



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 388 – FRIDAY 4 MARCH 2022

**BROLGA ROOM
NOVOTEL DARWIN CBD
100 THE ESPLANADE
DARWIN CITY**

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

APOLOGIES: Nil

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Ann-Marie Reynolds, Elissa Gee and Emily Hardy (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 10.15 am and closed at 11.00 am

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

ITEM 1 **MIXED USE DEVELOPMENT COMPRISING EXHIBITION CENTRE, PLACE OF**
PA2021/0412 **ASSEMBLY, OFFICES AND FOOD PREMISES-RESTAURANT IN A THREE**
STOREY BUILDING WITH UNDERCROFT CAR PARKING AND AN
AMPHITHEATRE
LOTS 7493, 7558, (33 & 29) STOKES HILL ROAD, AND LOTS 10882 & 5251
DARWIN CITY, TOWN OF DARWIN
APPLICANT June D'Rozario and Associates

June D'Rozario (June D'Rozario and Associates), Rossi Kourounis and Mayia McKenna (Rossi Architects) and Nigel Browne (LDC) attended.

Ms D'Rozario tabled:

- An extract from the Darwin Waterfront Corporation Annual Report 2020-21 - Roads and Carparks (page 27), showing the number and location of public carparks in the vicinity of the development ; and
- A response and further information to the DAS report recommendation.

RESOLVED That, the Development Consent Authority reduce the car parking requirements
11/22 pursuant to Clause 5.2.4.3 (Reduction in Parking Requirements within Zone CB
in Darwin) of the Northern Territory Planning Scheme 2020, and pursuant to
section 53(a) of the *Planning Act 1999*, consent to the application to develop Lots
7493, 7558, 10882 & 5251, Stokes Hill Road, Town of Darwin for the purpose
of a mixed use development comprising exhibition centre, place of assembly,
offices and food premises-restaurant in a three storey building with undercroft
car parking and an amphitheatre, 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) A dimensioned 3.5m – 4m width walkway along the foreshore.
2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), confirmation from the Heritage Branch of the Department of Territory Families, Housing and Communities must be provided confirming that issues raised in relation to the public accessibility and visibility of the Steam Pump House have been resolved, to the satisfaction of the consent authority.

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact statement is to be prepared by a suitably qualified traffic engineer to the requirements of the Darwin Waterfront Corporation and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The traffic impact statement should be in accordance with the *Austrroads Guide to Traffic Management Part 12: Traffic Impacts of Development* and address:
 - a) The impact of traffic and car parking demand on the Darwin Waterfront Precinct as a whole.
 - b) Commercial deliveries, emergency response and disabled parking.
 - c) The traffic impacts on Stokes Hill Road and the adjacent intersections due to the traffic generated by the proposed development.
 - d) Adequacy of the access arrangement, parking and safety of the proposed accesses and adjacent intersections within the study area.
 - e) Traffic engineering justifications for pedestrian and cyclists safety within the study area, identify any adverse impact on pedestrian and cyclist safety and mitigation measures.
 - f) Impact of the development construction traffic and the management of construction traffic with minimum impact to the existing traffic and safety.
4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the Darwin Waterfront Corporation, the Land Development Unit of the Department of Infrastructure, Planning and Logistics, and the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, 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 site and connected underground to the stormwater system.
5. Prior to the commencement of construction works, detailed "For Construction" design documentation (engineering design drawings, stormwater design report and specifications) for all proposed works affecting NTG drainage easements is to be submitted to and provided with "Permission to Use" by Land Development Unit of the Department of Infrastructure, Planning and Logistics. All designs that relate to NTG infrastructure are to be prepared and certified by a suitably qualified civil engineer, meet Austrroads standards and comply with Northern Territory Subdivision Guidelines, to the requirements of the Land Development Unit of the Department of Infrastructure, Planning and Logistics and satisfaction of the consent authority.

GENERAL CONDITIONS

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

7. 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.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities, and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
9. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Darwin Waterfront Corporation, Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics and/or Land Development Unit of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
10. All works recommended by the traffic impact statement are to be completed to the requirements of the Darwin Waterfront Corporation and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics to the satisfaction of the consent authority.
11. Any proposed work (including the provision or connection of services) within, or impacting upon the Stokes Hill Road road reserve shall be in accordance with the standards and specifications of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics. Design documents must be submitted to the Director Corridor Management, Transport and Civil Services Division for Road Agency Approval and no works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".
12. The loads of all trucks/construction vehicles entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets, to the requirements of the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics to the satisfaction of the consent authority.
13. Upon completion of any works within or impacting upon the Stokes Hill road reserve, the road reserve shall be rehabilitated to the standards and requirements of the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics.
14. Upon completion of any works within or impacting upon the Stokes Hill Road road reserve, the road reserve shall be rehabilitated to the standards and requirements of the Department of Infrastructure, Planning and Logistics.
15. The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e. not flashing or variable message). The sign shall be positioned:
 - a) so as not to create sun or headlight reflection to motorists; and
 - b) be located entirely (including foundations and aerially) within the subject lot.

16. Advertising signage, either permanent or temporary, e.g. 'A' frame, vehicle or trailer mounted shall not be erected or located within the Stokes Hill Road road reserve.
17. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority. Information resources are available on the IECA website www.austieca.com.au and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
18. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
19. 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).
20. 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.
21. Storage for waste disposal bins is to be provided to the requirements of Darwin Waterfront Corporation, to the satisfaction of the consent authority.
22. Before the occupation of the development, the areas 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 drivewaysto the satisfaction of the consent authority.
23. Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.

24. 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.
25. "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.
26. Before occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
27. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
28. Lots 7493, 7558, 10882 & 5251, Town of Darwin are required to be consolidated and a new title issued for the consolidated lot. Also please refer to Note 1 for advice related to the National Construction Code (NCC).

NOTES

1. 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. Due to provisions in the National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued.
2. Any floodlighting or security lighting provided on site should be shielded in a manner to prevent the lighting being noticeable or causing nuisance to Stokes Hill Road traffic.
3. Part of the subject site 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*.
4. Darwin Waterfront Corporation request that reasonable notice be provided prior to demolition of the driverless bus shed, to allow the shed to be removed and relocated.
5. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (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.

6. For the purposes of best practice land management and environmental protection it is recommended that a Type 1 Erosion and Sediment Control Plan (ESCP) be developed in accordance with the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 available at <https://nt.gov.au/environment/soil-land-vegetation>. The ESCP should be prepared prior to commencement of works and implemented during the construction phase (including clearing and early works); and all disturbed soil surfaces should be satisfactorily stabilised against erosion at completion of works. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.
7. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
8. 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>
9. Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics advise that the developer should have carried out, in accordance with AS3671-1989, "Acoustics - Road Traffic Noise Intrusion - Building Siting and Construction" an assessment by a suitably qualified person of the development's present and predicted future exposure to road traffic noise levels, and where required provide appropriate noise attenuation measures. All noise attenuation works deemed necessary should be carried out by and at the full cost of the developer and should be wholly contained (including foundations) within the subject lot.

REASONS FOR THE DECISION

1. 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 applies to the land and a mixed use development comprising exhibition centre, place of assembly, offices and food premises-restaurant in a three storey building with undercroft car parking and an amphitheatre requires consent under Clause 1.8 (When development consent is required). While exhibition centres, places of assembly, offices and food premises-restaurants would ordinarily be a *Merit Assessable* uses within Zone CB (Central Business),

the land is affected by the Clause 3.7 (Land Subject to Storm Surge Overlay). As per Clause 3.1(4)(b), where an overlay requires consent the level of assessment is increased to *Impact Assessable*. Therefore, the strategic framework (Part 2 of the Scheme, including the Central Darwin Area Plan, which is relevant to this application), Clause 3.7 (LSSS Overlay – Land Subject to Storm Surge), zone purpose and outcomes of Clause 4.10 (Zone CB – Central Business), and Clauses 5.2.1 (General Height Control), 5.2.3 (Buildings in Central Darwin), 5.2.4 (Vehicle Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.5.3 (Commercial and Other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, FD and T), 5.8.4 (Exhibition Centre, Place of Assembly and Place of Worship), 5.5.11 (Food Premises), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.2.4 (Vehicle Parking).

The site is located within the Darwin Waterfront Precinct and Zone CB (Central Business) where the purpose of the zone is to is 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 Larrakia Cultural Centre is considered to be a cultural development that is commensurate with the role and function of the Waterfront Precinct. The intention is that the centre will support the preservation of Larrakia culture, will include creative spaces for artists and craftspeople, and retail space from which their art works can be sold. The centre will support the regional population and contribute to a diversity of uses within the area, particularly as the centre will include multiple components operating at different times of the day and night with a range of participants and visitors.

The proposal supports the objectives of the Central Darwin Area Plan. The innovative design of the building is underpinned by key cultural symbols, with the roof design referencing a hovering bird. The building responds to its context, by being oriented toward the water to take advantage of prevailing breezes and by utilising breezeways, balconies, eaves and screening that will encourage pleasant microclimates. The windows and balconies maximise passive surveillance of the landscaped public areas throughout the site. Building massing is minimised by the maintenance of sight lines between the water and the hill behind, and by the provision of an articulated building form. Numerous outdoor spaces are proposed within the site that are extensively landscaped and will provide an attractive interface with the street. Pedestrian access is maintained through the site along the waterfront.

2. 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:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The proposal has been found not to be in accordance with Clause 5.2.4 (Vehicle Parking), because the proposal will result in the provision of 40 car parking spaces, where 45 are required.

The Authority considers that a reduction to the car parking requirements pursuant to Clause 5.2.4.3 (Reduction in Parking Requirements within Zone CB in Darwin) is appropriate in this instance because:

- (a) The site is located within 200m walking distance of a publically accessible car park with a combined total of 100 spaces or more, in accordance with category 2(b) in the table to Clause 5.2.4.3. Administratively, the consent authority may consent to a use or development with fewer car parking spaces than required by column 3 of the table to clause 5.2.4.1 (Parking Requirements) in accordance with the table to Clause 5.2.4.3 (Reduction in Parking Requirements within Zone CB in Darwin). This proposal results in the provision of 40 car parking spaces in accordance with the reduction allowed by Clause 5.2.4.3.

In its comments, the Darwin Waterfront Corporation raised concerns that the proposal provides an insufficient number of car parking spaces, particularly to cater for large events. At the hearing, the applicant confirmed that the maximum patron capacity would be capped at 800 persons, with these large events only occurring three to four times per year. Typical events are expected to accommodate a maximum of 450 patrons, and the development is anticipated to attract approximately 250 visitors on a daily basis when events are not taking place. The applicant provided further justification for the reduction in car parking, tabling an excerpt from the Darwin Waterfront Corporation Annual Report 2020-21 detailing that there are 1143 publically accessible car parking spaces within the Waterfront.

The Authority considered that traffic management measures are put in place during major events to efficiently direct traffic around the precinct and ensure all available parking venues are utilised. The Northern Territory Government also often provide dedicated bus services and/or free travel on existing services for ticket holders of some major events held at the Waterfront Precinct.

The Authority determined that a reduction of five car parking spaces was appropriate considering the table to Clause 5.2.4.3, specifically the large number of publically accessible car parking spaces available in the vicinity of the site. Any benefit gained by providing more car parking on site would be disproportionate to the loss of land that might otherwise be developed for commercial or tourism purposes to allow for its highest and best use.

- (b) The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 5.2.4 (Vehicle Parking), as identified above.

The Development Assessment Services (DAS) Report indicated a potential non-compliance with Clause 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC) as the application did not detail the number of staff or provide fully secure bicycle spaces or lockers. A condition precedent was recommended requiring amended plans showing secure bicycle facilities and lockers in accordance with Clause 5.3.7. At the hearing, the applicant tabled a response to the proposed condition precedent arguing that the proposal is compliant with Clause 5.3.7 and that the inclusion of fully secure bicycle spaces would result in an unnecessary imposition on the applicant. The applicant also clarified that lockers for staff belongings are provided in a room adjacent to the staff toilets and shower on Level 1, and that CCTV is proposed within the bicycle parking area. After consideration of the additional information provided by the applicant, the Authority was satisfied that the proposed bicycle facilities comply with Clause 5.3.7 and determined to exclude the condition precedent relating to bicycle facilities and lockers.

3. 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 land is within Zone CB (Central Business) and identified for development in the Central Darwin Area Plan. The site is affected by the primary and secondary storm surge, however only car parking and storage rooms are located on the ground level of the building, which minimises risk to property in the event of a storm surge event. No additional land capability concerns have been identified during assessment of the application. The Department of Environment, Parks and Water Security recommended the inclusion of a general condition and note requiring implementation of erosion and sediment control measures throughout the construction phase of the development, but raised no concerns in relation to land capability.

4. 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 proposal is not anticipated to impact unreasonably on the existing and future amenity of the area, particularly considering there are no sensitive uses in the immediately vicinity of the site. The building has been designed to minimise the impacts of noise on residential uses in the locality. The proposal will activate an underutilised site within the Darwin Waterfront Precinct and the innovative building design and extensive landscaping will improve the visual amenity of the area.

FOR: 5

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

08 March 2022