



**DEVELOPMENT CONSENT AUTHORITY**

**DARWIN DIVISION**

**MINUTES**

**MEETING No. 339 – FRIDAY 5 JULY 2019**

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

**MEMBERS PRESENT:** Suzanne Philip (Chair), Marion Guppy, Trevor Dalton, Mick Palmer and Simon Niblock

**APOLOGIES:** Mark Blackburn and Sherry Cullen

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Dawn Parkes, Richard Lloyd and Emmet Blackwell (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** James Whyte and Brian Sellars

**Meeting opened at 10.15 am and closed at 11.00 am**

**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.**

The Chairman, Development Consent Authority, under section 93(1) of the *Planning Act 1999*, appointed Trevor Paul Dalton who is a member in relation to the Palmerston Division, to act as a member for Mark Douglas Blackburn in relation to the Darwin Division from 26 June to 23 July 2019 as Mark Blackburn is prevented from performing his duties of office because of absence.

**ITEM 1**                    **CHANGE OF USE FROM GENERAL INDUSTRY TO OFFICE AND**  
**PA2019/0170**           **WORKSHOP**  
**PORTION 1346 (24) SADGROVES CRESCENT, WINNELLIE, HUNDRED OF**  
**BAGOT**  
**APPLICANT/S**       **Laing O'Rourke Australia Construction Pty Ltd**

The applicant sent their apologies.

**RESOLVED**            That, the Development Consent Authority vary the requirements of Clause 9.1.1  
**115/19**                    (Industrial Setbacks) of the Northern Territory Planning Scheme, and pursuant to  
section 53(a) of the *Planning Act 1999*, consent to the application to develop  
Portion 1346 (24) Sadgroves Crescent, Hundred of Bagot for the purpose of a  
change of use from general industry to office and workshop, subject to the following  
conditions:

**GENERAL CONDITIONS**

1. The works carried out under this permit shall be in accordance with drawings 2019/0170/01 - 2019/0170/05, 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 water supply, sewerage, and electricity services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
3. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
4. 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.
5. The areas set aside for the parking of vehicles and loading bays as shown on the endorsed plans must be line marked to indicate each car space and loading bay.
6. 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.
7. 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 be replaced.

8. 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.

#### **NOTES:**

1. Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and the Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto: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 development must be designed and constructed to comply with AS2021-2015 'Acoustics – Aircraft noise intrusion – Building siting and construction' (AS2021).
3. 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.
4. There must be no site activity which would attract birds and create a hazard for aircraft operations.
5. 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 for the 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 subject site is located within Zone GI (General Industry). The primary purpose of Zone GI is to provide for general industry. Offices are expected to primarily provide a service to the general industry in the zone and be of a size commensurate with the service provided.

Office uses are commonly found within industrial zones as ancillary uses to industrial developments and are often permitted forms of development under the Planning Scheme. While offices in Zone GI are expected to primarily provide a service to the general industry, an office is a discretionary form of development under the Planning Scheme.

It is acknowledged that the two office buildings being used on the site are not ancillary to other uses in Zone GI or primarily provide a service to the general industry in the zone. Also, no other use of the large site is currently proposed by the applicant.

Accordingly, it could be considered that office use is not the highest and best use for land zoned GI, particularly as the zone's primary purpose is to provide for general industry, and offices are expected to primarily provide a service to the general industry in the zone. However, the offices have been a long-standing use on the site and also the site is bounded by Zone LI (Light Industry) to the east and by Zone SC (Service Commercial) to the north across Sadgroves Crescent where the Leprechaun Resort is located, so the site is on the perimeter of the GI zone rather than fully within it. Additionally, with the Leprechaun Resort located directly opposite the site in Zone SC, an office use may well serve as a buffer to it from the other land zoned GI in the vicinity. Also, there is nothing preventing the unused parts of the site being used for general industry by the applicant in the future. Accordingly, the proposed office use is considered acceptable in Zone GI in this instance.

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.

A variation to clause 9.1.1 (Industrial Setbacks) to allow for a reduced rear setback is supported in that it is not considered a significant issue as the original structure has existed for many years without adversely impacting the amenity of the locality.

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 and 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.

The proposed office use is for a construction company and is not expected to impact on the existing or future amenity of the area as the office use will operate, as it currently is, in a less intrusive manner to that of the surrounding industrial uses.

The offices however have the potential to be impacted from noise, odour etc. from existing and possible future operations of the industrial zone. The existing office use has been on-going for a substantial

number of years and no reverse sensitivity issues have been apparent to date. Whether this will remain the same in the future is unknown but is considered not so likely as the site is bounded by land zoned GI only on the western and southern sides and the offices are located to the eastern and northern sides of the large site. Additionally, any reverse sensitivity issues affecting the offices would also likely affect the Leprechaun Resort directly across Sadgroves Crescent from the site, which is in Zone SC, and due to its zoning the resort would have the recourse to have any noise/odour etc. issues addressed should they ever originate from the GI zone.

**ACTION:** Notice of Consent and Development Permit

**ITEM 2** **SHED AND SHADE STRUCTURE ADDITIONS TO AN EXISTING SINGLE**  
**PA2019/0121** **DWELLING WITH A REDUCED SIDE SETBACK**  
**LOT 2004 (19) YOUNG CRESCENT, ALAWA, TOWN OF NIGHTCLIFF**  
**APPLICANT/S** **Bradley Rayson & Jessie Rayson**

Mrs Jessie Rayson sent her apologies. Mr Bradley Rayson attended.

Submitters: Ms Belinda Emmerson-Whyte and Mr Don Whyte attended.

**RESOLVED** That, pursuant to section 53(c) of the *Planning Act 1999*, the Development  
**116/19** Consent Authority refuse to consent to the application to develop Lot 2004 (19) Young Crescent, Town of Nightcliff for the purpose of shed and shade structure additions to an existing single dwelling with a reduced side setback, for the following reasons:

#### **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 consistent with Zone SD in that the land is identified for the development of single dwellings and ancillary structures. However, the proposal is not consistent with the required building setbacks from the adjoining property along the western boundary of the site and no special circumstances exist for a reduced setback. The orientation of the house and the privacy being sought by the applicants are not exceptional or out of the ordinary to set the proposal apart from other developments on land zoned SD to justify the reduced setback. It is also considered that the proposal does not meet the purpose of clause 7.3 (Building Setback of Residential Buildings and Ancillary Structures) of the NT Planning Scheme, particularly in that the adverse effects of the proposal's building massing when viewed from adjoining land are not minimised, and the proposal does not encourage breeze penetration through and between buildings.

2. Pursuant to section 51(e) of the *Planning Act 1999*, any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

The affected neighbour lodged an objection to the application with a number of concerns regarding the proposal, including impacts on amenity and that no special circumstances exist for the variation to clause 7.3 (Building Setback of Residential Buildings and Ancillary Structures) of the NT Planning Scheme to be granted. The neighbour's concerns are considered to have been addressed through the recommendation of refusal for the application.

3. 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 proposal is not consistent with the required building setbacks from the adjoining property along the western boundary of the site and no special circumstances exist for a reduced setback. As such, it is considered an impact on the existing and future amenity is likely on the adjoining property.

**ACTION:** Notice of Refusal

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

**SUZANNE PHILIP**  
Chair

08 July 2019