

ENCL: YES

DARWIN CITY COUNCIL

DATE: 18/11/2009

REPORT

TO: 2ND ORDINARY COUNCIL/OPEN

APPROVED: LC

FROM: GENERAL MANAGER INFRASTRUCTURE

REPORT NO: 09TS0221 LC:sv

COMMON NO: 1258408

SUBJECT: SKYCITY DARWIN - LITTLE MINDIL ACCESS

ITEM NO:

SYNOPSIS:

In August 2009, SkyCity sought approval from Council for permanent access to the Little Mindil site via Lot 5772 (Council owned land).

On 23 October 2009, at its Ordinary Meeting, Council considered the matter and resolved:

Additional Information for Proposed Access to SkyCity Darwin – Little Mindil

- A. THAT Report Number 09TS0164 entitled, SkyCity Darwin - Little Mindil Access, be received and noted.
- B. THAT Council advise SkyCity Darwin that their proposal for permanent access through Lot 5772 (Darwin City Council car park), as indicated in their correspondence dated 7 and 31 August 2009 is not approved.

Carried

- C. THAT Council advise SkyCity:
 - i.) THAT SkyCity should seek alternative access arrangements for Lot 7651;
 - ii.) THAT any alternative be substantiated by a full Traffic Management Plan for Lot 5244;
 - iii.) THAT Council approve the use of a small portion of Lot 5772 for permanent access to Lot 7651 as identified in Report Number 09TS0164LC:KB subject to SkyCity's alternative proposal details, compensation, land tenure option and size of area being restricted to reduce impact on Lot 5772, being to Council's satisfaction.

- iv.) THAT Council will not support any alternative access arrangements that result in any reduction to the existing provision of on-site parking (within Lot 5244 and 5772) unless Council can be satisfied of alternate parking arrangements.

DECISION NO.20\2107 (13/10/09)

Carried

SkyCity submitted an alternative proposal on the 13 November 2009 for consideration.

GENERAL:

Following Council's decision at its meeting on 13 October 2009, SkyCity has been in consultation with Council staff regarding alternative access options for the Little Mindil site.

As a result of these discussions, SkyCity has written to Council with an alternative proposal for access and their consideration of other related matters in Council Decision Number 20\2017, **Attachment 1**.

In addition to this SkyCity has also lodged a Development Application with the Northern Territory Government, Development Assessment Services for their development proposal relating to Little Mindil. The matter has been considered by the Development Consent Authority and has issued a notice of determination, **Attachment 2**.

Alternative Access

SkyCity is proposing an alternative access similar to that previously identified by Council. This alternative is identified as Route 1 in their recent proposal. The access route is within their existing allotment however it requires access to 410 square metres of Lot 5772 to function. The use of a small portion of 5772 has been previously approved by Council.

Sky City traffic consultants are confident that the design is appropriate and accommodates vehicles required. As the access route is within SkyCity land, this is ultimately an issue for the owner not Council.

SkyCity is proposing an easement be placed over 410 square metres of lot 5772 in the location as indicated in **Attachment 3**.

SkyCity have indicated that whilst they have a licence over Lot 5772 access to Little Mindil will be via Lot 5772.

This proposal is in accordance with solutions identified by Council staff in previous reports and it is recommended it be supported as an access solution.

Loss of Parking

The proposal results in a total estimated loss of 29 car parking spaces with Lot 5772 and the SkyCity allotment. Of these an estimated 7 car parking spaces will be lost in Lot 5772.

SkyCity has indicated that it is providing 230 car parking spaces on the Little Mindil site and therefore the lost spaces are accommodated within this area.

They further acknowledge that "any future development on Lot 5224, including the proposed Tropical Tourist Resort and the possible further development or sale of Lot 7651, must consider planning implications associated with the provision of 29 car spaces within Lot 7651 that are counted within the car parking requirements of Lot 5224". (SkyCity correspondence dated 11 November 2009)

Land Tenure and Size

There are no objections to the provision of an easement verses a sub-division and issue of Freehold Title of the affected area.

The area request is in accordance with Council Officers previous options and has been designed to minimise impact on the future of Lot 5772 whilst accommodating traffic design for access. The area contains a number of existing services and easements and SkyCity will be required to obtain the relevant approvals from appropriate authorities.

Compensation

The following has been proposed by SkyCity:

SKYCITY proposes that the compensation to be provided to Council for the grant of the requested easement is the landscaping of the Council road reserve between Gilruth Avenue and Little Mindil as shown on **Attachment E** of SkyCity's letter, further enhancing the amenity of the area for the general public. In accordance with the Quantity Surveyor's estimate provided in **Attachment D** of SkyCity's letter the value of such landscaping works to be undertaken in the Council's road reserve is in order of \$45,770.

SKYCITY believes that its works proposal is fairly reflective of:

- (1) the present value of the easement area.
- (2) the restricted use of the easement area as a car park under the terms of the Licence Agreement until the expiry of the Licence Agreement (in 2030);
- (3) the relatively small area of the easement and its location in the south west corner of Lot 5772;

- (4) the significant constraints on use of the easement area due to electricity and sewerage easements and stormwater infrastructure;
- (5) the fact that SKYCITY will be responsible for costs of the construction and maintenance of any improvements associated with the access route;
- (6) the consistency of the easement area with existing facilities on Council's Lot 5772; and
- (7) the additional benefit that the general public will derive from the infrastructure and amenity to be provided by SKYCITY on Little Mindil.

It should be noted that the landscaping of Gilruth Avenue road reserve will have a direct benefit to SkyCity development as well as the amenity of the area to the general community.

There are no current proposals within Council's existing 10 Year Capital Works Plan to undertake any landscaping works within this area.

In addition there will be ongoing maintenance costs to Council under this proposal of the landscape which currently does not exist. If this offer was deemed appropriate it would be recommended on the condition that SkyCity enter into an agreement to maintain the area at no cost to Council and to Council's satisfaction and that this agreement be for the same term of the agreement over lot 5772 (car park) including the extension option, meaning SkyCity would maintain the area until 2030.

SkyCity has also provided a valuation report for the affected parcel of land (**Attachment 4**) which indicates the value as \$15,000.

Council has received independent valuation of the land as affected by SkyCity's proposal from the Australian Valuation Office (**Attachment 5**) and the advice received indicates:

"1. Market Value

As at 25 November 2009, the market value of the subject property known as Part Lot 5772 (73) Gilruth Avenue, The Gardens, is considered to be: \$200,000 (Two Hundred Thousand Dollars)

2. Assessment of Compensation

As at 25 November 2009, the assessment of compensation payable for granting the prescribed easement over the subject property known as Part Lot 5772 (73) Gilruth Avenue, The Gardens, is considered to be: \$40,000 (Forty Thousand Dollars)

The above value is subject to the specific instructions and assumptions detailed in this report, in on the basis of the highest and best use in accordance with the current

zoning, and takes no account of any higher price that may be paid by a prospective purchaser with a special interest.”

(Source: Australian Valuation Office, Valuation Report Proposed Access Easement part Lot 5772 (73) Gilruth Avenue, The Gardens as at 25 November 2009).

Council has provided SkyCity with a copy of the valuation. Council has a number of options available including the following:

Option 1 – Works in Kind

Accept SkyCity’s proposal as per their correspondence date 11 November 2009.

As previously stated it would be recommended that if this option is to be accepted it be on the condition that all works are undertaken to the satisfaction of Council at no cost to Council and that SkyCity enter into an agreement for organising maintenance of the area to Council’s satisfaction until June 2030 at no cost to Council.

Based on Council’s independent valuation and SkyCity’s estimated value of Capital works and ongoing maintenance costs, it would appear that the proposal exceeds the value of the compensation determined by the Australian Valuation Office.

Option 2 – Financial Compensation

This option relates to a straight financial transaction between Council and SkyCity. Council would request that a financial compensation be paid in return for the provision of the easement.

The Australian Valuation Office has recommended \$40,000 (GST exclusive).

The transaction is open, transparent accountable and based on an independent valuation relating to compensation in return for the easement. This does not involve long term arrangements which as per Option 1.

Option 3 – Contribution of Financial Compensation and Works In-kind

This option is a collaboration of Options 1 and 2 discussed above. The mix of the two should be considered by Council.

Following a teleconference with SkyCity on Thursday 26 November 2009, regarding this report and the valuation received by Council, SkyCity representatives verbally endorsed the following:

SkyCity would be prepared to financial compensate the Darwin City Council the value of \$40,000 (value determined independently by the Australian Valuation Office) and in addition undertake the construction of the pathway within their landscaping plans to be handed to Council as works in-kind. The pathway is valued by SkyCity at \$24,250. SkyCity would not undertake any other landscaping work in the road reserve.

This pathway would complete the link from the existing pathway in Gilruth Avenue (owned by Council) to the path to be constructed through Little Mindil to the foreshore. The path would be constructed to Council's standards.

Alternative to this Council, could request that as consideration for the easement that SkyCity provide financial compensation as per the independent advice received from the Australian Valuation Office (\$40,000) and all works in-kind as per SkyCity's letter dated 11 November 2009, including officers recommendation of ongoing maintenance until 2030.

There are numerous variations to this and each have advantages and disadvantages.

FINANCIAL IMPLICATIONS:

That all costs associated with SkyCity's proposal be borne by SkyCity including but not limited to any legal costs to Council associated with the creation of the easement.

If Council accepts the pathway outlined in Option 3 it would be responsible for the ongoing maintenance.

STRATEGIC PLAN IMPLICATIONS:

The issues addressed in this Report are in accordance with the following Goals/Strategies of the Darwin City Council 2008 – 2012 as outlined in the 'Evolving Darwin Strategic Directions: Towards 2020 and Beyond':-

Goal

1 Achieve Effective Partnerships and Engage in Collaborative Relationships

Outcome

1.1 Improve relations with all levels of Government

Key Strategies

1.1.4 Play a strategic role in the planning and developmental processes that impact Darwin.

Goal

7 Demonstrate Effective, Open and Responsible Governance

Outcome

7.1 Effective Governance

Key Strategies

7.1.3 Manage Council's affairs based on a sustainable financial strategy

LEGAL IMPLICATIONS:

SkyCity currently has a licence over Lot 5772 which will expire on 30 June 2015. The licence contains an option for extension to 2030 which could be exercised by SkyCity.

Suitable legal agreements relating to the development and ongoing maintenance of Gilruth Avenue road reserve will need to be developed if Council agrees to SkyCity's proposal.

ENVIRONMENTAL IMPLICATIONS:

Nil

PUBLIC RELATIONS IMPLICATIONS:

SkyCity have indicated that failure to resolve the access issue would significantly delay the project.

COMMUNITY SAFETY IMPLICATIONS:

Nil

DELEGATION:

That the Chief Executive Officer be delegated to finalise documents and agreement in accordance with Council's decision and furthermore that the Lord Mayor and Chief Executive Officer be authorised to sign and seal all associated documents for the creation of the easement.

CONSULTATION:

Chief Executive Officer
Acting General Manager Corporate Services
SkyCity Representatives
Australian Valuation Office

PROPOSED PUBLIC CONSULTATION PROCESS:

Nil

APPROPRIATE SIGNAGE

Nil

RECOMMENDATIONS:

- A. THAT Report Number 09TS0221 LC:sv, titled SkyCity Darwin – Little Mindil Access be received and noted.
- B. THAT Council approve the creation of an easement to provide access to Lot 5772 (Little Mindil) over 410 square metres of Lot 5772 as identified in Report Number 09TS0221 LC:sv subject to:
- (i) financial compensation from SkyCity of \$40,000 (GST exclusive) which is based on the independent valuation by the Australian Valuation Office;
 - (ii) the construction of a pathway within the Gilruth Avenue road reserve as indicated in SkyCity's correspondence dated 11 November 2009, to the satisfaction of Council and no cost to Council with works completed prior to sign off by Council on the Little Mindil development permit but no later than 30 June 2010;
 - (iii) that the in-kind pathway works be secured by SkyCity by the granting to Council of an unconditional bank guarantee to the value of \$30,000;
 - (iv) that all fees, costs and charges (including legal fees) to Council associated with the creation of the easement be borne by SkyCity.
- C. THAT Darwin City Council pursuant to Section 32 (2) of the Local Government Act 2008 hereby delegates to the Chief Executive Officer the power to create an easement over Lot 5772 for access to Little Mindil and approve the design and construction of the pathway in Gilruth Avenue in accordance with Report Number 09TS0221 LC:sv.
- D. THAT Darwin City Council hereby authorises all relevant documents relating to the creation of an easement over part Lot 5772 as described in Report Number 09TS0221 LC:sv, be executed under the Council's Common Seal and signed by the Lord Mayor and Chief Executive Officer.

LUCCIO CERCARELLI
GENERAL MANAGER INFRASTRUCTURE

Any queries on this report may be directed to Luccio Cercarelli on 8930 0581 or l.cerceralli@darwin.nt.gov.au

ATTACHMENT 1



11 November 2009

The Chief Executive Officer
Darwin City Council
GPO Box 84
DARWIN NT 0801

SKYCITY Adelaide Pty Ltd
North Terrace Adelaide
South Australia 5000
GPO Box 1918 Adelaide
South Australia 5001
Telephone +61 (0)8 8212-2811
Facsimile +61 (0)8 8212-4047
www.skycityadelaide.com.au

Attention: Mr Brendan Dowd

Dear Brendan

ABN 72 002 362 061

Access to Little Mindil (Lot 7651 Town of Darwin)

I refer to:

1. SKYCITY's letter to you dated 7 August 2009;
2. Council's decision in relation to access to Little Mindil across Council's Lot 5772 Town of Darwin on 13 October 2009; and
3. the Development Permit to be issued by the Development Consent Authority in relation to works on the Little Mindil site (Attachment A).

Proposed Grant of Easement

In accordance with Council's resolution SKYCITY proposes that Council grant to SKYCITY an easement over a 410sqm area in the south west corner of Lot 5772 Town of Darwin as shown on Attachment B. This easement (to be registered on the title to Lot 5772 Town of Darwin) would grant to SKYCTY the rights to:

1. construct (to the extent any additional works are necessary) and maintain the access route across the easement area; and
2. have a right of way over the easement area, which means that SKYCITY and its patrons are able to (with or without vehicles) enter on, pass over and along and repass over and along the easement area to gain access and egress to Little Mindil and other areas.

SKYCITY has previously consulted PowerWater regarding Little Mindil access and PowerWater electricity easements, sewerage easements and stormwater drainage in the easement area and has determined that SKYCITY is able to undertake the required works and use. SKYCITY proposes to be responsible for all such issues.

SKYCITY shall submit a draft easement to Council by close of business on Friday 13 November 2009.

Compensation

SKYCITY proposes that the compensation to be provided to Council for the grant of the requested easement is the landscaping of the Council road reserve between Gilruth Avenue and Little Mindil as shown on Attachment E, further enhancing the amenity of the area for the general public. In accordance with the Quantity Surveyor's estimate provided in Attachment D the value of such landscaping works to be undertaken in the Council's road reserve is in the order of \$45,770.

SKYCITY believes that its works proposal is fairly reflective of:

- (1) the present value of the easement area to Council;
- (2) the restricted use of the easement area as a car park under the terms of the Licence Agreement until the expiry of the Licence Agreement (in 2030);
- (3) the relatively small area of the easement and its location in the south west corner of Lot 5772;
- (4) the significant constraints on use of the easement area due to electricity and sewerage easements and stormwater infrastructure;
- (5) the fact that SKYCITY will be responsible for costs of the construction and maintenance of any improvements associated with the access route;
- (6) the consistency of the easement area with existing facilities on Council's Lot 5772; and
- (7) the additional benefit that the general public will derive from the infrastructure and amenity to be provided by SKYCITY on Little Mindil.

Timing of Grant of Easement and Works

It is anticipated that bridge works will commence in December 2009. The entire works to the Little Mindil site would be completed by end of May 2010. It is important that these timelines be met to facilitate planned outdoor functions in the dry season of 2010 which are necessary to allow the progress of the Tropical Tourist Resort to be constructed on SKYCITY's Lot 5244. Consequently, SKYCITY requests that the easement be finalised and entered into on or before Friday 11 December 2009.

Notwithstanding the grant of the easement, SKYCITY wishes to agree with Council that until the expiry of the existing Licence Agreement dated 25 June 2004 in relation to the car park on Lot 5772 ("Licence Agreement") public access to the bridge to the Little Mindil car park will be through Route 2 identified on the Attachment B plan.

On the basis that Council's Lot 5772 will not be available for access purposes upon the expiration of the DCC Licence Agreement (expected to expire on 30 June 2030, assuming that SKYCITY exercises its option in 2015), SKYCITY would construct and undertake all necessary works to establish access Route 1 identified on the Attachment B plan prior to this.

Traffic Management Reports

An updated and expanded Traffic Management Report has been prepared by Aurecon (Consulting Engineers) to address additional concerns advised by Council following submission of an initial report dated 25 August 2009 and the draft report dated 28 October 2009. SKYCITY now submits as Attachment C the Aurecon Traffic Management Report dated 11 November 2009.

The attached Traffic Management Report supports:

- (a) the reasonableness of the access and works in relation to Route 1; and
- (b) the reasonableness of using Route 2 until the expiry of the Licence Agreement.

Route 1 is an enhancement of the Alternative Access Option proposal made by Masterplan Pty Ltd in their report commissioned by Darwin City Council dated 18 September 2009 and utilises Casino Drive, the current vehicle access roads within SKYCITY's Lot 5224 and the proposed easement over Lot 5772. Minor road works to accommodate turning vehicles, relocation of the taxi rank, provision of pedestrian access and the re-arrangement of car parking on Lot 5224 will be required to provide clear access to the proposed bridge crossing.

Car Parking

The provision of an additional 230 car spaces within the proposed Little Mindil Development more than compensates for:

- (i) the loss of 29 car parking spaces resulting from the construction of Route 1, and
- (ii) the loss of 5 car parking spaces resulting from the use of Route 2 during the term of the Licence Agreement.

SKYCITY acknowledges that any future development on Lot 5224, including the proposed Tropical Tourist Resort and the possible further development or sale of Lot 7651, must consider planning implications associated with the provision of 29 car spaces within Lot 7651 that are counted within the car parking requirements of Lot 5224.

Action Requested from Council

SKYCITY seeks the grant and registration of the easement prior to Friday 11 December 2009 so as not to inhibit the development of Little Mindil for the benefit of SKYCITY and the public in general.

If you have any queries in relation to the above, please contact me. SKYCITY looks forward to working with Council to finalise this matter.

Yours sincerely



Richard Angove
Manager, Capital Projects (Aust)

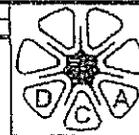
Attachments:

- Attachment A - Development Consent Authority Decision – Item 11 of Meeting Date 6 November 2009
- Attachment B - Plan of easement area and Route 1 and Route 2
- Attachment C - Aurecon Traffic Management Report dated 11 November 2009
- Attachment D - Quantity Surveyor estimate of road reserve works cost
- Attachment E - Gilruth Avenue road reserve landscaping

ATTACHMENT 'A'

Development Consent Authority

Northern Territory



GPO BOX 1680
DARWIN NT 0801

Telephone No: (08) 8999 6044
Facsimile No: (08) 8999 6055

In reply please quote: PA2009/1289
PMQ:SG

Ms June D'Rozario
GPO Box 780
DARWIN NT 0801

Dear Ms D'Rozario

NOTICE OF DETERMINATION (SECTION 53A OF THE PLANNING ACT) LOT 7651 GILRUTH AVENUE, TOWN OF DARWIN

The Development Consent Authority, in accordance with section 53(a) of the *Planning Act*, has determined to consent to the application to develop Lot 7651 Gilruth Avenue, Town of Darwin for the purpose of leisure and recreation (including area for outdoor entertainment, landscaping and carparking), subject to the conditions specified below.

NOTE: This is not a Development Permit. No use of the land or development works in accordance with this Notice of Determination may be carried out until such time as a Development Permit has been issued.

Conditions

1. The works carried out under this permit shall be in accordance with the drawing numbers 2009/1289/1 through to 2009/1289/7 endorsed as forming part of this permit.
2. Prior to the commencement of the use of the site (excluding site preparation works), written confirmation of legal rights of vehicle access across adjacent Lot 5772 to the site for the duration of the development and use is required from Darwin City Council, to the satisfaction of the consent authority.
3. Prior to the commencement of construction of the car parking area, a landscape plan showing species, quantities and sizes at maturity for plants both within and surrounding the car parking area which serves to soften the impact of the car parking area as seen from Gilruth Avenue and surrounds is to be provided to the satisfaction of the consent authority, to be endorsed as forming part of the permit.
4. Any development 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.
5. The permit holder must enter into agreements with the relevant authorities for the provision

telecommunications services in accordance with the authorities' requirements and relevant legislation at the time.

6. Engineering design and specifications for stormwater drainage is to be to the technical requirements of the Darwin City Council or the Department of Planning and Infrastructure, as the case may be, to the satisfaction of the consent authority and all approved works constructed at the permit holder's expense.
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. Storage for waste disposal bins is to be provided to the requirements of Darwin City Council or the Department of Planning and infrastructure as the case may be, to the satisfaction of the consent authority.
9. Written confirmation of an agreement between the developer and Darwin City Council, for vehicle access across adjacent Lot 5772, is required to be provided, to the satisfaction of the consent authority.
10. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land.
11. 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.
12. 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.
13. Soil erosion and sediment control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
14. During a function on the site, any performance stage and/or speakers used must be arranged so noise propagation will project away from residential development on the escarpment.
15. 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;to the satisfaction of the consent authority.

Notes:

1. A Sacred Site exists within Lot 7651. The Aboriginal Areas Protection Authority (AAPA) has issued an Authority Certificate over Lot 7651. As a consequence of this, under Sections 19A-22 of the *Aboriginal Sacred Sites Act 1989*, the Authority has placed a Restricted Works Area and has applied conditions in the Certificate to protect this sacred site from particular works on Lot 7651
2. NRETAS advise that there are statutory obligations under the *Weeds Management Act* that land owners take all practical measures to manage weeds on their property.

4. Professional advice regarding implementation of erosion and sediment control measures to be employed throughout the construction phase of the development is available from Natural Resource Management Division, Department of Natural Resources, Environment, the Arts and Sport.
5. Notwithstanding the approved plans, all signage is subject to separate Darwin City Council approval.
6. Power and Water Corporation advise that if Lot 7651 is not consolidated with Lot 5244, SkyCity will be responsible for the cost of design and establish a separate and adequate power supply from Gilruth Avenue for any future development.
7. Any use of fireworks on the site is subject to all relevant applicable legislation/ regulations.

Reasons for the Determination

1. The proposed development is consistent with the relevant clauses of the Northern Territory Planning Scheme, and the purposes of Zone TC and PS, which are to provide areas for development servicing tourism, and for development to be limited to that which is consistent with the recreational opportunities of the land.
2. The provision of 230 bay carparking spaces within Lot 7651 will formalise an existing unsealed 'overflow' carparking area. The carpark will be accessible for public use, and will assist in reducing current parking and traffic problems experienced on and around the site, in regards to irregular major events held by SkyCity and more regular events such as the Mindil Beach Markets.
3. The proposal will retain the open character of the site, and create an open space of high quality. The proposal includes continued public access to the foreshore and throughout the site, and rehabilitation of the site, creek and the escarpment.
4. The provision of lighting within the carparking area and pedestrian walkways will serve to increase community safety within the area.
5. In response to submitter concerns and in order to ensure that there is no adverse visual impact as the result of the proposed car parking area a landscape plan showing species, quantities and size at maturity for plants both within and surrounding the car parking area is required to be provided which serves to soften the impact of the car parking area as seen from Gilruth Avenue and surrounds.

Rights of Appeal

Applicants are advised that a right of appeal to the Appeals Tribunal exists under Part 9 of the *Planning Act*. An appeal under section 114 against a determination of development application must be made within 28 days of the service of this notice.

Persons who made submissions in accordance with section 49 of the Act, in relation to the development application are advised that a right of appeal to the Appeals Tribunal exists under Part 9 of the Act. An appeal under section 117 by a third party in respect of a development application must be made within 14 days of the service of this notice.

The Registrar of the Appeals Tribunal can provide information regarding the Notice of Appeal form and fees payable. The address for lodgement of a Notice of Appeal is: The Registrar, Appeals Tribunal, GPO Box 7014 DARWIN NT 0801 or Level 1, Nicholas Place Cnr Cavenagh Street & Bennett Street,

If within fourteen (14) days of this notice, no appeal is lodged with the Registrar, Appeals Tribunal, a Development Permit will be issued in accordance with the conditions shown on the attached schedule.

If you have any queries in relation to this Notice of Determination, please contact Development Assessment Services on telephone (08) 8999 6046.

Yours faithfully



Peter McQueen
Delegate
Development Consent Authority

12/11/2009

Attachment

Cc Darwin City Council
Lands Planning & Mining Tribunal
Patsy Hickey

ATTACHMENT 'B'

ATTACHMENT 'C'

Aurecon Australia Pty Ltd
ABN 54 005 139 873
Level 1, 62 Cavenagh Street
(PO Box 019)
Darwin Northern Territory 0800
Australia

T +01 8 8919 0777
F +01 8 8919 9750
E darwin@au.aurecongroup.com
W aurecongroup.com



11 November 2009

Richard Angove
Manager, Capital Projects
SKYCITY Entertainment Group
GPO Box 3846
Darwin NT 0801

Dear Richard

**Little Mindil Development
Traffic Management Options**

This letter responds to issues raised by Darwin City Council to Development Assessment Services in their letter dated 18 September 2009 and subsequent meetings with Luccio Cercarelli. Specifically, this letter:

- Describes an alternate access arrangement predominantly through SKYCITY owned land which minimises the impact on the existing council owned car park.
- Discusses the impacts of the Little Mindil development on vehicle access through the existing council car park and recommended improvements.

Alternate access arrangement through SKYCITY (Route 1)

An alternate route has been designed to make use of existing roads within SKYCITY land and includes some modifications to the existing car park. It has a footprint within the council car park of 410m². The alternate route is shown as Route 1 on Figure 1 and includes:

- Intersection widening at Casino Drive to accommodate a 19m semi-trailer. The swept paths of a 19m semi-trailer are shown on Figure 2 (entry route) and Figure 3 (exit route).
- Relocation of the existing taxi rank and private hire car rank to enable two-way traffic.
- Curve widening to accommodate coach access alongside the relocated ranks. The swept path of a coach past the new taxi rank is shown on Figure 2.
- New and modified islands, line marking and wheel stops within the existing car parks to improve safety and useability and to permit access by a 19m semi-trailer to Little Mindil and a 12.5m long heavy duty rigid truck to the existing loading dock at the rear of the casino. The modifications nearly eliminate all parking along Route 1. Access by a semi-trailer will be an uncommon occurrence, and therefore the design allows the semi-trailer full use of roadways within the car park. The swept paths are shown on Figure 2 (entry route) and Figure 3 (exit route).
- One speed hump within the existing SKYCITY car park and one speed hump within the proposed car park. Where the existing pedestrian pathway crosses Route 1 the pathway is raised 150mm above the road level and comprises interlocking pavers which contrast the roadway in colour. Drivers are therefore visually alerted to the presence of the pedestrian pathway and no additional speed control measures are proposed here.
- Provision of a designated pedestrian walkway from Little Mindil to the Casino building. The walkway is 1.8m wide across the creek and 1.5m wide within the existing car park.

Route 1 results in a loss of 29 car parks, of which six are located within the council car park. The loss of these spaces is easily covered by the 230 spaces provided in the proposed Little Mindil car park.

Access through the existing council car park (Route 2)

While SKYCITY's lease remains in place, it is acknowledged that access to Little Mindil will occur through the existing council car park. This is shown as Route 2 on Figure 4 and discussed further below.

Large vehicle access

Access from Gilruth Avenue into Casino Drive can accommodate a 19m semi-trailer. Access from Casino Drive into the existing council car park can accommodate a fire truck. Should SKYCITY wish for semi-trailers to service events on Little Mindil then intersection modifications are required. The required island modification and road widening is shown on Figure 4.

Use of the parking aisle along Route 2 as a circulation roadway

The Australian Standard for off-street car parking (AS 2890.1) states that:

"To limit traffic volumes and consequent congestion in parking aisles to acceptable levels it is good practice not to have parking aisles provide access for circulating traffic to other parking aisles where those aisles together have more than... 75 [parking spaces] for a Class 2 facility... Circulation roadways should be provided in lieu."

It is noted however that comparable conditions exist elsewhere without undue concern. Circulation aisles act as parking aisles in multi-storey car parks (for example the Darwin City Chinatown car park which comprises approximately 400 spaces), and angle parking is provided along some city streets (for example Darwin City esplanade).

To offset the increased length of parking aisle/circulation roadway it is proposed to provide one additional speed hump within the existing council car park and one speed hump within the proposed car park. These speed humps will complement the two existing humps either side of the pedestrian crossing.

It is noted that access to Little Mindil currently occurs along the first half of Route 2 (between Casino Drive and the first cross-intersection) before deviating east through the existing council car park and crossing the creek adjacent Gilruth Avenue.

The first section of Route 2 (between Casino Drive and the cross-intersection) currently operates as a circulation roadway. It is not proposed that the new works will increase traffic numbers, but rather formalise and raise the standard of overflow car parking on Little Mindil. It is understood that SKYCITY therefore does not expect an increase in traffic congestion along this section of parking aisle.

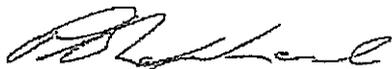
The second half of Route 2 (between the cross-intersection and the creek) will experience additional traffic. This will only be prevalent however during times of peak use, since the proposed car park is furthest from the main building and will be least favoured.

On the basis of the above, it is judged that the retention of parking spaces along Route 2 will cause some inconvenience but is commensurate with accepted practice elsewhere and considered to be acceptable.

Provision of one access point

The provision of one access point is considered to be acceptable in the same manner that one access point is currently provided to the existing car park. The proposed roadway widths are 7m wide or greater, exceeding the Australian Standard recommended minimum width of 5.5m for a two-lane circulation roadway.

Yours sincerely



Peter Shephard
Civil Engineer

Attachments:

- Figure PL-C001 – Access Route 1
- Figure PL-C002 – Access Route 1 Turning Templates – Sheet 1 of 2
- Figure PL-C003 – Access Route 1 Turning Templates – Sheet 2 of 2
- Figure PL-C004 – Access Route 2

ATTACHMENT 'D'

QS SERVICES
QUANTITY SURVEYORS & COST CONSULTANTS

D.
5 Whitfield Street, Darwin
Postal Address:
GPO Box 4009
Darwin NT 0801
Telephone: (08) 8941 0116
Facsimile: (08) 8941 0864
Email: info@qsservices.com.au
www.qsservices.com.au

11 November 2009

Clouston Associates
Landscape Architects
Level 1, 1 Briggs Street,
DARWIN NT 0800

Attention: Mr. Tony Cox

Dear Tony,

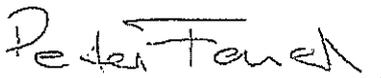
**Re: Opinion of Probable Cost
Little Mindil - Gilruth Avenue Works**

Your email, attached cost breakdown and Sketch ND628 Sk.1, received today refer.

As requested, we have reviewed the sketch plan and your Opinion of Probable Cost and advise that on the basis of the information provided the rates and prices would appear to be reasonable, however we would suggest that the rate for the concrete pathway be increased from \$270/lm to \$375/lm.

We trust that the above is suitable for your present needs and please feel free to contact the undersigned should you wish to discuss this further.

Yours faithfully,
QS Services



Peter Farmer
AAIQS

D.



L. CLOUSTON Associates
 LEVEL 1 1 BRIGGS ST PO BOX 1118
 DARWIN, NT 0801
 EMAIL darwin@clouston.com.au
 FACSIMILE (08) 8001 0200
 TELEPHONE (08) 8941 2450

OPINION OF PROBABLE COST

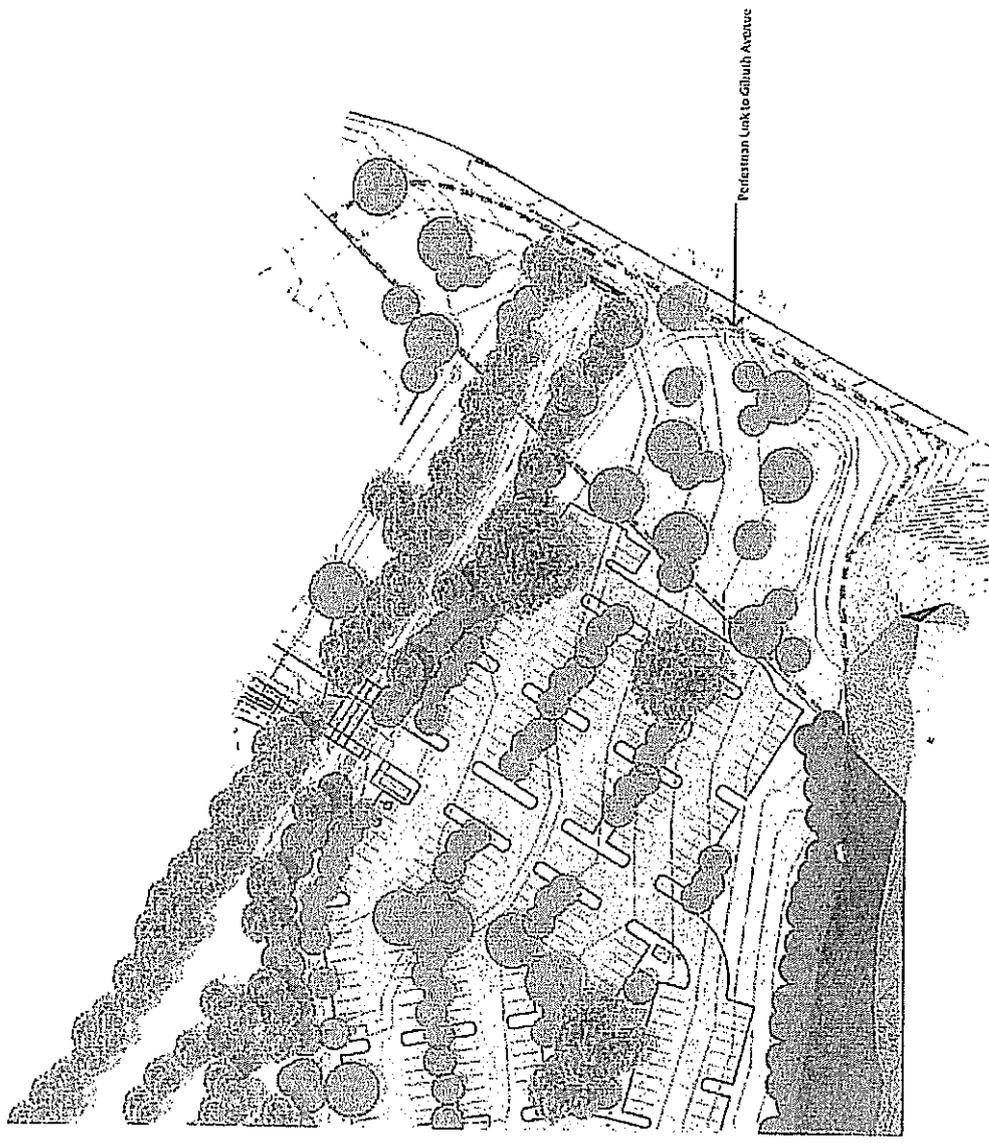
JOB	Little Mindil - Gilruth Avenue Works	ORIGINAL DATE	11.11.09	JOB NUMBER	ND628
BY	JH/TC	UPDATE		SHEET NUMBER	1

ITEM	DESCRIPTION	QUANTITY	UNIT	RATE	COST
1.00	DEMOLITION				
1.01	Demolition Works - old fences, short length of guard rail to allow footpath link, concrete slabs & obsolete log barriers	1	Item	\$2,000.00	\$2,000.00
2.00	HARDWORKS				
2.01	Filling to provide for path access into city	1	Item	\$4,000.00	\$4,000.00
2.02	Pathway (2.5m width, 100mm thick & reinforced)	54	m	\$375.00	\$20,250.00
3.00	SOFTWORKS				
3.01	Repair grassed areas - levelling, reseeding and establishment irrigation	1400	m ²	\$12.00	\$16,800.00
3.02	Rehabilitation of creek area	1	Item	\$20.00	\$20.00
3.03	Tree Planting	18	No.	\$150.00	\$2,700.00
4.00	TOTALS				
	Total				\$45,770.00

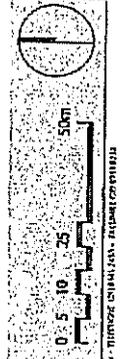
ATTACHMENT 'E'

LEGEND

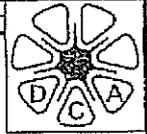
-  Existing trees and improvements to be retained and planting
-  Weed control and revegetation of remnant escarpment vegetation
-  Parkland - grass and shade trees
-  Revegetation of Tidal Creek
-  Moonsoon Vine Forest Landscape Buffer to base of escarpment
-  Shared Pathway (2.5m width)
-  Area of Works to Gilruth Avenue



Little Mindill - Gala Lawn
GILRUTH AVENUE WORKS



SKYBY
 10/1/2024 - PARKS/STREET - PROJECT/318 - 40/10/1 - 10/1/2024 - 10/1/2024



Development Consent Authority

Northern Territory

GPO BOX 1680
DARWIN NT 0801

Telephone No: (08) 8999 6044
Facsimile No: (08) 8999 6055

In reply please quote: PA2009/1289
PMQ:SC

Ms June D'Rozario
GPO Box 780
DARWIN NT 0801

Dear Ms D'Rozario

NOTICE OF DETERMINATION (*SECTION 53A OF THE PLANNING ACT*) LOT 7651 GILRUTH AVENUE, TOWN OF DARWIN

The Development Consent Authority, in accordance with section 53(a) of the *Planning Act*, has determined to consent to the application to develop Lot 7651 Gilruth Avenue, Town of Darwin for the purpose of leisure and recreation (including area for outdoor entertainment, landscaping and carparking), subject to the conditions specified below.

NOTE: This is not a Development Permit. No use of the land or development works in accordance with this Notice of Determination may be carried out until such time as a Development Permit has been issued.

Conditions

1. The works carried out under this permit shall be in accordance with the drawing numbers 2009/1289/1 through to 2009/1289/7 endorsed as forming part of this permit.
2. Prior to the commencement of the use of the site (excluding site preparation works), written confirmation of legal rights of vehicle access across adjacent Lot 5772 to the site for the duration of the development and use is required from Darwin City Council, to the satisfaction of the consent authority.
3. Prior to the commencement of construction of the car parking area, a landscape plan showing species, quantities and sizes at maturity for plants both within and surrounding the car parking area which serves to soften the impact of the car parking area as seen from Gilruth Avenue and surrounds is to be provided to the satisfaction of the consent authority, to be endorsed as forming part of the permit.
4. Any development 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.
5. The permit holder must enter into agreements with the relevant authorities for the provision

telecommunications services in accordance with the authorities' requirements and relevant legislation at the time.

6. Engineering design and specifications for stormwater drainage is to be to the technical requirements of the Darwin City Council or the Department of Planning and Infrastructure, as the case may be, to the satisfaction of the consent authority and all approved works constructed at the permit holder's expense.
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. Storage for waste disposal bins is to be provided to the requirements of Darwin City Council or the Department of Planning and Infrastructure as the case may be, to the satisfaction of the consent authority.
9. Written confirmation of an agreement between the developer and Darwin City Council, for vehicle access across adjacent Lot 5772, is required to be provided, to the satisfaction of the consent authority.
10. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land.
11. 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.
12. 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.
13. Soil erosion and sediment control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
14. During a function on the site, any performance stage and/or speakers used must be arranged so noise propagation will project away from residential development on the escarpment.
15. 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;to the satisfaction of the consent authority.

Notes:

1. A Sacred Site exists within Lot 7651. The Aboriginal Areas Protection Authority (AAPA) has issued an Authority Certificate over Lot 7651. As a consequence of this, under Sections 19A-22 of the *Aboriginal Sacred Sites Act 1989*, the Authority has placed a Restricted Works Area and has applied conditions in the Certificate to protect this sacred site from particular works on Lot 7651
2. NRETAS advise that there are statutory obligations under the *Weeds Management Act* that land owners take all practical measures to manage weeds on their property.

4. Professional advice regarding implementation of erosion and sediment control measures to be employed throughout the construction phase of the development is available from Natural Resource Management Division, Department of Natural Resources, Environment, the Arts and Sport.
5. Notwithstanding the approved plans, all signage is subject to separate Darwin City Council approval.
6. Power and Water Corporation advise that if Lot 7651 is not consolidated with Lot 5244, SkyCity will be responsible for the cost of design and establish a separate and adequate power supply from Gilruth Avenue for any future development.
7. Any use of fireworks on the site is subject to all relevant applicable legislation/ regulations.

Reasons for the Determination

1. The proposed development is consistent with the relevant clauses of the Northern Territory Planning Scheme, and the purposes of Zone TC and PS, which are to provide areas for development servicing tourism, and for development to be limited to that which is consistent with the recreational opportunities of the land.
2. The provision of 230 bay carparking spaces within Lot 7651 will formalise an existing unsealed 'overflow' carparking area. The carpark will be accessible for public use, and will assist in reducing current parking and traffic problems experienced on and around the site, in regards to irregular major events held by SkyCity and more regular events such as the Mindil Beach Markets.
3. The proposal will retain the open character of the site, and create an open space of high quality. The proposal includes continued public access to the foreshore and throughout the site, and rehabilitation of the site, creek and the escarpment.
4. The provision of lighting within the carparking area and pedestrian walkways will serve to increase community safety within the area.
5. In response to submitter concerns and in order to ensure that there is no adverse visual impact as the result of the proposed car parking area a landscape plan showing species, quantities and size at maturity for plants both within and surrounding the car parking area is required to be provided which serves to soften the impact of the car parking area as seen from Gilruth Avenue and surrounds.

Rights of Appeal

Applicants are advised that a right of appeal to the Appeals Tribunal exists under Part 9 of the *Planning Act*. An appeal under section 114 against a determination of development application must be made within 28 days of the service of this notice.

Persons who made submissions in accordance with section 49 of the Act, in relation to the development application are advised that a right of appeal to the Appeals Tribunal exists under Part 9 of the Act. An appeal under section 117 by a third party in respect of a development application must be made within 14 days of the service of this notice.

The Registrar of the Appeals Tribunal can provide information regarding the Notice of Appeal form and fees payable. The address for lodgement of a Notice of Appeal is: The Registrar, Appeals Tribunal, GPO Box 2014, DARWIN NT 0801 or Level 1, Nicholas Place Cnr Cavenagh Street & Bennett Street,

If within fourteen (14) days of this notice, no appeal is lodged with the Registrar, Appeals Tribunal, a Development Permit will be issued in accordance with the conditions shown on the attached schedule.

If you have any queries in relation to this Notice of Determination, please contact Development Assessment Services on telephone (08) 8999 6046.

Yours faithfully



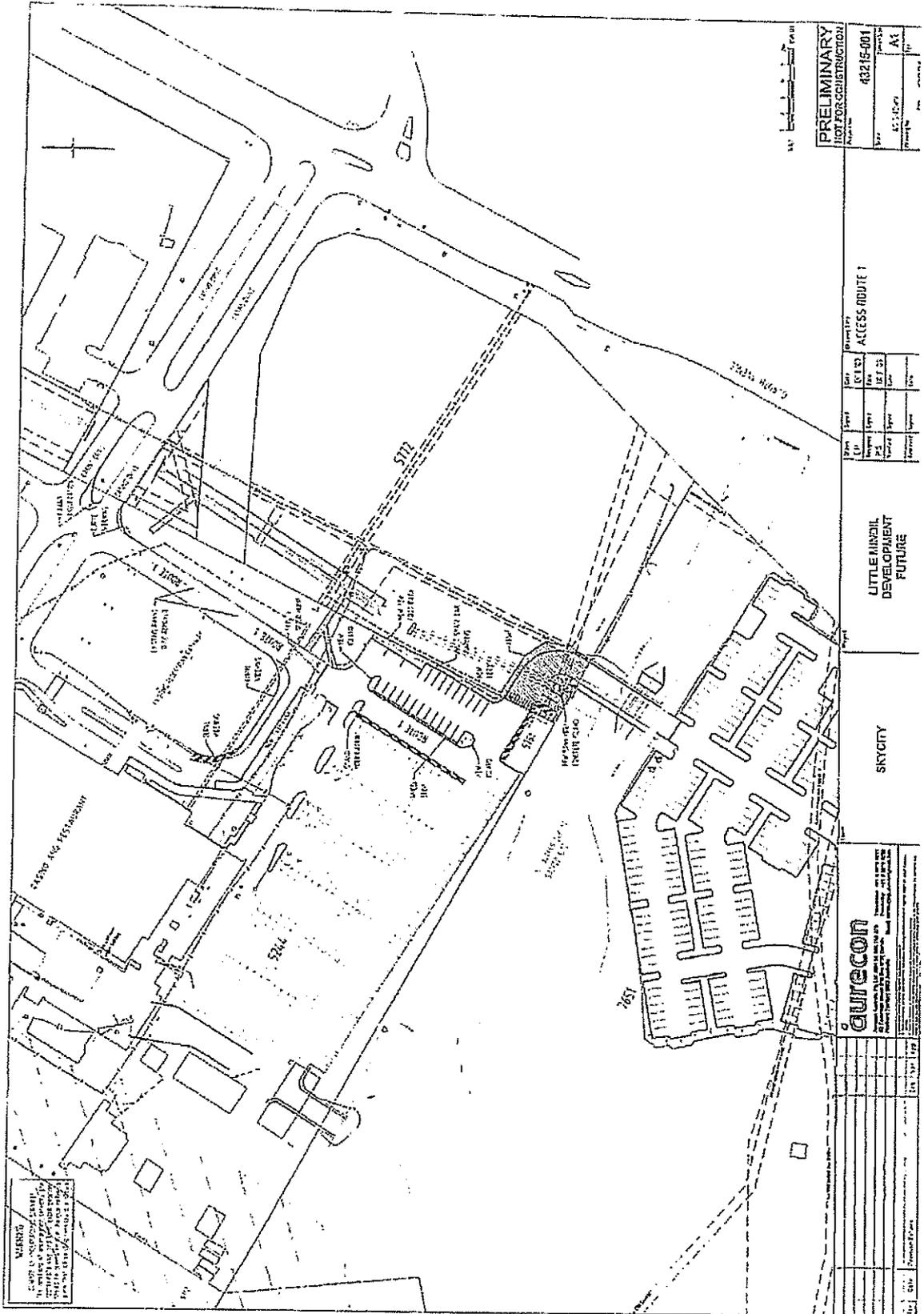
Peter McQueen
Delegate
Development Consent Authority

12/11/2009

Attachment

Cc Darwin City Council
Lands Planning & Mining Tribunal
Patsy Hickey

ATTACHMENT 3



PRELIMINARY
 NOT FOR CONSTRUCTION

Project No.	43215-001
Date	12/15/09
Scale	A1

Item	Level	Code	Area	Volume	Notes
1	1.00	CE 1.02	ACCESS ROUTE 1		
2	1.00	CE 1.03	ACCESS ROUTE 1		

LITTLE MINION DEVELOPMENT FUTURE

SKY CITY

durecon	
Engineering & Construction Services	
10000 10th Street, Suite 1000, Denver, CO 80202	
Tel: 303.733.1000 Fax: 303.733.1001	
www.durecon.com	

MOONEY PEPPER P... LICENSED REAL ESTATE AGENTS

GPO Box 4402,
DARWIN NT 0801

Tel: (08) 8942 1056
Fax: (08) 8941 2049
Email: mikemoon@bigpond.net.au

10th November 2009

Mr Richard Angove
Manager Capital Projects
Sky City Pty Ltd
GPO Box 1918
Adelaide SA 5001

Dear Sir

Re: Access Little Mindil

We refer to your instructions of 6th November 2009 re the above and, in particular, to the value of the 410 square metres required to be excised from Lot 5772 to provide access to Little Mindil. It is not clearly set out but it is noted in the letter from Darwin City Council that what is being envisaged is permanent access over part Lot 5772 which we assume would be protected by the required notations on the title of Lot 5772 and on the title to Little Mindil.

Lot 5772 is a large parcel of land containing 11 hectares 500 square metres owned by the Darwin City Council and being all the land contained in Certificate of Title, Volume 237, Folio 77. A copy of the title is attached. It is noted that the Valuer-General assessed the Unimproved Capital Value of this land as at 1st July 2008 at \$990,000 following an earlier assessment as at 1st July 2005 at \$900,000. It is further noted that the Valuer-General also valued the subject land as at 30th June 2009 at \$990,000 – see page 84 headed Darwin City Council Non Current Asset Valuation as at 30th June 2009 a copy of which is attached along with a letter from the Valuer-General noting very limited variation in values between 1st July 2008 and 1st July 2009.

With a market value of \$990,000 and an area of 11 hectares 500 square metres this shows a land value per square metre of around \$9 per square metre. In straight line terms if this rate is applied to the 410 square metres in question it shows a value of some \$3,690.

If this land was to be acquired either in full or by the granting of a permanent easement the traditional and accepted method of valuation would be by the before and after method which is simply a method to demonstrate the effect on the holding of the proposal. In this case the granting of rights of permanent access over the 410 square metres from a total area of 11 hectares 500 square metres or some 0.37% of the holding. Using the Valuer-General's assessment of \$990,000 as the before value the question is what would the after value be once the rights over the 410 square metres are granted. The variation in value would be very limited in this case and a nominal figure would be assessed, say \$5,000.

There is further complication in this case with the subject 410 square metres being subject to a number of service corridors as shown on the plan provided by Clouston Associates which further reduces the value of the 410 square metres. A copy of the plan is attached.

The 410 square metres would not, of course, have its own title and its use would simply be to provide access to Little Mindil. The effect on the easements would indicate the value say reducing the before and after method from \$5,000 to say \$3,000.

The licence that exists over part of this land including the 410 square metres is a further factor that has not been included in the above assessments. As is well known to all parties a licence agreement is in force over an area of some 13,700 square metres being the 'car park' area. The lease agreement commenced on 1st July 2004 and runs until 30th June 2015 with an option of 15 years. There was

some question re the rentals that should apply when the option was taken up but this was clarified by Ward Keller Solicitors in a written legal advice of 19th November 2008, a copy of this advice is attached.

We are of the opinion that the value of Lot 5772 is far in excess of that assessed by the Valuer-General of \$990,000 on the basis of freehold as unencumbered by the licence of the car park.

The licence currently has some 21 years to run and the rental is \$10,000 per annum which obviously restricts the market value of the 13,700 square metres of car park. The only income that the owner can obtain from the site for the coming 21 years is the licence fee with a possible review in 2015. If a return of 8% is required the value of the income stream in present day values is \$100,000. It is not considered that a possible purchaser would allow or pay for an increase in licence fee on take up of the option when all factors are studied.

The 13,700m² covered by the licence does not have a separate title and to obtain same a subdivision would need to be approved. This would not be a simple matter if the land was to be then put on the public market as it is a public car park. If a title was created it would be cut by a number of easements and there are questions of access and use with the Casino created on the assumption of the existence of car parking for their and general public use. There was also mention of native title in the licence documents. It is assumed that a title could be created for the purposes of this exercise but it would be cut by easements, would allow for access and could well have a restricted use.

The most relevant sale is considered to be the sale of "Little Mindil" being under contract for \$6.6 million for 5.5 hectares showing \$120/m². A commercial parcel of land at 61 Progress Drive Nightcliff containing 1.05 hectares sold 29-10-2008 for \$2,600,000 showing \$247/m². A residential development site to be used partly for tourism sold with approved use at 49 Parap Road Parap for \$9,800,000 on 2-7-2008 showing \$492/m².

It is considered that subject to title as described above that the value of the 13,700m² is in the order of \$175/m² or say \$2,500,000. Even if title is obtained the title will be encumbered by the licence for the next 21 years. What the owner holds is the right to the income stream as described above along with the ownership of the land encumbered for 21 years so an owner could not expect a purchaser to pay anything like the \$2,500,000 as the purchaser cannot take possession of the land for 21 years. The purchaser right to use the land is deferred 21 years. Again if a return of 8% is required the price the purchaser would pay for the land would be the value of \$2.5million in 21 years at 8%, namely \$500,000.

The 410m² represents say 3% of the car park. This represents say \$15,000. The AVO did suggest a land value of \$3,400,000 at one stage and if this figure is used it shows say \$20,000-----we note this to demonstrate that a significant change in land values becomes far less significant once the figure is deferred 21 years.

In summary the above calculations produce the following results:

A)	Straight line basis using the Valuer-General's assessment of \$990,000	\$3,690
B)	Before and after method	\$5,000
C)	Before and after method allowing for easement	\$3,000
D)	Using our values re car park but allowing for the effect of the car park licence	\$15,000

In conclusion the market value of the 410 square metres to provide permanent access to the area known as "Little Mindil" is in our opinion the assessment summarized in "D" above using our valuation figure on the car park area and allowing for the effect of the car park licence including the take-up of the option. The market value of the 410 square metres is assessed currently at \$15,000 on the basis of permanent access being provided to your company over this area.

"This valuation is for the use only by the party to whom it is addressed and for no other purpose. No responsibility is accepted to any third party who may use or rely on the whole or any part of the content of this valuation.

This valuation is current as at the date of valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to particular property). We do not accept liability for losses arising from such subsequent changes in value. Without limiting the generality of the above, we do not assume any responsibility or accept any liability in circumstances where this valuation is relied upon after the expiration of three months from the date of valuation."

We thank you for your instructions.

Yours faithfully

MJ MOONEY, F.A.P.I., W.D.A.
Registered Valuer (Qld)
Certified Practising Valuer

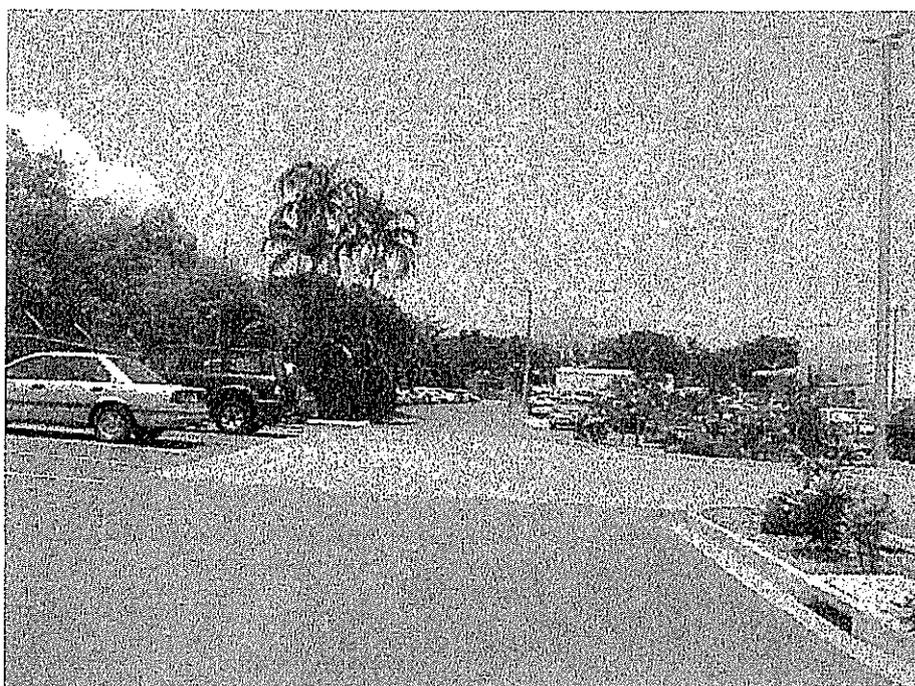


Australian Government

Australian Taxation Office

Australian Valuation Office

Valuation Report



PROPOSED ACCESS EASEMENT PART LOT 5772 (73) GILRUTH AVENUE THE GARDENS

as at 25 November 2009

Prepared by:

Emma Jackson AAPI
Certified Practising Valuer
Australian Valuation Office - Darwin

AVO Ref: 1345819

Your Ref: Email request dated 16/11/09

EXECUTIVE SUMMARY

Property: Part Lot 5772 (73) Gilruth Avenue, The Gardens

Brief Description: The proposed easement comprises a 410m² portion of land on the southwest corner of Whole Lot 5772 (73) Gilruth Avenue, The Gardens.

Instructing Party: Liam Carroll

Basis of Report: Acting on written instructions from Liam Carroll dated 16 November 2009 on behalf of Darwin City Council, we have inspected the property situated at Lot 5772 (73) Gilruth Avenue, The Gardens for the purpose of assessing the Market Value for compensation purposes for the granting of an easement over a portion of the property.

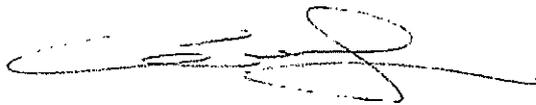
Date of Inspection: 17 November 2009

Date of Valuation: 25 November 2009

Interest Valued: Proposed access easement.

Assessment of Compensation: \$40,000

FORTY THOUSAND DOLLARS



Emma Jackson AAPI
Certified Practising Valuer
Australian Valuation Office
Darwin

TABLE OF CONTENTS

1	INTRODUCTION	1
	1.1 Instructions.....	1
	1.2 Definition of Market Value.....	1
	1.3 Date of Valuation	1
	1.4 Date of Inspection.....	1
	1.5 General Proviso	1
2	LAND AND LOCALITY	2
	2.1 Brief Description.....	2
	2.2 Location and Surrounding Development.....	2
	2.3 Roads and Access	2
	2.4 Services and Amenities	2
	2.5 Land Area	2
	2.6 Site Contamination.....	2
3	LEGAL DETAILS	3
	3.1 Title Details	3
	3.2 Registered Owner	3
	3.3 Site Identification.....	3
	3.4 Easements/Encumbrances	3
	3.5 Local Government Authority	3
4	TOWN PLANNING	3
	4.1 Designation.....	3
	4.2 Highest and Best Use	4
5	GENERAL COMMENT	4
6	VALUATION METHODOLOGY	4
	6.1 Valuation Approach.....	4
	6.2 Reconciliation of Evidence.....	5
	6.3 Valuation Calculations	5
7	VALUATION	6
8	GST	6
9	PROVISO	6
10	CONFLICT OF INTEREST	7
11	DISCLAIMER	7

LIST OF APPENDICES

Appendix A	Location Map
Appendix B	Sales Evidence
Appendix C	Current Title Search

VALUATION REPORT

1 INTRODUCTION

1.1 Instructions

Acting on written instructions from Liam Carroll dated 16 November 2009 on behalf of the Darwin City Council, we have inspected the property situated at Lot 5772 (73) Gilruth Avenue, The Gardens for the purpose of ascertaining the consideration payable for the granting of an access easement to SKYCITY over a proposed 410m² portion of the subject.

This valuation may only be relied upon by the Darwin City Council.

The report has been prepared for the private and confidential use of the above parties and it should not be reproduced in whole or in part or relied upon for any other purpose or by any party other than the Darwin City Council without express written authority.

1.2 Definition of Market Value

The International Valuation Standards 2007 defines "Market Value" as:
"The estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion."

1.3 Date of Valuation

25 November 2009

1.4 Date of Inspection

17 November 2009

1.5 General Proviso

This valuation is current as at the date of valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular

property). We do not accept liability to losses arising from such subsequent changes in value. Without limiting the generality of the above, we do not assume any responsibility or accept any liability in circumstances where this valuation is relied upon after the expiration of three months from the date of valuation.

2 LAND AND LOCALITY

2.1 Brief Description

The subject property comprises a large 11.5ha (115,000m²) parcel of level, prime located land in the suburb of The Gardens, approximately 2km northwest of the Darwin CBD. 13,700m² of this allotment is subject to a licence to operate as a car park. This licence includes the area that is to form part of the proposed easement.

2.2 Location and Surrounding Development

The land adjacent to the subject is owned by SKYCITY and is operated as a Casino under Tourist Commercial zoning. Other development in the locality is currently zoned Public Open Space and Organised Recreation.

2.3 Roads and Access

Access to the subject property is directly off Gilruth Avenue which is bitumen sealed and concrete kerbed.

2.4 Services and Amenities

All normal services are available to the site including mains water, power, telephone, sewerage and garbage collection services.

2.5 Land Area

The whole of Lot 5772 comprises 11.5ha (115,000m²). The proposed easement comprises a 410m² portion in the southwest corner of Lot 5772.

2.6 Site Contamination

From our inspection of the property we consider that there may be potential for contamination to exist (potentially in the form of asbestos sheeting) and would recommend that advice should be obtained from a suitably qualified environmental expert. Please note that our valuation has been assessed on the basis of no on-site contamination. Should the above mentioned environmental advice reveal any contamination our valuation may require revision.'

3 LEGAL DETAILS

3.1 Title Details

Lot 5772 Town of Darwin from plan S 90/247B, Volume 237, Folio 077.

3.2 Registered Owner

Darwin City Council.

3.3 Site Identification

From a physical inspection of the property, we are satisfied that there are no obvious encroachments.

A current survey, however, has been sighted. The valuation is made on the basis that there are no encroachments by or upon the property and this should be confirmed by a current survey report and/or advice from a Registered Surveyor. If any encroachments are noted by the survey report, the Australian Valuation Office should be consulted to reassess any effect on the value stated in this report.

3.4 Easements/Encumbrances

The following easements and encumbrances were noted on the Current Title Search dated 25 November 2009:

1. Sewerage Easement to Power and Water Authority;
2. Water supply Easement to Power and Water Authority;
3. Electricity supply Easement to Power and Water Authority;
4. Access Easement to Power and Water Authority;
5. Electronic communications Easement to Northern Territory of Australia.

3.5 Local Government Authority

Darwin City Council.

4 TOWN PLANNING

4.1 Designation

The subject property is located within the Town of Darwin.

The subject property is currently designated MZ (Multi Zone).

This surrounding allotments are zoned TC (Tourist Commercial).

1. The primary purpose of Zone TC is to provide for uses or development servicing tourism, including commercial and residential activities;
2. Development should be of a scale and character compatible with uses or development nearby.

4.2 Highest and Best Use

'The use from among reasonably probable and legal alternative uses, found to be physically possible, appropriately justified and financially feasible which results in an optimum value for the asset valued.'

Given that the proposed easement will be to the adjoining Lot 5244 which is zoned Tourist Commercial, we consider this zoning to be the highest and best use for the property.

5 GENERAL COMMENT

We understand that SKYCITY has proposed that the compensation to be provided to Council for granting of the requested easement is to be the landscaping of the Council road reserve between Gilruth Avenue and Little Mindil. It has been suggested that this will further enhance the amenity of the area for the general public. In accordance with the Quantity Surveyor's estimated provided, the value of such landscaping works is in the order of \$45,770.

Given the constraints put on future development of the subject due to existing electricity, sewerage easements and stormwater infrastructure, in conjunction with the valuation approach adopted in this report, this is considered to be a reasonable value and means of compensation, acknowledging the additional amenity provided as an outcome for both SKYCITY and the general public.

6 VALUATION METHODOLOGY

6.1 Valuation Approach

By way of definition, an easement is a right acquired over the land of another; that is, a right to use land in different ownership in a particular way or to prevent and owner from using his land in a particular way.

The assessment of Market Value of the amount payable to Darwin City Council for the loss of rights in granting the proposed easement has been considered in taking into account site characteristics such as the highest and best use, zoning,

configuration, access and the impact on the utility of the land as a result of the proposed easement.

Market value has been determined by direct comparison whereby the subject property is compared to recent sales of properties that are considered to offer somewhat similar property attributes to the subject property such as size, location, zoning and use in the case of vacant land. There is a paucity of directly comparable sales evidence, so by necessity we have had to consider land sales with different attributes in inferior locations and make adjustments accordingly.

6.2 Reconciliation of Evidence

Summary of Sales Evidence

Sale	Address	Land Area (sqm)	Sale Price	Sale Date	Sale Rate (per sqm)	Zoning	Comparison
1	49 Parap Rd, Parap	19,900	\$9,800,000	8/08	\$492	MR	Comparable
2	110 Old McMillans Rd, Coconut Grove	9,965	\$2,042,000	02/08	\$205	OR	Inferior
3	33 Progress Dr, Coconut Grove	3,260	\$2,500,000	10/09	\$767	C	Superior

6.3 Valuation Calculations

1. Market Value:

Market Value is considered to be in the order of \$500 per square metre.

$$\begin{array}{rcl} \text{Market Value: } 410\text{m}^2 \times \$500/\text{m}^2 & = & \$205,000 \\ \text{SAY} & & \$200,000 \\ & & \text{(rounded)} \end{array}$$

2. Assessment of Compensation:

General practise and appropriate consideration is determined to be an adoption of 20% of the current Market Value of the land for grant of the proposed easement. The loss of utility is considered to be minimal and the prescribed works undertaken will provide some enhancement.

$$\begin{array}{rcl} \text{Market Value: } 410\text{m}^2 \times \$500/\text{m}^2 & = & \$200,000 \\ & & \text{(rounded)} \\ \\ \text{Consideration of Easement as adopted} & = & \$40,000 \\ \text{20\% of Market Value} & & \end{array}$$

We consider an appropriate rate of compensation to be in the order of \$40,000 subject to negotiation.

Betterment/Enhancement:

We have been advised that SKYCITY has proposed that by way of compensation for being granted the proposed easement, they undertake responsibility and cost for the landscaping of the Council road reserve between Gilruth Avenue and Little Mindil, further enhancing the amenity of the area for the general public.

7 VALUATION

1. Market Value

As at 25 November 2009, the market value of the subject property known as Part Lot 5772 (73) Gilruth Avenue, The Gardens, is considered to be:

\$200,000

TWO HUNDRED THOUSAND DOLLARS

2. Assessment of Compensation

As at 25 November 2009, the assessment of compensation payable for granting the prescribed easement over the subject property known as Part Lot 5772 (73) Gilruth Avenue, The Gardens, is considered to be:

\$40,000

FORTY THOUSAND DOLLARS

The above value is subject to the specific instructions and assumptions detailed in this report, in on the basis of highest and best use in accordance with the current zoning, and takes no account of any higher price that may be paid by a prospective purchaser with a special interest.

8 GST

The above valuation is exclusive of the Goods and Services Tax (G.S.T.).

9 PROVISIO

This valuation is made as at the date of valuation and is not to be used after 6 months and not if there are any material or economic changes meanwhile. In either event, it should be referred back to the Australian Valuation Office for review.

10 CONFLICT OF INTEREST

We confirm that we do not have any conflict of interest with the parties involved, or any other matter in relation to this valuation instruction at the date requested.

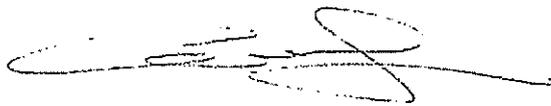
11 DISCLAIMER

This valuation is for the exclusive use of the client to whom it is addressed and is not to be used by any other party for any purpose.

Neither the whole nor any part of this valuation report or any reference thereto may be included in any published document, circular or statement, nor published in part nor in full in any way without written approval of the Australian Valuation Office of the form and context in which it will appear.

Notwithstanding the foregoing, the client agrees that in the event that it does communicate to a third party the whole or any part of this valuation, it shall also communicate to the third party the full terms as stated under this disclaimer and further agrees to indemnify the Australian Valuation Office in the event of any failure to do so.

All information relied on in this report which has been supplied by the Department of Northern Territory Treasury is considered to be factual and correct.



Emma Jackson AAPI
Certified Practising Valuer
Australian Valuation Office
Darwin

Appendix A Location Map



Appendix B Sales Evidence

In carrying out the valuation, regard was had to the sales evidence listed over the following 3 pages. In carrying out the valuation, regard was had to the following sales evidence attached.

Sale 1.

ADDRESS: 49 Parap Rd, Parap
DESCRIPTION: 190 unit development site
LEGAL DESCRIPTION: Lot 5602 Vol 726 Fol 808
SITE AREA: 19,900m²
SALE PRICE: \$9,800,000
DATE OF SALE: 07/08/08
ANALYSIS: \$492/m²
COMMENTS: Smaller allotment. Superior location. Dated sale. Overall comparable.

Sale 2.

ADDRESS: 33 Progress Dr, Coconut Grove
DESCRIPTION: 92 unit developments site with office, restaurant, shops and car parking
LEGAL DESCRIPTION: Lot 879 Vol 741 Fol 771
SITE AREA: 3,260m²
SALE PRICE: \$2,500,000
DATE OF SALE: 28/10/09
ANALYSIS: \$767/m²
COMMENTS: Smaller allotment. Superior location. Overall inferior.

Sale 3.

ADDRESS: 110 Old McMillans Rd, Coconut Grove
DESCRIPTION: Organised Recreation zoned land.
LEGAL DESCRIPTION: Lot 4561 Vol 722 Fol 070
SITE AREA: 9,965m²
SALE PRICE: \$2,042,000
DATE OF SALE: 7/02/08
ANALYSIS: \$205/m²
COMMENTS: Smaller allotment. Inferior location and zoning. Dated sale. Overall inferior.