised by the submitters in their submissions and expressed at the meeting held on the 7 February 2025 were:

- The proposed development’s location in the Civic Square is inappropriate and will alter the existing civic and community purpose.
- The design of the building is excessive in height and does not respond to the existing character of the area and Darwin’s tropical identity.
- The design of the building does not provide activation of Harry Chan Avenue frontage.
- The design of the building will overshadow the adjoining properties and reduce access to natural light.
- Adverse amenity impacts.
- Concerns regarding removal of existing vegetation.
- Concerns regarding the impact of the building on cultural significant elements including the tree of knowledge, Christ Church Cathedral, WWII oil tunnels and Chinese settlement history.
- Traffic and car parking impacts.
- Concerns regarding the funding arrangements and any obligations of the City of Darwin car parking contribution.
- Insufficient public consultation and concerns around inadequate exhibition period, given the lodgement before Christmas.
- Concerns regarding the effects of climate change and if the proposed building is designed with this in mind.
- Concerns regarding compliance with the NCC cyclone code.
- Precedent.
- Non-compliance with legislative requirements of the *Planning Act 1999*.

## Darwin DCA Meeting No 439 – Friday 21 March 2025

- Conflict of interest between the landowner (City of Darwin) and Darwin DCA members.

The Authority took all comments into account and carefully considered the concerns of the submitters and interested parties who lodged late submissions. The Authority also took into account the response provided by the applicant regarding submitters concerns expressed at the meeting held on 7 February 2025.

The matters raised in the submissions contributed to the Authority's decision to defer the application in order to obtain further information addressing, the relevant considerations identified by submitters, as well as, the concerns of the DCA in relation to the requirements of the NTPS 2020 and the *Planning Act 1999*.

One additional interested party lodged a late submission that was received in the intervening time between the 7 February 2025 DCA meeting and the Notice of Deferral being issued by the Authority on the 21 February 2025.

The applicant's response to the points of deferral was circulated to all public submitters (including those who interested parties who made late submissions). Additional comments were received from 5 submitters (noting each submitter had previously made a submission to the original application). Key issues raised in the additional submissions predominately related to the scale and design of built form, heritage and respect of Darwin's character.

In addition to the written submissions, the Authority heard from submitters present at the meeting on 21 March 2025.

At the meeting, Ms Miriam Wallace spoke further to the NT Institute of Architects submission. Ms Wallace expressed to the Authority that the revised design did very little to address the concerns raised by the Authority in its deferral. Ms Wallace told the Authority that the revised design provides bare minimum facility to the street and the public realm and in no way addresses the request to provide an active street façade. Landscaping alone does not activate a design and can actually impede surveillance and may create a dangerous place. Ms Wallace further told the Authority that the building is not responsive or sympathetic to its surrounds and turns its 20 storey back to the street. Ms Wallace concluded by highlighting that it is the role of the *Planning Act 1999* to ensure that development is sustainable and enhances our cities and encouraged the DCA to see this tokenistic response for what it is.

Ms Laurie Palfy raised concerns regarding the demolition of the existing civic centre and queried why the existing building cannot be renovated to become fit for purpose. Ms Palfy expressed that what the *Planning Act 1999* states and what the people want is a building that is settled in its location that complements and assimilates with the surrounding area. Ms Palfy raised the importance of Civic Park to all Darwinians and expressed that the proposed development does not fit the land, provide amenity to the area nor reflect the past, present and future for a Darwin Civic Centre. Ms Palfy raised concerns with the City of Darwin's collaboration with a private corporation and queried if this would impede the delivery of Council's services. Ms Palfy referenced the *Local Government Act* and stressed the importance of the City of Darwin's adherence to these requirements. Ms Palfy further advised that the proposed design does not correspond to the design of the public proposal previously circulated to community. Ms Palfy further

stated that there is no recognition of the past, the Chinese heritage or the Larrakia heritage. Ms Palfy queried the specific layout of the office floors.

Ms Joanna Rees told the Authority that she had hoped the Authority would require the car parking to be underground, as this would allow for passive surveillance of the street from the ground level. Ms Rees acknowledged that an underground car park is more expensive however emphasised that doing so would result in a reduced overall building height and scale when viewed from the surrounding properties. Ms Rees further expressed that the appearance of the building is driven by profit and to the detriment of future ratepayers. Ms Rees also expressed that if a future subdivision were to occur that the land should be re-zoned to a more appropriate zone. Ms Rees also advised that she felt the DCOH procurement tender was inappropriate.

Ms Olivia-Grace Hill (solicitor - De Silva Hebron Barristers and Solicitors acting for Geoff and Kerry Nourse) asked the applicant to clarify if the City of Darwin and the applicant have come to an agreement on what the car parking spilt will be. The Chair clarified that car parking is decided by the Authority and that it is not question of an agreement but rather the Authority makes an independent assessment of the criteria set out in the NTPS 2020 as to what the required ancillary car parking spaces are and then the remainder would be allocated to the "car park" use. Mr Cunningham agreed that ultimately car parking reductions are decided by the Authority. The Chair also told Ms Olivia-Grace Hill that it would be entirely inappropriate to suggest that there is an agreement between the applicant and the Authority regarding the provision of car parking.

Ms Janice Hills raised concerns that the proposed development will impact on the Christ Church Cathedral and on the stained-glass window.

Ms Maragret Clinch expressed to the Authority that the stained-glass window is very special to the Christ Church Cathedral. Ms Clinch advised that there is no community centre proposed and that there is nothing provided for the community. Ms Clinch reflected on the community consultation undertaken by the City of Darwin and raised concerns that the application does not focus on what the people want. Ms Clinch advised that there are too many unknowns and that the DCA should not make a decision. Ms Clinch raised concerns that the proposed development is the wrong shape, is not attractive and faces the wrong way – not onto the street. Ms Clinch highlighted that there is only a small part of the building for the community and is not what the community was expecting. Ms Clinch further raised concerns that the plans do not show the internal layout of the building, particularly in relation to the community centre and offices. Ms Clinch advised that the proposed development does not reflect the Gateway location. Ms Clinch raised concerns that the height of the building would be unsafe in a fire. Ms Clinch told the Authority that the development site is adjoining to smaller historic buildings and civic buildings and is a single weed in the whole area. Ms Clinch highlighted the CDAP 2019 and that the development site is identified and that the site is very important. Ms Clinch tabled a copy of lease 244 to Corporation of the City of Darwin dated 17 November 1970 for Lot 3981 Town of Darwin bordered by Harry Chan Avenue/Smith Street and Esplanade. The Chair clarified that the land is now freehold title and that the lease has expired. Ms Clinch concluded that the people deserve a civic centre and that the proposed development is not a civic centre. Ms Clinch further raised concerns that the demolition of the existing civic centre is wasteful. Ms Clinch told the Authority of the importance of Civic Park and that it should be a special place.

The Authority provided an opportunity for the applicant to respond to matters raised by submitters.

Mr Cunningham noted a reference in the written submissions to a public information flyer regarding the NT Art Gallery being designed to match the height of the existing surrounding historic and civic buildings. Mr Cunningham emphasised that this flyer deals with buildings that are directly adjacent to each other and also highlighted there are existing 20 storey buildings that are in proximity to those historic and civic buildings. Mr Cunningham told the Authority that the proposed development provides greater setbacks to these existing civic / historic building when compared with the existing Charles Darwin Centre building. Mr Cunningham suggested that this demonstrates that tall, large buildings can co-exist to historically or civically valued buildings. Mr Cunningham further noted the submitters reference to the historic town hall in Sydney and Flinders Street station and advised that this further demonstrates this ability to co-exist.

In relation the concerns that the only reason basement car parking is not proposed is due to cost, Mr Cunningham advised that there are a range of reasons that a basement is not being proposed and that regardless of if a basement were proposed or not, there are certain building services that are required to be located at ground level on a building frontage.

In relation to a photo of the Bennett Street and Harry Chan Avenue intersection looking towards the development site (provided in the NT Institute of Architects additional submission), the applicant stressed that a single image cannot demonstrate the character of a locality. Mr Cunningham further emphasised that the image is taken viewed towards the Gateway Location, which requires an architectural response, one of which requires buildings to have additional storeys that those existing in the surrounding area.

In relation to the lease tabled by Ms Clinch, Mr Cunningham clarified that the development site is a freehold lot.

In relation to comments raised about the motives of the developer, Mr Cunningham advised the Authority that the comments are wholly unfair and unreasonable and advised that they have tried to be transparent as possible whilst noting that there are always processes that do not form part of the planning application.

Mr Cunningham noted the concerns raised regarding the impact on the Christ Church Cathedral and advised that there have been a number of discussions with both the Christ Church Cathedral and with the Heritage Branch of the Department of Lands, Planning and Environment. Mr Cunningham noted that these conversations will continue to evolve as the detailed design progresses.

Mr Cunningham explained that the purpose of siting the building on the existing car park is to ensure that Civic Park is not impacted on in terms of, extent of or access to, public open space. The proposed development improves accessibility to the existing public open space and provides greater amenity of the walkways / thoroughfares. Mr Cunningham acknowledged that the Authority is limited to assessing the application before it and cannot consider the future demolition of the existing civic centre and subsequent development of a public plaza in its decision.



## Darwin DCA Meeting No 439 – Friday 21 March 2025

Mr Cunningham further noted that in relation to fire safety that there are stringent requirements required under the *Building Act 1993*.

Mr Cunningham clarified to the Authority the specific areas allocated to the City of Darwin in the proposed development.

In response to various comments raised by submitters regarding adherence to the *Local Government Act 1999* and funding arrangements, the Chair reiterated throughout both the meeting held on 7 February 2025 and the meeting held on 21 March 2025 that the role of the Authority is to make statutory planning decisions limited by the provisions of the *Planning Act 1999* and the Planning Scheme. Its ability to consider and determine this application is constrained by statute and is limited to the subject matter of that statutory framework.

The Authority has taken all comments into account and carefully considered the concerns of the submitters. The Authority has also taken into account the response provided by the applicant regarding submitters concerns expressed at the both the meeting held on 7 February 2025 and the meeting held on 21 March 2025.

Concerns relating to funding arrangements, DCA members conflict of interest, adherence with the *Local Government Act 2019*, precedent, sustainability and climate change, legality, ownership, overshadowing impacts and vegetation removal were addressed in the Authority's Notice of Deferral dated 21 February 2025.

Concerns raised regarding activation, character, architectural design and traffic and car parking are addressed at reason 3 above. Concerns relating to heritage are addressed at reason 11 below.

7. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The Authority noted that the development site is flat, not affected by Australian Noise Exposure Forecast (ANEF) 20-unit value or greater contour line and outside areas of identified storm surge. The overall height and scale of the proposed development is largely consistent with that anticipated in the Darwin CBD.

Subsequently, the development site is considered to have the capacity to support the proposed development.

8. Pursuant to section 51(1)(k) of the *Planning Act 1999*, the consent authority must take into consideration the public facilities or public open space available in the area in which the land is situated and the requirement, if any, for the facilities, or land suitable for public recreation, to be provided by the developer.

The proposed development includes 830m<sup>2</sup> of public open space, in the form of a pedestrian thoroughfare, that will integrate with the existing Civic Park and provide access to and integrate with the priority pedestrian/cycleway network identified in the CDAP 2019.



## Darwin DCA Meeting No 439 – Friday 21 March 2025

In addition, the proposal includes 529m<sup>2</sup> of publicly accessible area in the proposed library. The site is also proximate to a full range of services and facilities in the broader Darwin CBD.

9. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose;

The application was circulated to the relevant authorities and comments received from these authorities are addressed by recommended conditions and / or notations on the development permit.

It is noted that the City of Darwin as the Local Authority, acknowledged its role as both the landowner and the applicant for the proposed development. City of Darwin advised it will ensure compliance with Council's standard policies and obligations under the *Planning Act 1999* and the *Local Government Act 2019*.

Standard conditions in relation to traffic impact assessment, waste management, stormwater management and impacts on City of Darwin assets / road reserves (i.e. crossovers, verge planting, dilapidation report) are applied to the permit. These conditions will ensure consideration of these matters, regardless of the owner of the land, as development permits run with the land itself not the owner of the land.

At the meeting on 21 March 2025, Mr Cunningham tabled a letter prepared by the City of Darwin which clarified to the Authority that *'when the development conditions precedent and general conditions are made by the Development Consent Authority, City of Darwin's Technical Services team will ensure compliance with the conditions, City of Darwin policies and standards. Once conditions are cleared, there will be an independent review by the Executive Manager and a letter will be provided to the independent planner, Cunningham Rosse Town Planning & Consulting, who will submit the letter to Development Assessment Services. The professional Technical Services team sits in a different department (the Innovation Hub) to the Infrastructure team (the Corporate Hub), who is leading the project in collaboration with DCOH, and there is full independence in decision making.'*

The Authority noted the letter prepared by the City of Darwin and is satisfied that potential conflict of interest in the clearance of conditions is adequately managed through the City of Darwin's standard policies and responsibilities under the *Local Government Act 2019*.

10. Pursuant to section 51(1)(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 definition of amenity in the *Planning Act 1999* states that *'amenity in relation to a locality or building, means any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable'*.

The Authority noted that amenity is considered in the context of the development site and its surrounds along with the applicable planning controls.

The Authority found that the proposed development is consistent with the broader intent of Zone CB (Central Business) to *'maximise its function'* and is consistent with the applicable development requirements, particularly in relation to overall height and scale of the building.

The Authority considered that the proposed development provides pedestrian amenity through the provision of new pedestrian thoroughfares along the boundaries of the site that will be partially protected from the sun and rain through landscaping and building overhang. The new pedestrian thoroughfares and publicly accessible space at ground level provide amenity to the community. The proposed landscaping and public seating along Harry Chan Avenue enhance the amenity of the streetscape. In addition, the café-restaurant at the south-eastern corner provides activation to the streetscape and internal pedestrian thoroughfares.

In the context of the above, the Authority considered that setbacks, landscaping and architectural treatments remain in-keeping with the CB zoning and the presentation of the building, along with contribution of significant areas of publicly accessible open space, will create an appropriate level of visual interest and provide amenity to and enhance the locality.

The Authority noted that the development site is currently a car park associated with the existing Civic Centre and comprises 95 car parking spaces. As part of the application, the City of Darwin advises that *'demolition of the existing civic centre will commence shortly following our City of Darwin civic centre team disembarking from the existing civic centre to the new civic centre building'*. Therefore, during the construction period of the proposed mixed-use development (including the new Civic Centre) there will be no car parking spaces available on site for the existing Civic Centre.

There are no records of the existing Civic Centre approval, which therefore benefits from a deemed permit (a permit taken to be issued pursuant to section 45 of the planning act). As such, there is no information regarding historic car parking shortfalls or surpluses.

Furthermore, the application confirms that *'City of Darwin advises during construction of the new civic centre building current users of the civic centre car park will have access to the public car parks which are all in close vicinity to the existing Civic Centre'*

Given the proximity of various public car parks and alternative modes of transport including bicycle paths and the bus interchange, the interim car parking arrangements are considered unlikely to have an adverse impact on the amenity of the area.

11. Pursuant to section 51(1)(r) of the *Planning Act 1999*, the consent authority must take into consideration any potential impact on natural, social, cultural or heritage values, including, for example, the heritage significance of a heritage place or object under the *Heritage Act 2011*.

The development site is directly adjacent to the Tree of Knowledge (Galamarrma) and Christ Church Cathedral Heritage Precinct which are both declared heritage places under the *Heritage Act 2011*. In addition, the Heritage WWII Oil Tunnels are located beneath the development site, the application confirms that *'the building layout avoids directly overlying the existing oil tunnels, and retains the opportunity for future connectivity to recognise the heritage values'*.

## **Darwin DCA Meeting No 439 – Friday 21 March 2025**

The proposed development is cognisant of its interface with these declared heritage places through its proposed setbacks, materiality, extent of landscaping and the maintenance of view corridors, noting that the CDAP 2019 encourages contemporary and interpretative design.

A condition precedent is applied to the permit to require a Heritage and Unexpected Archaeological Finds Management Plan be prepared to identify high risk areas, establish an effective monitoring protocol, an induction for workers and an unexpected finds response strategy. Furthermore, a condition precedent and general condition are applied to the permit to require heritage interpretation signage, particularly in relation to Chinese presence and history in Darwin, the link from Travellers Walk to the Tree of Knowledge and the WWII oil tunnels.

**FOR: 3**

**AGAINST: 0**

**ABSTAIN: 0**

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

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

**SUZANNE PHILIP**  
**Chair**

31 March 2025