

DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 165 – FRIDAY 8 APRIL 2011

BROLGA ROOM
NOVOTEL DARWIN ATRIUM
100 THE ESPLANADE
DARWIN

MEMBERS PRESENT: Peter McQueen (Chairman), David Hibbert, Grant Tambling, Bob Elix and Garry Lambert

APOLOGIES: Heather Sjoberg

OFFICERS PRESENT: Margaret Macintyre (Secretary), Mone Coats-Ross, Doug Lesh, Steven Conn, Deborah Buise and Kate Smyth (Development Assessment Services)

COUNCIL REPRESENTATIVE: Nil

Meeting opened at 11.00 am and closed at 12.00 noon

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 **10 X 2 AND 1 X 3 BEDROOM MULTIPLE DWELLINGS IN A 7 STOREY**
PA2010/1376 **BUILDING WITH GROUND LEVEL CARPARKING**
LOT 1214 (6) MERKUR COURT, TOWN OF DARWIN
APPLICANT **JUNE D'ROZARIO & ASSOCIATES PTY LTD**

Pursuant to section 97 of the *Planning Act*, Mr Garry Lambert, a member of the Darwin Division of the Development Consent Authority declared an interest and did not take part in the deliberation of this item.

Ms June D'Rozario (June D'Rozario & Associates), Mr Hully Liveris (Hully Liveris Design) and Mr Lloyd Nair (owner) attended.

Submitter Ms Rose Hallett attended.

RESOLVED
71/11

That, the Development Consent Authority vary the requirements of Clauses 7.3 (Building Setbacks of Residential Buildings), 7.5 (Private Open Space) and 7.7 (Landscaping for Multiple Dwellings, hostels and Supporting Accommodation) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the Planning Act, the Development Consent Authority consent to the application to develop Lot 1214 (6) Merkur Court, Town of Darwin for the purpose of 10 x 2 bedroom multiple dwellings in a 6 storey building with ground level carparking, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and the commencement of works (including site preparation) a schematic plan demonstrating the feasibility of all stormwater to be collected on the site and discharged to Darwin City Council's stormwater drainage system, must be provided meeting Darwin City Council requirements to the satisfaction of the consent authority. The plans shall include details such as, but not limited to:
 - (a) Site levels and stormwater drain connection point/s; and
 - (b) How stormwater will be collected on the site and connected to the relevant systems.
2. Prior to the endorsement of plans and the commencement of works (including site preparation) written confirmation is required from the Power and Water Corporation advising that an encroachment agreement has been agreed upon to the satisfaction of the consent authority.

3. Prior to the endorsement of plans and the commencement of works (including site preparation), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided. The plan must show a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes at maturity, and qualities of each plant. The plans must in particular provide landscaping which softens and breaks up the view of the carpark, to the satisfaction of the consent authority.

GENERAL CONDITIONS

4. Works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity services to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
6. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority, to the satisfaction of the consent authority.
7. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Darwin City Council, to the satisfaction of the consent authority.
8. 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 Darwin City Council, to the satisfaction of the consent authority.

9. Before the use or occupation of the development starts, 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 to the satisfaction of the consent authority;

Car spaces and driveways must be kept available for these purposes at all times.

10. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
12. No fence, hedge, tree or other obstruction exceeding a height of 0.6 m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
13. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
14. All air conditioning condensers 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.
15. Storage for waste disposal bins is to be provided to the requirements of Darwin City Council to the satisfaction of the consent authority.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. Telstra advise that prior to the commencement of works the developer is to contact Telstra via its web site <http://www.telstrasmartcommunity.com> to facilitate the installation of the Telstra Network.
3. You are advised that if it is intended to strata title the development which is the subject of this permit that the consent of the Development Consent Authority (DCA) will be required for subdivision approval to unit title under the *Unit Title Schemes Act*, and the lodging of a development application will be required.

REASONS FOR THE DECISION

1. The proposal is generally consistent with the primary purpose of Zone HR which "is to provide for high density housing options close to major roads, schools and other community facilities".
2. A variation to clause 7.3 (Building Setbacks of Residential Buildings) of the Northern Territory Planning Scheme to allow reduced side setbacks to the east and west side boundaries is supported as the building has been designed in such a way that no windows will face either of these

boundaries therefore it is unlikely that the proposed development will have any negative impact on the amenity of the adjoining properties. The absence of windows on these boundaries has been identified by the Development Consent Authority as special circumstances justifying the granting of a variation to the requirement of clause 7.3 (Building Setbacks of Residential Buildings).

3. A variation to clause 7.3 (Building Setbacks of Residential Buildings) of the Northern Territory Planning Scheme to allow a reduced rear setback is supported as the 0.0m setback only extends 7m along the rear boundary and there are no windows along the 0.0m setback and as such there will be no loss of privacy from overlooking. Furthermore, the reduction in height of the building from 8 storeys to 6 storeys will reduce the visual mass of the building to the adjoining property on the rear boundary. The short 7m length of the 0.0m setback and the exclusion of windows on this section of the buildings have been identified by the Development Consent Authority as special circumstances justifying the granting of a variation to the requirement of clause 7.3 (Building Setbacks of Residential Buildings).
4. A variation to clause 7.5 (Private Open Space) of the Northern Territory Planning Scheme is supported as each balcony is in excess of the 12m² minimum requirement and as the layout of the private open space of the units is considered appropriately designed to allow the occupants to use the space to its full potential. Each balcony having in excess of the minimum size requirement of 12m² has been identified by the Development Consent Authority as special circumstances justifying the granting of a variation to the requirement of clause 7.5 (Private Open Space) of the Northern Territory Planning Scheme.

A variation to clause 7.7 (Landscaping for Multiple Dwellings, Hostels and Supporting Accommodation) of the Northern Territory Planning Scheme is supported as it is considered that the shortfall in landscaping (37.12m) is small in the context of the site. Furthermore it is considered that the proposed landscaping will complement and enhance the streetscape as 4 areas of generous landscaping have been provided in prominent locations around the site so as to reduce the visual impact of the development on the streetscape. The generous areas of landscaping and the prominent location of the landscaped areas has been identified by the Development Consent Authority as special circumstances justifying the granting of a variation to the requirement of clause 7.7 (Landscaping for Multiple Dwellings, Hostels and Supporting Accommodation) of the Northern Territory Planning Scheme.

ACTION: Notice of Determination

ITEM 2
PA2010/1459

**STORAGE ADDITION AND REFURBISHMENT TO AN EXISTING
SHOWROOM SALES DEVELOPMENT.**

APPLICANT

**LOT 5957 (42) STUART HIGHWAY, TOWN OF DARWIN
JAKE STOREY**

Mr Jake Storey (Storey & Castle Planning Pty Ltd) and Mr Simon Greenhalgh (Wills Greenhalgh Architects) attended.

**RESOLVED
72/11**

That the Development Consent Authority vary the requirements of clause 6.5.1 (Parking Requirements) as per clause 6.5.2 (Reduction in Parking Requirements) of the Northern Territory Planning Scheme, and vary the requirements of clause 6.5.3 (Parking Layout), and pursuant to Section 53(a) of the *Planning Act*, consent to the application to develop Lot 5957 (42) Stuart Highway, Town of Darwin for the purpose of a warehouse (storage) addition and refurbishment to an existing showroom sales development, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the commencement of works (including site preparation), and prior to the endorsement of plans, a schematic plan demonstrating all stormwater to be collected on the site and discharged underground to Council's stormwater drainage system is to be submitted, to the requirements of Darwin City Council, to the satisfaction of the consent authority.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings numbered 2010/1459/1 through 2010/1459/7, endorsed as forming part of this permit.
3. 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.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity, gas and telecommunications services to the land shown on the endorsed plan in accordance with the authorities' requirements.
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of, and at no cost to, the Department of Lands and Planning, to the satisfaction of the consent authority.
6. The carparking area shown on the endorsed plans must be kept available at all times for the exclusive use of the occupants of the development and their customers.
7. 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.

8. Storage for waste disposal bins is to be provided to the requirements of Darwin City Council, to the satisfaction of the consent authority.
9. The loading/ unloading of goods from vehicles must only be carried out on the land, and must not disrupt the circulation and parking of vehicles on the land.

NOTES:

1. Darwin City Council advises that any signage for the site shall be wholly within the subject site and subject to Council Policy No. 42 – Outdoor Advertising Signs Code.
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
3. The developer is responsible for safety clearance compliance between existing overhead power lines in the area and any new building or extension during construction and its completed stage, in accordance with the NT Electricity Reform (Safety and Technical) Regulations 2000. If any work is required on existing overhead power lines, the design and installation cost shall be borne by the developer.
4. The development not comply with the car parking requirements as listed in clause 6.5.1 (Parking Requirements) of the NT Planning Scheme with a technical shortfall of 20 spaces.

REASONS FOR THE DECISION

1. The proposal for use of the site for showroom sales is consistent with the primary purpose of Zone SC (Service Commercial), which is to "provide for commercial activities, which, because of the nature of their business or size of the population catchment, require larger sites".
2. A reduction to the requirements of clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme is supported under clause 6.5.2 (Reduction in Parking Requirements) as the works will see a reduction in net floor area of 35m², and a reduction in parking required through clause 6.5.1 (Parking Requirements) of 1.4 spaces. A surplus on the difference between the requirements prior to lodgement and those following construction means that despite the recommended removal of 1 on-site parking bay, the development will continue to provide an appropriate level of parking for the use on the site.

3. A reduction to the requirements of clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme is supported through clause 6.5.2 (Reduction in Parking Requirements) based on an analysis of the data supplied in the traffic report prepared by Chris Maragos & Associates, dated 20.12.2010, and the carparking study prepared by Storey & Castle Planning, dated 16.03.2011, which indicate a surplus of supply in the surrounding area.

A variation to the requirements of clause 6.5.3 (Parking Layout) of the Northern Territory Planning Scheme is supported as all the bays provided on-site meet the dimensional requirements of the Planning Scheme, and the lack of a 6m aisle or driveway is considered to be countered by the fact that the low volumes of traffic using the carparking area mean that the probability of two cars passing each other or creating a conflict in this space is quite small. The support for the variation is significantly based on an acknowledgement that the carparking area is existing and has been in place and operation for several years with no apparent detrimental impact on access or safety.

ACTION: Notice of Consent and Development Permit

ITEM 3
PA2010/1389

36 MOTEL SUITES, RESTAURANT, BAR AND HEALTH SPA IN 6 SINGLE STOREY BUILDINGS AND 2 X 2 STOREY BUILDINGS

APPLICANT

LOT 5244 (1) CASINO DRIVE TOWN OF DARWIN
JUNE D'ROZARIO

DAS tabled an amended recommendation.

Ms June D'Rozario (June D'Rozario & Associates) attended.

RESOLVED
73/11

That the Development Consent Authority vary the requirements of clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme, and pursuant to Section 53(a) of the *Planning Act*, consent to the application to develop Lot 5244 (1) Casino Drive, Town of Darwin for the purpose of 36 motel suites, restaurant, bar and health spa in 6 single storey buildings and 2 x 2 storey buildings, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and the commencement of works (including site preparation) a schematic plan demonstrating all stormwater and the pool overflow is to be collected on the site and discharged to the Darwin City Council's stormwater drainage system must be provided to Darwin City Council, to the satisfaction of the consent authority. The plan shall provide details of site levels and drainage connection point/s and how stormwater will be collected on the site and connected underground and confirm the feasibility to collect stormwater on the site and dispose of it into Council's stormwater drainage system. If pool water is to be discharged to Little Mindil Creek via the storm water system, a Waste Discharge License is required for licensing under

the *Water Act* and can be obtained from NRETAS prior to the commencement of works to the satisfaction of the consent authority.

2. Prior to the commencement of works an Erosion and Sediment Control Plan (ESCP), including details and location of stormwater drains, is to be submitted to and approved by the consent authority on the advice of the Department of Natural Resources, Environment and the Arts (Natural Resource Management Division), and an endorsed copy of the Plan will form part of this permit. All works relating to this permit are to be undertaken in accordance with the endorsed ESCP to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and the commencement of works detailed information in relation to the management of the overflows and discharges from the recreational swimming pools and the location of any inlet and outlet pipes must be provided for approval by the Department of Natural Resources, Environment, the Arts and Sport for approval to the satisfaction of the consent authority. Plans will not be endorsed, and works may not commence until approval from NRETAS has been obtained to the satisfaction of the consent authority.

GENERAL CONDITIONS

4. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
5. The developer is to ensure all development work is undertaken in a manner that prevents the creation of a public health nuisance from dust or other particulate to the satisfaction of the consent authority.
6. Storm water is to be collected and discharged into the drainage network to the technical standards of and at no cost to Darwin City Council to the satisfaction of the consent authority.
7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity, gas and telecommunication services to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
8. The kerb crossover and driveways to the site approved by this permit are to meet the technical standards of the Darwin City Council, to the satisfaction of the consent authority.
9. 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 Darwin City Council, to the satisfaction of the consent authority.

10. Before the use starts, 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 driveways;to the satisfaction of the consent authority.

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

11. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
12. 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.
13. Before the use starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
14. 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.
15. All air conditioning condensers 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.
16. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.
17. 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 in consultation with the Power and Water Corporation and Fire and Emergency Services and, as the case may be, to the satisfaction of the consent authority.
18. Storage for waste disposal bins is to be provided to the requirements of Darwin City Council to the satisfaction of the consent authority.
19. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.

20. The finished ground surface level of the development is to be no lower than 6.1m AHD or 300mm above the primary storm surge level applicable at the time the building permit is issued, whichever is greater.
21. Prior to the commencement of use, a Lagoon Management Plan must be submitted to The Department of Health and Families for approval. The plan must include details of the testing regime, lifeguards, likely bather numbers, whether children and toddlers are likely to use the facilities, faecal management strategy, to the satisfaction of the consent authority.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. All commercial accommodation must comply with the NT Public Health Act, NT Public Health (Shops, Boarding Houses, Hostels and Hotels) Regulations and the proposed NT Public Health Guidelines for Commercial Visitor Accommodation.
3. Plans must be submitted to the Environmental Health Greater Darwin Region, via a Building Certifier, for approval, prior to the construction of building works. Following assessment and approval the premises are required to be registered as a boarding house with the Department of Health and Families Environmental Health Greater Darwin Region prior to operating.
4. Pool discharge water is not stormwater and therefore must not be released into stormwater systems that ultimately drain into Darwin Harbour. A Waste Discharge Licence under the Water Act is required if pool water is to be discharged into Little Mindil Creek via the stormwater system.
5. The Aboriginal Areas Protection Authority (AAPA) has a record of a number of Sacred Sites within the area listed in the Register of Sacred Sites. The AAPA advises that a registered sacred site occurs on Lot 5224 and recommends that the permit holder obtains an Authority Certificate prior to commencing any works to indemnify against prosecution under the Aboriginal Sacred Sites Act. The AAPA has noted that:

"An Authority Certificate has previously been issued over with part or all of 1 Casino Drive Town of Darwin. As a consequence of this, under Sections 19A-22 of the Act, the Authority has placed conditions relating to the protection of Sacred Sites in relation to particular works. The accompanying map shows the approximate location of the Restricted Works Area identified in the Certificate. The Authority highly recommends that an Authority Certificate be applied for any proposed works".

For advice on how to obtain a certificate please phone (08) 8981 4700.

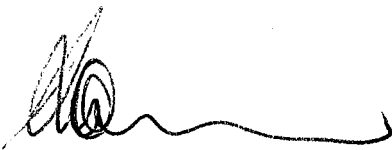
REASONS FOR THE DECISION

1. The proposed development is consistent with the purpose of zone TC (Tourist Commercial) which is to provide for uses or development servicing tourism, including commercial and residential activities.
2. A variation to clause 6.5.1 (Parking Requirement) of the Northern Territory Planning Scheme to reduce the car parking generation rate by 127 bays. The variation is supported as it is considered that if Zone CB rates were applied to the proposed motel, restaurant and shop uses this alone (without the MMR Consultants study) would reduce the amount of car parking required by the proposed development to 39 spaces. The additional availability of car parking as evident in the MMR study, is considered likely to be the result of the mixed use characteristics of the CBD (where there is a propensity to visit multiple uses with only one vehicle trip) within the Casino as a whole.
3. Clause 6.14 suggests that residential uses should be avoided in the PSSA and SSSA. However, the site is within Zone TC (Tourist Commercial) which encourages development servicing tourism, including commercial and residential activities. It is therefore, considered that the nature of the proposal is compatible with Zone TC. Accordingly, the clause and the purpose of zone TC conflict with each other somewhat, and in such instance, a balance needs to be achieved, it is considered that the proposal achieves a reasonable balance through its construction with finished floor levels of 6.1m AHD.
4. The reference to 'flood level' is also applicable to the primary storm surge level, as both make reference a 1% Annual Exceedence Probability (AEP). This clause of the scheme requires finished floor levels of habitable rooms to be 300mm above the primary storm surge level (5.2m AHD). As mentioned above the finished floor level will be 6.1m AHD, or 300mm above the surge level, which ever is greater.
5. The development is nominated with satisfactory finished floor levels to accommodate a primary storm surge event. However, in order to achieve this, the proposal includes filling the land to bring it 0.1m AHD higher than the building pad of the SkyCity Casino. It is further noted that NRETAS did not provide any comments on this matter.
6. An erosion and sediment control plan must be submitted to The Department of Natural Resources, Environment, the Arts and Sport to the satisfaction of the consent authority is necessary to ensure that the erosion risk is managed and potential sediment pollution is contained within the site.
7. All landscaping must be designed to a suitable grade as to ensure that ponding does not occur during the wet and dry seasons thus preventing the breeding of mosquitoes.

8. A Lagoon Management Plan is necessary to ensure that the swimming Lagoon is maintained at all times in accordance to health and safety standards.
9. Pool discharge water is not stormwater and therefore should not be released into stormwater systems that ultimately drain into Darwin Harbour. A Waste Discharge Licence under the Water Act is required if pool water is to be discharged into Little Mindil Creek via the stormwater system.

ACTION: Notice of Consent and Development Permit

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



PETER MCQUEEN
Chairman

11/4/11