



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 343 – FRIDAY 20 SEPTEMBER 2019

**BROLGAR ROOM
NOVOTEL DARWIN ATRIUM
100 THE ESPLANADE
DARWIN**

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

APOLOGIES: Nil

OFFICERS PRESENT: Breanna Lusty (A/Secretary), Dawn Parkes, Emmet Blackwell, Amit Magotra, Richard Lloyd and Stuart Harris (Development Assessment Services)

COUNCIL REPRESENTATIVE: James Whyte and Brian Sellers

Meeting opened at 10.30 am and closed at 11.15am

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

ITEM 1

**PA2019/0035 ALTERATIONS AND ADDITIONS TO AN EXISTING SHOP
LOT 2362 (44) CAVENAGH STREET, DARWIN CITY, TOWN OF DARWIN
APPLICANT/S MASTERPLAN NT**

Mrs Sue Burnett & Mr Kane Burnett (Landowners) attended.

Mr Joseph Sheridan (Masterplan NT), Mr Simon Keep & Mr David Fru (Coles) attended.

Mr Roger Hamill sent his apologies.

DAS tabled four photographs showing air conditioning units on the eastern side of the existing roof.

**RESOLVED
154/19**

That, the Development Consent Authority reduce the car parking requirements pursuant to Clause 6.5.2 (Reduction in Parking Requirements), and vary the requirements of Clause 6.6 (Loading Bays) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 2362, (44) Cavenagh Street, Town of Darwin, for the purpose of alterations and additions to an existing shop, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans reflecting any changes required (including reduction in the length of the masonry wall to be heightened and the location of columns at ground level) to accommodate option 3 in the applicant's response to the deferral letter of 1 April 2019, to the satisfaction of the consent authority, must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit.
2. Prior to the commencement of works (including site preparation), a waste management plan addressing the City of Darwin's Waste Management Policy 054 must be prepared, to the requirements of the City of Darwin, to the satisfaction of the consent authority.
3. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (ECMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage, and the use of City of Darwin land during construction. The ECMP is also to address the protection of existing assets, the protection of public access, and include a risk assessment.

GENERAL CONDITIONS

4. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
6. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
7. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
8. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
9. Prior to occupation of the shop, the loading / parking bay configurations must be in place on Edmunds Street as shown on the endorsed plans to the requirements of the City of Darwin, to the satisfaction of the consent authority.
10. Deliveries to and from the site (including waste collection) must only take place between 8 a.m. and 12 p.m. Monday to Friday, to the satisfaction of the consent authority.
11. No goods are to be stored or left exposed outside the building so as to be visible from any public street, to the satisfaction of the consent authority.
12. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
13. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.

NOTES

1. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works

commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

3. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>. The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be noncompliance with the Act.
4. The applicant must ensure that the 'Specific Loading Management Requirements' of the Loading Management Plan dated 9 August 2019, are adhered to at all times.
5. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to City of Darwin.
6. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the satisfaction and at no cost to City of Darwin.
7. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The development proposes alterations and additions to an existing shop. The proposal is consistent with development anticipated in Zone CB (Central Business) of which the purpose is to provide for a diversity of activities including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities with a commitment to the separation of incompatible activities.

The proposal has been assessed against the relevant clauses of the NT Planning Scheme that apply to Zone CB, and a non-compliance was identified against Clause 6.5.1 (Parking Requirements), and Clause 6.6 (Loading Bays).

The assessment identifies that the proposal generates a technical shortfall of 2 parking spaces and no new parking spaces are proposed on the site.

A reduction to the parking required under Clause 6.5.1 (Parking Requirements), pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Scheme is supported based upon the following reasons:

- The site is zoned CB (Central Business) under the Planning Scheme and it is unlikely that this zoning will change in the future.
 - Two existing parking spaces on the site are to be removed which are tandem and not used by the public, the site is in close proximity to on-street and off-street parking and the proposed use will remain as a shop.
 - There are a number of bus routes operating in the vicinity of the shop.
2. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Northern Territory Planning Scheme, the Authority may consent to a development that does not meet the standards set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The assessment identifies that one loading bay is required for the proposal and no loading bay is provided on the site. Two newly created loading bays on Edmunds Street are proposed on the same side of the street as the proposed store, which is supported by City of Darwin. The bays will be used for loading between 8am and 12pm Monday to Friday and for car parking outside these times. Consent conditions ensure that the loading bays will be provided on Edmunds Street prior to occupation of the shop and the bays operate between 8am and 12pm Monday to Friday only.

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

Two submissions were made under section 49 in relation to the application during the exhibition period from the NT General Store which principally concern: availability of loading bays and car parking spaces, sale of alcohol and anti-social behaviour, and noise and heat generated by air-conditioners and condenser.

These concerns are addressed by:

- Two new loading bays in Edmunds Street, which are supported by City of Darwin.
- The existing use for a shop is not changing so parking demand is not expected to change significantly.
- Sale of liquor is approved by the NT Liquor Commission which is separate to the planning application process.

- Noise and heat generated by air-conditioners and condenser will be mitigated through the raising of the brick wall along the site's boundary with the NT General Store.
4. Pursuant to Section 51(m) of the *Planning Act 1999*, the consent authority must consider the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of conditions and/or notations on the development permit. It is noted that City of Darwin supports the two new loading bays on Edmunds Street.

5. Pursuant to section 51(n) of *the Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The condenser and air conditioning units will be placed on the other side of the building from Edmunds Street minimising their view from street level and preserving the visual amenity of the building. The Authority also considers that with the condenser and air conditioning units being placed on this side of the building, visual amenity will not be diminished if the proposed screening for the units is not included on the revised plans required by condition 1.

The concerns of the NT General Store from having the condenser and air conditioning units placed on its side of the site, particularly regarding the potential noise and heat generated by the equipment, have been noted. It is considered likely however that these potential impacts will be significantly reduced with the double brick wall against the Store's boundary being raised as reflected in option 3 of the applicant's response to the deferral letter of 1 April 2019. The applicant will also have to comply with the NT EPA's Noise Management Framework Guideline September 2018, ensuring the amenity of the Store is not significantly impacted by noise from the proposal.

All other aspects of the development are consistent with the continuing operation of an ordinary shop along the Cavanagh and Edmunds Streets, which would not significantly impact the existing and future amenity of the area.

ACTION: Notice of Consent and Development Permit

ITEM 2

PA2019/0274 OFFICE, LIGHT INDUSTRY AND WAREHOUSE IN A 2 STOREY BUILDING EXCEEDING 8.5M IN HEIGHT

APPLICANT/S PORTION 1503 (490) STUART HIGHWAY, WINNELLIE, HUNDRED OF BAGOT NORTHERN PLANNING CONSULTANTS PTY LTD

That, pursuant to section 97 of the *Planning Act 1999*, Ms Suzanne Philip, Chair, of the Development Consent Authority declared an interest and was not present during and did not take part in any deliberation or decision of Item 2.

That, pursuant to section 100(3)(c) of the *Planning Act 1999*, the members of the Darwin Division of the Development Consent Authority elect Alderman Mick Palmer as the presiding member for the hearing of Item 2.

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd) attended.

**RESOLVED
155/19**

That, the Development Consent Authority vary the requirements of Clause 6.1 (General Height Control) and Clause 6.5.3 (Parking Layout) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Portion 1503 (490) Stuart Highway, Hundred of Bagot for the purpose of office, light industry and warehouse in a 2 storey building exceeding 8.5m in height, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin and the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The plan shall include details of site levels, and Council's stormwater drain connection point/s and connection details.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the proposed accesses to the site from the City of Darwin and Northern Territory Government road reserves, to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact statement in accordance with the *Austrroads Guide to Traffic Management Part 12: Traffic Impacts of Development* is to be prepared by a suitably qualified traffic engineer with particular attention to: the development's traffic generation, trip distribution, traffic operation impact, the nature and timing of impacts, and recommended measures required to accommodate and/or mitigate the traffic impacts of the development, including construction traffic, to the requirements of DIPL – Transport and Civil Services Division, to the satisfaction of the consent authority.
4. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (ECMP) to the requirements of the City of Darwin. The ECMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control and haulage routes, stormwater drainage and the use of City of Darwin land during construction.
5. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the

road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

6. Prior to the commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's Waste Management Policy 054, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

7. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity, and telecommunication network services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
9. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
10. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
11. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin and the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
12. The owner shall:
 - (a) remove disused vehicle and/ or pedestrian crossovers;
 - (b) provide footpaths/cycleways;
 - (c) collect stormwater and discharge it to the drainage network; and
 - (d) undertake reinstatement works; all to the technical requirements of and at no cost to the City of Darwin and/or the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
13. All proposed work (including the provision or connection of services) within, or impacting upon the Stuart Highway road reserve shall be in accordance with the standards and specifications of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics. Design documents must be submitted to the Director Corridor Management, Transport and Civil Services Division for Road Agency Approval and no works are to commence prior to approval.
14. No temporary access for construction purposes shall be permitted from the Stuart Highway road reserve and construction and delivery vehicles shall not be parked on the Stuart Highway road reserve, to the requirements of the

Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.

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;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and driveways,to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.
16. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
17. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
18. Before the 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.
19. 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.
20. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street to the requirements of the City of Darwin, to the satisfaction of the consent authority.
21. The designs and specifications for landscaping of the Winnellie Road road verge adjacent to the property shall be submitted for approval by the City of Darwin and all approved works shall be constructed at the applicant's expense to the requirements of City of Darwin, to the satisfaction of the consent authority.
22. Where unfenced, the Stuart Highway frontage is to be appropriately fenced in accordance with the requirements of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction to the consent authority.
23. Upon completion of any works within or impacting upon the Stuart Highway road reserve, the road reserve shall be rehabilitated to the standards and requirements of the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
24. The development must be designed and constructed to comply with AS2021-2015 'Acoustics – Aircraft noise intrusion – Building siting and construction'

(AS2021), and a statement from a suitably qualified acoustic engineer confirming compliance with AS2021- 2015 must be submitted prior to occupation of the development, to the satisfaction of the consent authority.

25. External lights must be designed, baffled and located to the satisfaction of the consent authority to prevent any adverse effect on adjoining land, roads, and on the operation of the RAAF Base Darwin and Darwin International Airport.
26. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
27. All roof top plant equipment (such as vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated), to the satisfaction of the consent authority.
28. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.

Notes

1. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
2. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to Council.
3. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the satisfaction and at no cost to City of Darwin.
4. Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and the Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of one month prior to construction works commencing to determine servicing requirements and the need for upgrading of infrastructure.
5. Darwin International Airport advises that separate requests for assessment and approval must be submitted to Darwin International Airport and the Department of Defence for any cranes used during construction that will infringe on either the Obstacle Limitation Surfaces (OLS) or Procedures for

Air Navigation Services – Operations (PANS-OPS) surfaces for Darwin Airport.

6. The site is subject to the 'Defence Areas Control Regulations (DACR)'. All structures, including temporary structures, higher than 15m above ground level, including, but not limited to, additional buildings, light poles, cranes used during construction, vegetation etc., require approval from the Department of Defence.
7. The applicant is advised that the provision of lighting at the site is required to be consistent with the CASA Manual of Standards (MOS-139) Aerodromes to minimise the potential for conflict with aircraft operations. The design of lighting is a developer responsibility and if it is later found that lights or glare endangers the safety of aircraft operations, the Department of Defence or the Civil Aviation Safety Authority may require the lighting to be extinguished or suitably modified.
8. The Department of Defence has advised that organic waste and/ or storage of commercial waste bins associated with the proposed development might be attractive to vermin and/or birds and will potentially increase the risk of bird strike for aircraft, therefore organic waste should be managed appropriately.
9. Dryland grassing shall be established on the Stuart Highway verge fronting the development and shall be undertaken to the requirements of Transport and Civil Services Division, DIPL.
10. The loads of all trucks entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets. This includes ensuring that all wheels, tracks and body surfaces are free of mud and other contaminants before entering onto the sealed road network. Where tracked material on the road pavement becomes a potential safety issue, the Developer will be obliged to sweep and clean material off the road.
11. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.
12. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/buildersdesigners.html>
13. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT

Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The proposal is for office, light industry and warehouse in a 2 storey building exceeding 8.5m in height. The proposal is a form of development generally anticipated in Zone SC (Service Commercial).

2. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Northern Territory Planning Scheme, the Authority may consent to a development that does not meet the standards set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

A variation to Clause 6.1 (General Height Control) is supported in that the site is sloped causing the height of the building to be exceeded, particularly in the central part of the building, and it is unlikely to make the proposed building stand out significantly.

A variation to Clause 6.5.3 (Parking Layout) is supported in that a landscaped area of greater than 3m width exists between the car parking area and the road on the other side of the site's rear boundary which is expected to remain for the foreseeable future. A consent condition also ensures that the designs and specifications for landscaping of the Winnellie Road road verge adjacent to the property shall be submitted for approval by the City of Darwin, to the satisfaction of the consent authority.

3. Pursuant to Section 51(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development. Also, pursuant to section 51(m) of the *Planning Act 1999*, the consent authority must take into account the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

No land capability concerns were identified as part of the assessment. The requirements of the service authorities are addressed through the conditions of consent.

4. Pursuant to section 51(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

It is considered that the impact of the proposal on the amenity of the area will be low, particularly given the nature of the locality and the

proposed development relative to other forms of development in Zone SC and the adjacent general industry zone across Winnellie Road.

ACTION: Notice of Consent and Development Permit

ITEM 3

PA2019/0293

ALTERATIONS AND ADDITIONS TO AN EXISTING TWO STOREY SINGLE DWELLING WITH A REDUCED FRONT SETBACK

LOT 1029 (11) NORCOCK PLACE, RAPID CREEK, TOWN OF NIGHTCLIFF

APPLICANT/S

ONE PLANNING CONSULT

Mr Israel Kgosiemang (One Planning Consult) attended.

Israel tabled a document outlining special circumstances for consideration by the DCA and showing a number of photographs of existing development within Oliver Street with a reduced front setback.

**RESOLVED
156/19**

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 1029 (11) Norcock Place, Town of Nightcliff, for the purpose of alterations and additions to an existing two storey single dwelling with a reduced front setback, to require the applicant to provide the following additional information that the authority considers necessary in order to enable the proper consideration of the application:

- Amended plans showing significantly increased compliance with the requirements of Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structure); and for any remaining non-compliance
- Clarification on the special circumstances for the reduced front setback, particularly how the proposal is set apart from developments on other similarly zoned land and how it may be unusual, exceptional, out of the ordinary and not to be expected.

REASONS FOR THE DECISION

1. Amended plans to show significantly increased compliance with the Oliver Street setback requirement of 6m and additional information to clearly demonstrate what special circumstances exist in support of any remaining non-compliance, is required for consideration of a variation to Clause 7.3 of the NT Planning Scheme to be granted.
2. The Authority does not consider that there are sufficient special circumstances to grant a variation to Clause 7.3 of the NT Planning Scheme with the development in its current form, notwithstanding the additional information tabled by the applicant at the Authority's meeting of 20 September 2019.
3. The circumstances of other developments within the locality having reduced setbacks due to the nomination of primary and secondary streets are not considered sufficient, particularly as it is unknown whether the examples shown necessarily have the appropriate planning approval. To have approval, a primary street is always defined as the street with the wider carriageway or that which carries the greater volume of traffic, as per the NT Planning Scheme definition. It is clear that Oliver Street is the primary street in this instance.

4. It is noted that the applicant also considers the proposal is consistent with other developments in Oliver Street. The Authority does not agree. The significant reduced front setback of the proposal along with its additional height will give an appearance of bulk and scale which is not consistent with the existing streetscape.
5. The Authority determined to defer the application to give the applicant an opportunity to review the proposed setback and height of the building so its bulk and scale is reduced when viewed from the street and to submit a revised proposal for consideration.

ACTION: Notice of Deferral

ITEM 4

**PA2019/0297 CHANGE OF USE FROM OFFICE TO LEISURE AND RECREATION (MARTIAL ARTS STUDIO)
LOT 1727 (47) STUART HIGHWAY, STUART PARK, TOWN OF DARWIN
APPLICANT/S DARREN KING**

Mr Darren King sent his apologies.

**RESOLVED
157/19**

That the Development Consent Authority reduce the car parking requirements pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 1727 (47) Stuart Highway, Town of Darwin for the purpose of a change of use from office to leisure and recreation (martial arts studio), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
3. The use and development as shown on the endorsed plan must not be altered without the further consent of the consent authority.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. There are statutory obligations under the Waste Management and Pollution Control Act 1998 (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or

environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <https://ntepa.nt.gov.au/waste-pollution/guidelines/guidelines>.

The proponent is advised to take notice of the *SCHEDULE OF ENVIRONMENTAL CONSIDERATIONS* provided by DENR.

The Act which is administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way, by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be noncompliance with the Act.

3. The Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics advises that: Access to the subject Lot from the Stuart Highway Road reserve shall be via the public walkway (pedestrian / cyclist only. NO vehicular access will be permitted) and internal local road network to the standards and approval of the City of Darwin; and On-street parking and allocated centre median parking within Stuart Highway road reserve as per the displayed parking regulation only. Additional parking within Ramirez Road road reserve to the standards and approval of City of Darwin.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The development comprises the change of use of an existing tenancy from office to leisure and recreation (Martial Arts Studio). The site is zoned SC (Service Commercial) and the proposed use is discretionary under the planning scheme. The use is considered likely to service the surrounding population catchments and is conveniently located close to central Darwin on a major public transport route, making it easily accessible by a variety of transport methods. While the proposed use is not for general commercial activities, it does offer the potential to generate activity within the area outside of normal business hours.

2. A reduction in car parking pursuant to Clause 6.5.2 (Reduction in Parking Requirements) is considered appropriate for the use in consideration of the following matters:
 - The regular usage times of the martial arts studio are outside regular operating hours of the surrounding commercial premises, meaning that there should be minimal conflict with the other uses in the locality that currently take advantage of the availability of the commonly accessible parking spaces in the central portion of the Stuart Highway and on street parking surrounding the site;

- Using the rate given for gymnasiums in the RTA 'Guide to traffic generating developments' the site would see a lesser shortfall of only 5.5 car parking spaces.
 - The gym has low staff numbers.
 - The location of the proposed gymnasium is within walking distance of a variety of dwellings and businesses and is likely to attract a higher rate of pedestrian visitation.
 - Public car parking is available on the Stuart Highway, as well as on-street car parking on Stuart Highway and Ramirez Road.
 - Public transport is readily available in the area particularly with routes connecting the Darwin CBD, the Northern Suburbs, Casuarina and Palmerston.
3. Pursuant to section 51(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

No concerns have been identified in relation to the capability of the land in accommodating the development.

4. Pursuant to section 51(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The proposed use is considered appropriate for the site and unlikely to have an amenity impact on the surrounding area, the development is not considered to cause any additional impact upon the surrounding amenity than the previous office use.

ACTION: Notice of Consent and Development Permit

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



MICK PALMER
Delegate