

## **NT PLANNING COMMISSION HEARING**

### **PROPOSED NT PLANNING SCHEME AMENDMENT PA2017/0613**

Rezone Lots 6907 and 6908 (16 and 25 Blake Street, The Gardens)

Zone CP (Community Purposes) to a specific use zone that facilitates development in accordance with Zone HR (High Density Residential), Zone MR (Medium Density Residential) and specific non-residential activities

**Agenda Item Number: 1**

**Meeting Date: 25 February 2020**

**Attachment A – Exhibition Material**

**Attachment B – Submissions Received**



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# Report to the Planning Commission

This report is prepared under section 22 of the *Planning Act 1999*, and considers the submissions made in relation to the proposal.

## 1. GENERAL INFORMATION

<b>ADDRESS:</b>	Lots 6907 and 6908 Town of Darwin (16 and 25 Blake Street, The Gardens)
<b>CURRENT ZONE:</b>	Zone CP (Community Purposes)
<b>PROPOSED ZONES:</b>	A specific use zone that facilitates development in accordance with Zone HR (High Density Residential), Zone MR (Medium Density Residential) and specific non-residential activities
<b>PROPOSED LAND USE:</b>	Residential with supporting non-residential uses
<b>APPLICANT:</b>	June D'Rozario on behalf of Parklands Darwin Pty Ltd
<b>LAND OWNER:</b>	Parklands Darwin Pty Ltd
<b>AREA:</b>	5.234ha

## 2. LEGISLATIVE REQUIREMENTS

The Minister for Infrastructure, Planning and Logistics is responsible for determining proposals to amend the NT Planning Scheme including the rezoning of land. The *Planning Act 1999* establishes requirements relating to the exhibition, consultation and reporting of proposed amendments to the NT Planning Scheme.

Under section 22(2), the Planning Commission must hold a hearing if public submissions are lodged during the exhibition period.

Under section 24 of the Act, the Planning Commission must provide to the Minister for Infrastructure, Planning and Logistics, a written report that addresses the issues raised in the submissions, the issues raised at the hearing and any other matters the Planning Commission considers the Minister should take into account when considering the proposal.

## 3. PROPOSAL

On 18 December 2017, Parklands Darwin Pty Ltd lodged a proposed planning scheme amendment application. The application seeks to rezone 16 and 25 Blake Street, The Gardens from Zone CP (Community Purposes) to a specific use zone that facilitates residential development in accordance with Zone HR (Higher Density Residential), Zone MR (Medium Density Residential), and proposes specific non-residential activities on the land.

On 9 April 2018, the application was deferred at the request of the proponent.

On 11 August 2019, a revised proposal was submitted to rezone 16 and 25 Blake Street, The Gardens.

While the revised application continues to propose rezoning the land to a specific use zone for residential development and specific non-residential uses, some of the detail contained in the specific use zone was amended, including the concepts and plans that accompanied the specific use zone.

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The revised application states that “*the site holds the potential to accommodate 2,000 to 3,000 people*”. It is worth noting that the purpose of the supporting Traffic Impact Assessment “*is to assess the feasibility of a 1000 dwelling mixed-use development*”. In correspondence received from the applicant on 17 February 2020 (Attachment A2), it is advised that the number of dwellings calculated “*is 470*” and “*the number of residents will be about 1034 at a dwelling density of 2.2 persons/dwelling.*”

A copy of the exhibition material including the application is at Attachment A. The information contained in the exhibition package is the revised application that the applicant seeks to pursue as part of this application.

## 4. SITE AND LOCALITY CONTEXT

Lots 6907 and 6908 are situated at the end of Blake Street in the Gardens, approximately 600 metres north-west of the Central Business District. The two lots comprise an area of 5.234 hectares. The lots are adjacent to:

- the Gardens Amphitheatre within Zone OR (Organised Recreation) to the north;
- the Channel Nine Television Station within Zone CP (Community Purposes) to the south-east;
- multiple dwelling residential development to a height of two storeys within Zone HR (High Density Residential) to the north-east; and
- Birdsong Gully within Zone PS (Public Open Space) to the south.

Access to the site is via Blake Street.

The site is predominantly cleared, with patches of remnant native and exotic vegetation located around the site edge and existing buildings. In terms of topography, the site is located on a plateau surrounded by steep slopes on three sides with a consistent fall of 12m. This forms part of larger escarpment which surrounds a lowland area within the western side of the suburb which is predominately open space.

There are currently two buildings located on the site; the (P.I.N.T) Club and a communications facility. Both buildings and infrastructure remain onsite however are currently in a dilapidated state.

## 5. PUBLIC EXHIBITION

On 24 October 2019, the Minister for Infrastructure, Planning and Logistics determined under section 13(2)(b) of the *Planning Act 1999* to continue consideration of the revised application by placing it on exhibition.

The proposal was advertised in accordance with the requirements of the *Planning Act 1999*, and was advertised in the NT News on 8 November 2019 and 22 November 2019. Due to an administrative error, the exhibition period was extended to 20 December 2019.

Below is a summary of the matters raised in the submissions. A copy of the submissions received is at Attachment B.

### Public Submissions

142 public submissions were received via post and electronically and are thematically summarised below. A breakdown of these submissions includes 118 objections;

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12 submissions in full support of the application; and 12 which support development in principle, at a lower density.

In addition, the applicant submitted a petition which invited the public to include their name, address and phone number. A total of 1383 members of the public provided their details noting only 477 provided their full details. All signatories to the petition supported the proposal.

A survey and a consultation report prepared by Balfour Consulting was also provided by the applicant.

### Public submissions who fully support of the proposal:

(Refer to attachment B1 for full copies of the petition and associated consultation material provided by the applicant and attachments B2 - B13 - Written Public Submissions, for full copies of submissions)

Topic raised
<b>Jobs and Economy</b> Creating jobs for local trades and businesses
<b>Darwin Inner Suburbs Area Plan and Planning Principles</b> The rezoning of the land was foreshadowed in the Darwin Inner Suburbs Area Plan and infill development like this is consistent with contemporary town planning policy which seeks to reactivate underutilised land, increase residential densities in inner suburbs close to facilities and services and contain urban sprawl.
<b>Connections</b> Improved connectivity via local streets and through Birdsong Gully from Gardens Road through to the proposed development.

### Public submissions in opposition to the proposal:

(Refer to attachments B26 - B143 - Written Public Submissions, for full copies of submissions)

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<b>Topic raised</b>
<p><b>Neighbourhood character and amenity</b></p> <p>Submitters who referred to neighbourhood character were concerned about the lack of consideration the developer had for the areas existing character elements such as the low-rise built form, local environment including wildlife and the areas shared interface with the Botanical Gardens and the Amphitheatre.</p> <p>Some submitters suggested that MR (Medium Density Residential) may be more appropriate whilst others suggested that MD (Multiple Dwelling Residential) would suite the neighbourhood character better.</p> <p>Others referred to the extent of change the suburb will undertake with the approval of this proposal, transforming the area into something unrecognisable.</p> <p>Others raised concerns over the time line of the project, which spans 11 stages over 40 years. These concerns ranged from the area being turned into a generational building site to the safety risks associated with the constant flow of construction vehicles in the neighbourhood.</p>
<p><b>Transport and access</b></p> <p>Increases in local traffic and the areas ability to manage the increased demand was of concern.</p> <p>The accuracy of the traffic impact assessment was questioned by a significant number of submitters.</p> <p>Other issues included pedestrian access through Birdsong Gully, the use of cul-de-sacs, single vehicle access point and the lack of acknowledgement of existing on street parking practices on Gardens Hill Crescent.</p>
<p><b>Impact to the surrounding environment (Botanical Gardens, Amphitheatre and Birdsong Gully)</b></p> <p>A large number of submissions raised the prospect of reverse sensitivities impacting the Amphitheatre in terms of noise quality, overshadowing and unrestricted access from the apartments, which was viewed as a threat to viability of hosting major concerts and events.</p> <p>Overshadowing and drainage overflow was also a factor which could impact on existing vegetation in the Botanical Gardens.</p> <p>Those concerned with formalising access through Birdsong Gully raised the areas potential risk of asbestos contamination if disturbed, loss of native vegetation and further fragmentation of community owned land to private interests.</p>

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<b>Topic raised</b>
<p data-bbox="204 241 517 273"><b>Density and built form</b></p> <p data-bbox="204 304 1350 398">Concerns over the built form and intensity of the development covered a range of topics such as scale, density, buildings heights and the impacts to the skyline which are summarised below:</p> <ul data-bbox="226 434 1372 752" style="list-style-type: none"><li data-bbox="226 434 1372 501">• Density concerns related to the significant increase in the areas population by 2000 – 3000 residents, which is over double the existing population.</li><li data-bbox="226 528 1372 595">• The uniform scale and bulk of the developments compared to the existing footprints of buildings in the area.</li><li data-bbox="226 622 1372 689">• There was concern and confusion about the maximum heights in particular in the areas nominated HR, given this is referenced in the scheme as 8+ stories.</li><li data-bbox="226 716 1372 752">• The impact the taller buildings would have on the skyline.</li></ul> <p data-bbox="204 779 1366 873">Some submitters suggested that whilst ‘HR’ was not appropriate, Zone MR (Medium Density Residential) would be more appropriate, whilst others suggest Zone MD (Multiple Dwelling Residential) would be more appropriate.</p>
<p data-bbox="204 909 868 940"><b>Community Purpose and community sentiment</b></p> <p data-bbox="204 972 1391 1066">The proposed rezoning and development of the subject site was viewed by many objectors as a loss of public land, or land that should be owned by the public for the use and enjoyment of future generations.</p>
<p data-bbox="204 1097 874 1128"><b>Housing market variables and economic impact</b></p> <p data-bbox="204 1160 1337 1218">A number of the submissions expressed fears that the proposal would have a dramatic impact on the value of their land.</p>

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<b>Topic raised</b>
<p><b><i>Planning Act 1999 and the NT Planning Scheme, including land use policy</i></b></p> <p>Reference was made on 14 occasions about the consistency of the proposal with a number of sections in the <i>Planning Act 1999</i>, clauses of the NT Planning Scheme, existing policy and the conduct of the preparation of policy. Specific areas of contention included:</p> <p><u><i>Planning Act 1999</i></u></p> <ul style="list-style-type: none"><li>• Section 2A.(2).(f) &amp; (g). How the proposal complies with the objects.</li></ul> <p><u>Northern Territory Planning Scheme</u></p> <ul style="list-style-type: none"><li>• Clause 5.21 Community Purpose. Zone purpose statement, and how the development achieves this.</li></ul> <p><u>Compact Urban Growth Plan 2016</u></p> <ul style="list-style-type: none"><li>• Section 4 Performance Criteria. Objectives and KPIs and compliance with.</li></ul> <p><u>Darwin Inner Suburbs Area Plan</u></p> <ul style="list-style-type: none"><li>• Section 3.3.1.C 6, 16 and 25 Blake Street, The Gardens. Objectives and Acceptable Responses</li><li>• That residents/submitters state that the public had no input into the designation of the site as a potential area for change for higher density residential development.</li></ul>
<p><b><i>Process &amp; Transparency</i></b></p> <p>Comment was made in a small number of submissions questioning the lack of transparency by the NT Government in providing adequate information to the public during the exhibition period, in particular topics identified in the appendix of page 29 of the most recent Exhibition Package.</p>
<p><b><i>Infrastructure</i></b></p> <p>Reference was made on seven occasions in regard to the areas capacity to facilitate the development referred to in the application, in particular core utilities. Other concerns referred to the possible disruption caused by the construction associated with the upgrading of infrastructure to meet the demand to the new estate.</p>

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## Submissions from Elected Officials

Submitter	Topics raised
<p>Mr Michael Gunner MLA (Attachment B130)</p> <p>Member for Fannie Bay</p>	<p>Mr Gunner advised that he supports local residents and concludes in his submission that there are no reasonable grounds for the proposal to proceed.</p> <p>Mr Gunner notes that he has received significant response from local residents in The Gardens opposing the rezoning for the following reasons:</p> <ul style="list-style-type: none"> <li>• community purpose land should be maintained for the future;</li> <li>• the density of development is not in keeping with the character of the area;</li> <li>• the proposed density will result in significant traffic impacts;</li> <li>• the development is proposed to be constructed over a 40 year period which will impact on the amenity of existing residents;</li> <li>• development in the long term will impact on the Amphitheatre; and</li> <li>• in the longer term the proposal and the Amphitheatre may cease to be able to co-exist.</li> </ul>
<p>Mr Gerry Wood MLA (Attachment B123)</p> <p>Member for Nelson</p>	<p>Mr Wood advises that he does not support the proposal due to:</p> <ul style="list-style-type: none"> <li>• the proximity of the development to the Botanical Gardens/Amphitheatre and other social infrastructure;</li> <li>• restricted access to the site; and</li> <li>• the proposed density not being in keeping with the existing neighbourhood.</li> </ul>

## Submissions from industry groups

Submitter	Discussion Points
<p>Australian Institute of Architects (<i>AIANT</i>) (Attachment B9)</p>	<p>The AIANT general supports the proposal noting that the proposal will improve connectivity and amenity. However, if approved the AIANT recommend that:</p> <ul style="list-style-type: none"> <li>• no waivers be granted;</li> <li>• high density residential is out of scale and medium density is better suited to the location given the existing character of the area and the sites close proximity to the Amphitheatre;</li> </ul>

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	<ul style="list-style-type: none"> <li>• a plot ratio of 0.6 should be applied to enforce landscaping;</li> <li>• the requirement for public open space should be increased to 15%;</li> <li>• medium density in this area should be expanded to allow for mixed use development such as shop housing; and</li> <li>• a vegetation survey should be required to create a register for existing significant trees to be protected.</li> </ul>
Housing Industry Association (HIA)  (Attachment B3)	HIA NT Division advise that they support the proposal as it will stimulate the economy by supporting local businesses.

## Service Authority Comments

(Refer to attachment C - Service Authority Submissions)

Service Authority	Comments
<b>Power and Water</b>  <i>(Power Networks Network Engineering)</i>	The Power Networks Division does not object to the proposal subject to a number of technical requirements relating to reticulated electrical infrastructure associated with the development which is more appropriate to be addressed at the development stage.
<b>Power and Water</b>  <i>(Water Services Land Development)</i>	The Water Services Division does not object to the proposal subject to a number of technical requirements associated upgrades to service the development, which is more appropriate to be addressed at the development stage.
<b>Department of Environment and Natural Resources</b>  <i>(DENR Environment Division including the Environment Assessments Branch, Environmental Authorisations Branch and Environmental</i>	<p><b>Environmental Assessments Branch</b> – advised that the application will require consideration under the <i>Environmental Assessment Act 1982</i>, if the proposal has the potential to have a significant impact on the environment. The Environmental Assessment Branch also advised of a number of standard guidelines to help the applicant in determining if such an assessment is required.</p> <p><b>Environmental Authorisations Branch</b> advised that the rezoning does not trigger licensing provisions of the <i>Waste Management and Pollution Control Act 1998</i>.</p> <p><b>Environmental Operations Branch</b> advised that consideration be given by the Development Consent Authority to noise conflict to afford suitable protection to nearby activities that generate noise.</p>

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<b>Department of Tourism, Sport and Culture</b> ( <i>Parks, Wildlife and Heritage Division PWH</i> )	<p>The Parks, Wildlife and Heritage Division advised of the following concerns:</p> <ul style="list-style-type: none"> <li>• the use of public land for private development;</li> <li>• increase and impact of traffic;</li> <li>• direct pedestrian access from the proposed development into the botanical gardens;</li> <li>• sewer upgrades are likely to impact the Cycad collection in the Botanical Gardens;</li> <li>• buildings overshadowing the Amphitheatre may impact physical ambiance of the venue and cause thinning of nearby vegetation; and</li> <li>• the development is likely to increase the potential for stormwater flow, erosion and weed contamination.</li> </ul>
<b>Department Infrastructure Planning and Logistics</b> ( <i>Transport and Civil Services Division</i> )	<p>The Transport and Civil Services Division advised that they do not object to the proposal or provide any endorsement to the proposed future subdivision/ development of the land or the access provisions. These issues shall be subject to formal assessment on lodgement of a Development Application and is to include an updated Traffic Impact Assessment.</p>
<b>Department of Education</b>	<p>The Department of Education noted that the development could equate to 3000 new residents to the area which has the potential to increase school enrolments across government and non-government. The department will continue to monitor capacity which will inform future school infrastructure planning.</p>
<b>Australian Government</b> ( <i>Department of Defence – Estate and Infrastructure group</i> )	<p>The Department of Defence, Estate and Infrastructure Group does not object to the proposal provided that Defence Regulations, extraneous lighting and bird strikes are considered. These considerations can be addressed at the development stage.</p>

## Council Submission

Council	Comments
<b>City of Darwin</b> (Attachment C8)	<p>On the 22 December 2019, the City of Darwin submitted a revised response which replaces the letter that was sent on the 5 December 2019. In their response, Council advised that they:</p> <ul style="list-style-type: none"> <li>• support the addition of legal deeds for all prospective apartment purchasers and prospective tenants, in relation to lighting and noise emissions expected from events at the Darwin Amphitheatre and Gardens Oval, in addition to the legal cautionary notice on the property titles;</li> </ul>

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	<ul style="list-style-type: none"><li>• request a natural buffer zone be provided between the Darwin Amphitheatre and the development to further reduce lighting and noise emissions from the amphitheatre;</li><li>• object to the proposed 200m<sup>2</sup> Medium Density Residential lots;</li><li>• support the minimisation of crossovers, to allow for landscaping, the planting of trees and reduction of hard surfaces in the verge however notes that this may reduce the amenity of the road and be incapable of providing kerbside parking on the road;</li><li>• object to the design and location of the public open space detailed in the master plan;</li><li>• they request a number of specific Condition Precedents be included in any Development Permit issued in relation to easements, parking and private open space; and</li><li>• require a revised Traffic Impact Assessment.</li></ul>
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## 6. RECOMMENDATION

That under section 24 of the *Planning Act 1999*, the Planning Commission report to the Minister for Infrastructure, Planning and Logistics on the issues raised in submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the proposal.