



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 314 – FRIDAY 4 MAY 2018

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

MEMBERS PRESENT: Suzanne Philip (Chair), Doug Phillips, Sherry Cullen and Mick Palmer

APOLOGIES: John Gleeson

OFFICERS PRESENT: Margaret Macintyre (Secretary) and Dawn Parkes
Adelle Godfrey, Ben Wollinski, Stuart Harris (Items 1-3 only)
(Development Assessment Services)

COUNCIL REPRESENTATIVE: David Burrow, James Whyte and Tony Yiannakos

Meeting opened at 10.00 am and closed at 12.30 pm

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 INDEPENDENT UNIT WITH A FLOOR AREA IN EXCESS OF 50M²
PA2018/0098 LOT 5390 (27) LAMBELL TERRACE, TOWN OF DARWIN
APPLICANT MASTERPLAN NT**

Mr Jack Priestley (Masterplan NT), Mr David & Mrs Pamela Flint (landowners) and Mr Lutz Frankenfeld attended.

Submitters in attendance: Mr Craig & Mrs Kim Leslie, Mrs Jodie McLeod and Ms Patty Buntine.

Mrs Leslie tabled an amended submission and a further submission.

Mrs McLeod tabled:-

- eight photographs of the site of the proposed independent unit taken from various locations on her property;
- an amended copy of the BCA Solution NT report on the proposed independent unit; and
- a further submission.

**RESOLVED
73/18**

That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent Authority defer consideration of the application to develop Lot 5390 (27) Lambell Terrace, Town of Darwin for the purpose of an independent unit in excess of 50m² 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:

- The provision of additional plans including a garage level floor plan, a lower storage level floor plan, and a cross section plan.
- Confirmation of the number of storeys proposed as part of the development.
- Translation of the geotechnical data on a cross section plan to demonstrate a scenario for the maximum building heights. Should the scenario find that the development exceeds the maximum building height required by Clause 7.1.2 (Residential Height Limitations), then special circumstances should be identified to justify the extent of the variation sought.
- The identification of special circumstances to vary the side boundary setback required by Clause 7.3 (Building Setbacks of Residential Buildings) to the terrace balustrade at the upper level of the building.
- Confirmation with regard to the process for the amalgamation of a portion of the Lambell Terrace road reserve as part of the land, and how this is intended to occur in parallel with the development.
- Further information to demonstrate compliance with Clause 7.5 (Private Open Space) if the private open space proposed for the development changes as a result of the additional information requested.
- Identification of the proposed location of air conditioning condensers to service the development.
- Confirmation of the intent for servicing both the main dwelling and independent unit with a single power, water and sewer supply.

REASON FOR THE DECISION

1. Further information is required to clarify various components of the application, in order to enable a thorough and accurate assessment.

ACTION: Notice of Deferral

ITEM 2
PA2018/0121
APPLICANT

SHADE SAIL ADDITIONS TO AN EXISTING MULTIPLE DWELLING DEVELOPMENT WITH REDUCED FRONT, SIDE AND REAR SETBACKS LOT 3678 (6) MONTORO COURT, TOWN OF DARWIN
HEINER STRUCTURAL ENGINEERING CONSULTANTS PTY LTD

The applicant did not attend.

RESOLVED
74/18

That, the Development Consent Authority vary the requirements of Clause 7.3 (Building Setbacks of Residential Buildings) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 3678 (6) Montoro Circuit, Town of Darwin for the purpose of shade sail additions to an existing multiple dwelling development with reduced front, side and rear setbacks, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the developer must enter into an agreement with the Power and Water Corporation to finalise details with the encroachment into the sewerage easement. Evidence of this agreement must be provided to the satisfaction of the consent authority.
2. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system or an alternate approved connection.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. 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.
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin to the satisfaction of the consent authority.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. 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.

REASONS FOR THE DECISION

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

The development proposed is consistent with the purpose of Zone HR (High Density Residential) of the Northern Territory Planning Scheme. The proposed shade sails are considered to be compatible with the zone, streetscape and surrounding development.

The proposal presents a non-compliance with Clause 7.3 (Building Setbacks of Residential Buildings). It is noted that the proposal accords with other applications in which the authority has issued a variation to front setback requirements for ancillary structures such as a shed/garage/carport.

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 standard set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

Special circumstances exist to vary Clause 7.3 (Building Setbacks for Residential Buildings and Ancillary Structures) due to the existing easement that runs along the side and rear boundaries restricting where the posts can be located. The building is also sited centrally on the lot and the location of the existing car parking against the boundary; this also restricts where the shade sail posts can be positioned to provide the required weather protection over the parking spaces.

A variation to the requirements of Clause 7.3 (Building Setbacks for Residential Buildings and Ancillary Structures) is supported as:

- The proposal is considered compatible with the streetscape and surrounding development and is a structure that would reasonably be expected in Zone HR (High Density Residential).
- The proposal minimises any adverse effects of building massing when viewed from adjoining land and the street, due to existing established landscaping.

- The existing established landscaping at the property frontage complements the visual amenity of the streetscape and provides a visual barrier to the proposed shade sails.
- The impact on the front setback is minimal.
- Shade sails do not impact on overlooking of adjoining properties.
- Shade sails by their nature are permeable and encourage breeze penetration through and between buildings.
- Special circumstances exist to justify the giving of consent.
- No submissions were received in relation to this development application.

Furthermore, the Authority considered that the car parking layout and spaces that service the building will remain exactly the same and the proposed structures will simply provide protection of the vehicles that park within those spaces.

3. Pursuant to section 51(m) of the *Planning Act*, the consent authority must take into consideration 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.

Power and Water advised they have provided approval for the shade sails but not the concrete within the easements. The developer is requested to provide contact details to finalise the encroachment prior to commencement of any works. This requirement is reflected as a condition precedent.

The City of Darwin requested that should a development permit be issued, that the Authority require the submission of a stormwater management plan. A condition precedent requiring submission of a stormwater management plan to the approval of the City of Darwin has therefore been included.

4. Pursuant to section 51(n) of the *Planning Act*, 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.

There is no change of use proposed and the proposed shade sails would be unlikely to have an adverse impact on the existing and future amenity of the area. Visual aesthetics impacting adjoining properties and when viewed from the street would be minimal, as the proposal retains the existing established landscaping. The landscaping at the property frontage complements the visual amenity of the streetscape and provides a visual barrier to the proposed additions.

ACTION: Notice of Consent and Development Permit

ITEM 3
PA2018/0108
APPLICANT

**SHADE STRUCTURE ADDITION TO AN EXISTING SINGLE DWELLING WITH
A REDUCED SIDE SETBACK
LOT 6795 (8) LEOBEN COURT, TOWN OF SANDERSON
ONE PLANNING CONSULT**

Mr Israel Kgosiemang (One Planning Consult) attended.

The submitters sent their apologies.

RESOLVED
75/18

That, the Development Consent Authority vary the requirements of Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 6795 (8) Leoben Court, Town of Sanderson for the purpose of a shade structure addition to an existing single dwelling with a reduced side setback, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - The pergola roof overhang (eaves) not exceeding 225mm from the northern side boundary.
 - Removal of reference to the block wall from the plans and details of fencing to be installed on the northern side of the pergola.
 - Altered ground levels will be returned to the height of the neighboring ground level.
 - Inclusion of weed matting and rocks to the area in between the pergola and the northern side boundary.
2. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.

GENERAL CONDITIONS

3. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
4. Any developments on or adjacent to any easements on site shall be carried out to the prior requirements of the City of Darwin and Power and Water Corporation (Water and Sewerage) to the satisfaction of the consent authority.

5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin to the satisfaction of the consent authority.

NOTES:

1. Power and Water Corporation advise 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.
2. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
3. City of Darwin advises that designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by the General Manager Infrastructure, City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.

REASONS FOR THE DECISION

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

The NT Planning Scheme applies to the land. Lot 6795 Town of Sanderson is identified within Zone SD (Single Dwelling Residential) of the NT Planning Scheme and is surrounded by lots predominantly developed as single dwelling. The primary purpose of Zone SD is to provide for single dwellings on individual lots. As the pergola is considered ancillary to the existing single dwelling it is considered that the proposal is consistent with the purpose of the zone.

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 standard set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The proposal presents a non-compliance with Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the NT Planning Scheme. A variation of the side setback to the wall of the pergola is supported, as the variations once considered in conjunction with the newly to be installed fence is minimal. The structure is by no means any larger in terms of width and scale than what is ordinarily expected within Zone SD (Single Dwelling), and by design the pergola, due to lack of openings on the adjoining side will not result in any undue

looking. Given that the current fencing is 'chain mesh', this can only be seen as an improvement. The nature of the development is such that it will not encourage any undue overlooking from the neighbouring property, is sited at the rear of the property and out of sight from the street, and will not impact on breeze penetration. This is consistent with the proposal set out in the clause.

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

One submission was received under section 49 of the Act from the neighbour adjoining the affected side boundary.

The neighbour sought clarification on aspects of the development that were not clear from the submitted plans. These details included the finished ground level, the roof overhang, the use of a fire wall or alternate structure in between the proposed pergola and the existing fence, and the measures in place to maintain the area left between the proposed pergola and the boundary.

The Authority heard that Development Assessment Services had liaised with the submitter and the applicant to have these issues clarified but to ensure compliance and that there are no adverse effects on the adjoining landowner, the Authority considered it necessary to require these details to be provided on amended plans. A condition precedent requiring submission of amended plans showing these details is therefore included.

4. Pursuant to section 51(j) of the *Planning Act*, the consent authority must take into consideration the capability of the land to which the proposed development relates and to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The site is already developed with a single dwelling development and, no land capacity issues are expected. Provided the issue raised by the neighbours' on ground levels are addressed, the development will not have any impact on the capability of the land, nor the physical characteristics of other land. The scale of the pergola is consistent with the SD (Single Dwelling Residential) zoning and is consistent with surrounding development.

5. Pursuant to section 51(n) of the *Planning Act*, 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 land is zoned to accommodate the proposed ancillary structure pergola development in that the development is considered to meet the purpose of Zone SD (Single Dwelling) in providing for low density urban residential development. The proposed development is considered to be consistent with the provisions of the zone. Provided the concerns

raised by the neighbours' are addressed no minimal impacts on the existing and future amenity of the area are foreseen.

ACTION: Notice of Consent and Development Permit

ITEM 4
PA2017/0513
APPLICANT

SUBDIVISION TO CREATE 54 LOTS IN TWO STAGES
SECTIONS 4278 & 4279 (32 & 38) BOWERLEE ROAD, HUNDRED OF BAGOT
ONE PLANNING CONSULT

Mr Israel Kgosiemang (One Planning Consult), Mr Savvas Savvas (Savvas Architect), Mr Raza Malik (Senior Engineer, Tonkin Consulting), Mr Tony Murray-William (landowner) and Mr Chris Gahan (landowner) attended.

Mrs Patricia Tonkin and Mr Michael Browne (NT EPA) attended and tabled further comments dated 3 May 2018.

RESOLVED
76/18

That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent Authority defer consideration of the application to develop Sections 4278 & 4279 (32 & 38) Bowerlee Road, Hundred of Bagot for the purpose of subdivision to create 53 lots 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:

- Plans and diagrams which indicate each new lot created is capable of satisfying Clause 11.2.4 (Lots less than 600m² for Single Dwellings) of the NTPS. The plans and diagrams are required to demonstrate that proposed lots, building envelopes, private open space, vehicle access, on-site parking and habitable rooms facing the street will be provided to meet performance criteria and respond to parking and infrastructure in the adjacent public road.
- An overlay of the current NTPS zoning on the proposed site plan to demonstrate that the proposed subdivision is consistent with the zoning.
- Further consideration of the road layout where it meets the eastern and western boundaries to provide for more uniformed lot boundaries. In addition, amended plans to show an appropriate turning circle at the termination of the road with the northern lot boundary or confirmation from the City of Darwin that one is not required.
- Confirmation from both the City of Darwin and the Land Development Unit of the Northern Territory Government regarding the proposed drainage easements, who they will be vested with, whether or not they can be fenced and whether or not the proposed road can be built over it.
- Details of proposed fencing along all boundaries with particular respect to:
 - the western boundary with consideration to the comments received from the adjoining land owner; and
 - The northern boundary with consideration to the comments received from both the NTEPA and the City of Darwin.

REASONS FOR THE DECISION

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

The plans provided in support of the application lack sufficient detail to determine compliance or otherwise of the proposed development. Further information is required to clarify various components of the application, in order to enable a thorough and accurate assessment.

ACTION: Notice of Deferral

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

SUZANNE PHILIP
Chair

10 May 2018