

DEVELOPMENT CONSENT AUTHORITY

ALICE SPRINGS DIVISION

MINUTES

MEETING No. 180 – WEDNESDAY 12 FEBRUARY 2014

**DOUBLE TREE BY HILTON
BARRETT DRIVE
ALICE SPRINGS**

MEMBERS PRESENT: Peter McQueen, by telephone (Chairman), John McBride and Brendan Heenan

APOLOGIES: David Koch and Steve Brown

OFFICERS PRESENT: Peter Somerville, Ben Taylor, Fraser Cormack and Kirra Morgan

COUNCIL REPRESENTATIVE : Nil

Meeting opened at 9:30 am and closed at 9:50am

THE MINUTES 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 DEVELOPMENT – CHANGE OF USE FROM SHOP TO LEISURE AND
RECREATION (GYMNASIUM / FITNESS CENTRE)
LOT 5775, UNIT 6, 8 GREGORY TERRACE, TOWN OF ALICE SPRINGS
IBS PLANNING AND PROJECTS PTY LTD**

Jarrad Boffo (on behalf of the applicant) and Peter Ilmayer (on behalf of the submitter) attended the meeting.

**RESOLVED
0013/14**

That, the Development Consent Authority, pursuant to section 70(3) of the *Planning Act*, determine that no additional car parking spaces need to be provided; vary the requirements of clause 6.5.1 (Parking Requirements) of the NT Planning Scheme; and pursuant to section 53(b) of the *Planning Act*, alter the proposed development and consent to the proposed development as altered to develop Unit 6, Lot 5775 (8) Gregory Terrace, Town of Alice Springs for the purpose of change of use to leisure and recreation (24 hour gymnasium/fitness centre), 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 be provided electronically in Adobe PDF format.
The plans must be generally in accordance with the drawings submitted by the applicant on 3 February 2014 but modified to show:
 - (a) details and location of an internal acoustic barrier to be installed on the southern boundary wall of Unit 6 to limit the potential for noise emissions from the gymnasium/fitness impacting unduly on the amenity of occupants of adjoining dwellings. The barrier must be constructed generally as described in the applicants response to submission documentation submitted to the consent authority on 3 February 2014 or in accordance with an alternative design submitted to the consent authority and endorsed as part of this permit;
 - (b) an amended floor plan of the proposed development/use clearly identifying the precise boundaries of Unit 6, Lot 5775, Town of Alice Springs; and
 - (c) appropriate bicycle parking facilities (a bicycle storage rack or facility with capacity to secure a minimum of 3 bicycles) contained within or adjacent to Unit 6, Lot 5775 that do not unduly impact on car parking or pedestrian circulation.

GENERAL CONDITIONS

1. The works carried out under this permit must be in accordance with the drawings endorsed as forming part of this permit, to the satisfaction of the

consent authority. The use and development as shown on the endorsed plans must not be altered without the further consent of the consent authority.

2. Prior to the commencement of use, a Noise Management Plan must be submitted to and approved by the consent authority addressing the use of the property for the purpose of leisure and recreation (gymnasium/fitness centre). The plan should incorporate:
 - a) complaint lodgement procedure designed to ensure that members of the public are able to report noise issues including:
 - (i) 24 hour telephone contact details for centre management (or other nominated persons) suitably displayed outside the premises; and
 - (ii) an address for correspondence to management in relation to noise issues;
 - (iii) recording mechanisms of complaints received and actions undertaken.
 - b) details and specifications of floor coverings proposed to different floor areas and including 45mm minimum thickness Regupol™ floor covering to the free-weights area;
 - c) strategies for promoting noise awareness by gymnasium/fitness centre users and staff; and
 - d) a plan for responding to noise complaints.When approved, the noise management plan will be endorsed and form part of the permit. The use must at all times be conducted in accordance with the endorsed plan.
3. Noise from the gymnasium/fitness centre must be managed at all times in accordance with the noise management plan endorsed as part of this development permit, to the satisfaction of the consent authority.
4. 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 plans in accordance with the authorities' requirements and relevant legislation at the time.
5. 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.
6. Instructor-led or structured classes are not to take place on the site without further approval of the consent authority.
7. The use of Unit 6, Lot 5775, Town of Alice Springs may revert to 'shop' or 'office' without further consent under the *Planning Act* if the net floor area occupied by the use/s does not increase. Note: This does not obviate the need to comply with other relevant legislation and regulations.
8. Any new air conditioning condensers 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.

NOTES:

1. This development permit does not grant "building approval" for the proposed structure. The Building Code of Australia requires that certain structures within 900mm of a boundary meets minimum fire resistance level requirements and you are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.
2. Notwithstanding the approved plans:
 - all signage is subject to Alice Springs Town Council approval, at no cost to Council;
 - any works (including alterations to awnings) within the road reserve are subject to Alice Springs Town Council approval.
3. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentsouth@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.
4. The Environment Protection Authority of the Department of Lands, Planning and the Environment advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites. 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.
5. If food is to be prepared or sold from the premises, the development and use hereby permitted should be designed, constructed, registered and operate in accordance with the NT Public Health Act and Regulations, the NT Food Act and National Food Safety Standards.

REASONS FOR THE DECISION

1. Amended drawings are required to be submitted for endorsement as the drawings submitted with the application (and revised documentation provided on 03/02/2014):
 - (a) do not accurately show floor layout of the proposed use in relation to the boundaries of Unit 6 as registered on Unit Plan 1992/061 (sheet 9 of 11). This is considered necessary as a key element of a planning assessment and determination is the use in relation to a specific portion of land. It is necessary to be able to accurately identify the subject tenancy for proper documentation of the approval granted, which will also assist with future assessments on Lot 5775; and
 - (b) refer to bicycle parking facilities being included within the scope of works, however details of these works were not shown on the submitted

drawings.

2. 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 proposed development is consistent with the purpose of Zone CB (Central Business) of the NT Planning Scheme (the Planning Scheme) which 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 proposed use is considered to be compatible with other uses in the locality, subject to appropriate development conditions to ensure that noise is suitably limited and managed.
3. The consent authority:
 - (a) recognising that the existing development of Lot 5775 for the purpose of offices and shops is approved through Instrument of Determination DV4669 and that that permit approved 34 parking spaces instead of a minimum of 92 spaces; and
 - (b) noting arguments presented (in the application, supplementary written submission by the applicant and verbal submission at the hearing by Mr Boffo) in support of no additional parking being warranted; and
 - (c) further noting that:
 - i. an additional requirement of 15 parking spaces has been calculated with reference to clause 6.5.1 (Parking Requirements) of the NT Planning Scheme and the proposed change of use of Unit 6;
 - ii. under section 70(3) of the *Planning Act*, the consent authority may determine as a condition of the development permit, that a different number of car parking spaces (to that calculated under clause 6.5.1 of the Planning Scheme) may be provided or, that no car parking spaces need to be provided, but (under section 70(4) of the *Act*, must not do so unless:
 - it has considered all the circumstances of the particular case; and
 - it is satisfied the intent of the Planning Scheme will still be fulfilled;
 - iii. clause 6.5.2 of the NT Planning Scheme allows the approval of a development with fewer car parking spaces than required by clause 6.5.1 of the Scheme, if the consent authority is satisfied that a reduction is appropriate, having considered matters listed at clause 6.5.2 (a) to (d) inclusive;
 - iv. the land is located within a Car Parking Contribution Plan Policy Area;
 - v. under section 70(5) of the *Planning Act*, it may require a monetary contribution to the local authority in lieu of any shortfall in the number of parking spaces;
 - vi. there is street parking in Gregory Terrace and Bath Street within close proximity to the site;
 - vii. there are public car parking areas in close proximity to the site, including to the northern side of Gregory Terrace;
 - viii. the anticipated normal usage times of the gym are outside regular operating hours of the surrounding commercial and office premises, meaning that there should be no conflict with other uses on the site

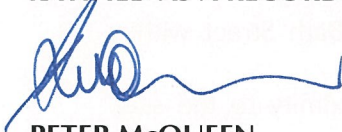
- and in the locality that currently take advantage of the commonly accessible parking spaces within the adjacent road reserves;
- ix. the site is located within 350m of 3 bus stops and 2 taxi ranks within the central business area;
 - x. the likelihood of cross utilisation of parking spaces by those working or shopping in the locality;
 - xi. the proposed use will incorporate bicycle parking for a minimum of 3 bicycles;
 - xii. the application states that the gym does not incorporate classes or other activities that typically see significant peaks in client attendance;
 - xiii. there is no capacity to provide additional on-site parking; and
 - xiv. the proposed change of use is not expected to generate a demand for additional parking; and
- (d) has decided that additional parking is not necessary or required, to meet the needs of the proposed use of Unit 6, Lot 5775, Town of Alice Springs.

4. Pursuant to section 51(p) of the *Planning Act*, in considering a development application, the consent authority is required to take into account the public interest. The proposed development is considered to be in the public interest as it will establish a 24 hour gymnasium/fitness centre in a conveniently accessible location.
5. Pursuant to section 51(e) of the *Planning Act*, in considering a development application, the consent authority is required to take into account any submissions made under section 49 of the *Act* and any evidence or information received under section 50 of the *Act*. One public submission was received in response to the application. The matters raised in the submission and a further verbal submission (by Mr Peter Illmayer) at the hearing of the application, have been noted by the consent authority. The applicant has provided revised documentation (including drawings) responding to the matters that were raised and Mr Boffo, acting for the applicant, has responded to additional queries at the hearing (by the consent authority and Mr Illmayer, respectively) relating to noise management.
6. The conditions of approval and advisory notes are intended to ensure that:
 - a) the approved use does not unduly impact on the amenity of adjoining residents;
 - b) service authority interests are duly recognised; and
 - c) the site is developed and used in an orderly manner.

ACTION:

Notice of Consent and Development Permit

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



PETER McQUEEN
Chairman

14/2/2014