DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 304 – FRIDAY 20 OCTOBER 2017

BILLABONG ROOM
NOVOTEL DARWIN ATRIUM
100 THE ESPLANADE
DARWIN

MEMBERS PRESENT: Suzanne Philip (Chair), Bob Elix, John Gleeson and Doug Phillips

APOLOGIES: Garry Lambert

OFFICERS PRESENT: Ayla McGavin (A/Secretary), Anthony Brennan, Sarah Silva and May Patterson (Development Assessment Services)

COUNCIL REPRESENTATIVE: Cindy Robson, James Whyte and David Burrow

Meeting opened at 9.50 am and closed at 12.05 pm
ITEM 1 SERVICE STATION
PA2016/0762 LOT 5021 (2) RAILWAY STREET, TOWN OF DARWIN
APPLICANT MASTERPLAN NT

Applicants: Jack Priestly, Cassandra Emmett, Simon Tonkin, Melissa Mellen (Traffic Engineer), Michael Rumble and Stuart Henry (Woolworths) attended.


RESOLVED 180/17 That, pursuant to 53(c) of the Planning Act, the Development Consent Authority refuse to consent to the application to develop Lot 5021 (2) Railway Street, Town of Darwin for the purpose of a service station for the following reasons:

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.

Clause 13.2 (Land Adjacent to Main Roads) of the Northern Territory Planning Scheme states that the purpose of Clause 13.2 is to ensure that access to main roads from adjacent land does not prejudice traffic safety. Access to a use or development or proposed use or development from a main road is to be only with consent and in accordance with the requirements of the Agency responsible for the care, control and maintenance of the main road.

Access to the site is proposed from the Stuart Highway which is identified as a Main Road under the care and control of the Transport and Civil Services Division (TCSD) of the Department of Infrastructure, Planning and Logistics. TCSD, in their letter dated 23 August 2017, advised that the development of the site for the purpose of a service station would present high safety risks to motorists and pedestrians/ cyclists at this location. TCSD does not support the proposed service station in this location on the grounds that the development would create additional unacceptable road safety risks. Based on this advice, the consent authority has determined that access to the proposed use from the Stuart Highway is not in accordance with the requirements of the Agency responsible for the care and control of the Stuart Highway, and therefore the proposal does not comply with the purpose or requirements of Clause 13.2 (Land Adjacent to Main Roads).

Sub-clause 2(c)(i) of Clause 8.1.4 (Service Stations) of the Northern Territory Planning Scheme requires that a site may be developed for a service station only where the design of the site is such that...
vehicular access and egress does not create a traffic hazard on adjacent roads. Based on the information provided by TCSD in their letter dated 23 August 2017, the consent authority has determined that the proposal does not comply with the requirements of Clause 8.1.4 (Service Stations).

The consent authority has considered all the matters before it, including the Development Assessment Services report, applicant’s statement of effect and associated reports, services authority comments including from TCSD and City of Darwin, as well the views of public submissions, and determined to refuse the application as the development would result in a planning outcome contrary to the provisions of Clause 8.1.4 (Service Stations) and Clause 13.2 (Land Adjacent to Main Roads) of the Northern Territory Planning Scheme.

The Darwin Inner Suburbs Area Plan is a reference policy document that must be considered by the Authority under clause 2.7 (Reference to Policy) of the Northern Territory Planning Scheme. The consent authority must have regard to the policies and planning concepts expressed in those documents appearing in Schedule 2 and ensure that a use or development or proposed use or development is consistent with them. Where there is an inconsistency between any applicable policy and the planning scheme, the provisions of the planning scheme will prevail.

The Darwin Inner Suburbs Area Plan identifies the subject site and adjacent land as having potential to be developed in accordance with Zone MR (Medium Density Residential) provisions despite its current Zone SC (Service Commercial) status. The consent authority has determined to refuse the application for the reasons listed above, however it is of the opinion that the nature of the use may restrict the potential for residential development to occur on adjacent land, and as a result will challenge the achievement of the strategic objectives of the Darwin Inner Suburbs Area Plan in the broader area.

2. Pursuant to Section 51 of the Planning Act, there are a number of additional matters that the consent authority took into account in the determination of an application.

51(e) any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application

The consent authority notes that the application was publicly exhibited in accordance with the Planning Act and a total of 275 public submissions were received under section 49 during the exhibition period. Of the 275 submissions received, 182 were hand written and 93 were submitted as part of a pro forma/petition. The issues were summarised in the Development Assessment Services report, with the main issues raised being traffic and safety impacts, amenity impacts, and concerns relating to non-compliances with the Northern Territory Planning Scheme. A number of submitters spoke in support of their comments at the Development Consent Authority meeting when the application was heard.
The consent authority determined to refuse the application as listed in reason No.1 above. The consent authority determined that compliance or otherwise of the remaining matters raised by the submitters could not be adequately determined until such time as access to the proposed use from the Stuart Highway can be demonstrated to comply with the requirements of Clauses 8.1.4 and Clause 13.2.

51(h) the merits of the proposed development as demonstrated in the application

The consent authority notes the merits of the proposed development as listed in the applicant's statement of effect, but has determined to refuse the application as listed in reason No.1 above. The merits are unable to be determined until such time as access to the proposed use from the Stuart Highway can be demonstrated to comply with the requirements of Clauses 8.1.4 and Clause 13.2.

51(j) 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

The capability of the land is unable to be determined until such time as access to the proposed use from the Stuart Highway can be demonstrated to comply with the requirements of Clauses 8.1.4 and Clause 13.2.

51(n) the potential impact on the existing and future amenity of the area in which the land is situated

The consent authority considered that the potential impact on the existing and future amenity of the area could not be adequately determined until such time as access to the proposed use from the Stuart Highway could be demonstrated to comply with the requirements of Clauses 8.1.4 and Clause 13.2.

51(p) the public interest

The consent authority considered that the public interest could not be adequately determined until such time as access to the proposed use from the Stuart Highway could be demonstrated to comply with the requirements of Clauses 8.1.4 and Clause 13.2.

ACTION: Notice of Refusal
ITEM 2
PA2017/0427
APPLICANT
DEMOUNTABLE STRUCTURE ADDITION TO AN EXISTING SINGLE
DWELLING
LOT 1195 (5) GREBE CRESCENT, TOWN OF SANDERSON
MICHAEL AND SARAH NOVINETZ

No applicant or submitters attended.

RESOLVED
181/17
That, pursuant to section 53(a) of the Planning Act, the Development Consent
Authority consent to the application to develop Lot 1195 (5) Grebe Crescent,
Town of Sanderson, for the purpose of a demountable structure addition to an
existing single dwelling, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with drawing
numbers 2017/0427/01 and 2017/0427/02 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, water and sewerage facilities 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. Before the use 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.

5. 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.

NOTES:

1. This development permit does not grant "building approval" for the
proposed structure. The Building Code of Australia requires that
demountable structures are secured to ensure that they do not pose any
undue risk in the event of a cyclone and you are advised to contact a
registered private Building Certifier to ensure that you have attained all
necessary approvals for the proposed demountable structures.

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.
REASONS FOR THE DECISION

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

The primary purpose of Zone SD (Single Dwelling Residential) is to 'provide for low density urban residential development'. Non-residential uses or development should be limited to those which predominantly service the local neighbourhood and do not have any detrimental effect on residential amenity.

The demountable structure is to be used as a storage space for general household and garden items, which is in accordance with the intent of Zone SD (Single Dwelling) of the NT Planning Scheme. The structure is to be painted and landscaped to reduce the risk of potential visual impacts of the structure upon neighbouring properties.

6.8 - Demountable Structures

The purpose of this clause is to ensure that demountable structures do not detract from the visual amenity of an area.

The demountable structure is to be located in the western rear corner of the site and will be setback a minimum of 2m from the side boundary and 1.5m from the rear boundary, which meets the setbacks required by clause 6.8 (Demountable Structures) of the NT Planning Scheme. The structure is to be painted in the colour 'ocean mist' to blend in with the single dwelling on-site. The areas in between the demountable structure and the western and northern boundaries are to be landscaped. Only one demountable is proposed for the site; for the purpose of storing household/garden goods. It is considered that the screening treatments proposed will be sufficient to ensure that undue impacts upon the amenity of the surrounding neighbours are unlikely.

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

Provided that the applicant adheres to all recommended conditions, the demountable structure is considered appropriate for the site and unlikely to have an unreasonable amenity impact on the surrounding area.

ACTION: Notice of Consent and Development Permit
RESOLVED 182/17

That, pursuant to section 46(4)(b) of the Planning Act, the Development Consent Authority defer consideration of the application to develop Lot 8725 (18) Totem Road, Town of Nightcliff for the purpose of a change of use from warehouse to place of worship (Unit 4), to require the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:

- Submission of a Parking Management Plan to the consent authority for approval detailing on-site car parking allocations for after hour use associated with the operations of the ‘place of worship’, to the satisfaction of the consent authority. The Plan shall demonstrate that car parking requirements can be accommodated on site during peak patron usage, including but not limited to arrangements to unconditionally use co-located tenancies vacant parking spaces after hours.
- In addition to the Parking Management Plan, Development Assessment Services is to confirm that any parking agreements entered into by way of letters provided by co-located tenancies are unconditional or alternatively the agreements should be withdrawn.

**REASON FOR THE DECISION**

1. Pursuant to Section 46(4)(b) of the Planning Act, the consent authority may defer consideration of a proposal to allow the applicant to provide additional information it considers necessary to enable the proper consideration of the proposal and its impact on the site and surrounding area.

**ACTION:** Letter of Deferral

RESOLVED 183/17

That, pursuant to section 86 of the Planning Act, the Authority delegates to the Chair, or in the Chair’s absence any one of the other members of the Darwin Division the power under section 53 of the Act, to determine the application to develop Lot 8725 (18) Totem Road, Town of Nightcliff for the purpose of a change of use from warehouse to place of worship (Unit 4), subject to:

- Submission of a Parking Management Plan to the consent authority for approval detailing on-site car parking allocations for after hour use associated with the operations of the ‘place of worship’, to the satisfaction of the consent authority. The Plan shall demonstrate that car parking requirements can be accommodated on site during peak patron usage, including but not limited to arrangements to unconditionally use co-located tenancies vacant parking spaces after hours. Confirmation is required from co-located tenancies that any parking agreements entered into are unconditional or alternatively the agreements should be withdrawn.

Further subject to conditions as determined by the delegate.

**ACTION:** Advice to Applicant

ITEM 4 WITHDRAWN FROM MEETING
ITEM 5  
PA2017/0431  
SHED ADDITION TO AN EXISTING COMMUNITY GARDEN  
ESTABLISHMENT  
LOT 8712 (27) LAKESIDE DRIVE TOWN OF NIGHTCLIFF  
APPLICANT  
LAKESIDE DRIVE COMMUNITY GARDEN

Birut Zemits and Dirk Peek (applicant) attended.

RESOLVED  
184/17  
That, pursuant to section 53(a) of the Planning Act, the Development Consent Authority consent to the application to develop Lot 8712 (27) Lakeside Drive, Town of Nightcliff, for the purpose of a shed addition to an existing community garden, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered 2017/0431/01 and 2017/0431/02 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 and electricity to the land 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.

NOTES:

1. Lot 5738 is located within both the Primary Storm Surge Area (PSSA) and Secondary Storm Surge Area (SSSA). The storage or disposal of environmentally hazardous industrial material and the development of fuel depots should be avoided in this area.

REASONS FOR THE DECISION

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

The primary purpose of Zone PS is to 'provide public areas for recreational activity'. Development should be limited to that which is for public use and enjoyment consistent with the recreational opportunities of the land and which has minimal adverse impact (if any) on adjoining or nearby property.

The proposal is for the addition of an ancillary shed to service an existing recreational area (community garden) that is currently managed by CDU students and volunteers from the general community. The shed will be located approximately 40m from the Lakeside Drive road frontage and does not inhibit access to the rear of the site; along the existing dirt track.

Clause 6.14 (Land Subject to Flooding and Storm Surge)
The purpose of this clause is to reduce risk to people, damage to property and costs to the general community caused by flooding and storm surge.

Lot 8712 (and the proposed shed) is located within both the PSSA (Primary Storm Surge Area) and SSSA (Secondary Storm Surge Area). As the structure is ancillary to an existing community garden (recreational area) and will be used primarily for the storage of garden equipment, it is considered that the development is appropriate for this location. The proposed development of a shed is not considered to pose undue risk to people, damage to property or costs to the general community and therefore complies with the purpose of the clause. It noted however that the storage or disposal of environmentally hazardous industrial material and the development of fuel depots should be avoided in this area.

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

Provided that the applicant adheres to all recommended conditions, the shed is considered appropriate for the site and unlikely to have an unreasonable amenity impact on the surrounding area. The shed will be setback approximately 40m from the Lakeside Drive Road frontage and either native vegetation or planted greenery associated with the garden will assist in screening the shed from the road.

ACTION: Notice of Consent and Development Permit

ITEM 6
PA2017/0411

CHANGE OF USE FROM LEISURE AND RECREATION TO EDUCATION ESTABLISHMENT
LOT 1517 (3) SEARCY STREET, TOWN OF DARWIN

APPLICANT
NORTHERN PLANNING CONSULTANTS PTY LTD

Brad Cunnington (Northern Planning Consultants), Kevin Birkhahn and Fernando Passerelli (International House) attended.

RESOLVED
185/17

That, the Development Consent Authority determine to reduce the carparking requirements pursuant to Clause 6.5.2 (Reduction in Parking Requirements) and vary the parking layout requirements pursuant to Clause 6.5.3 (Parking Layout) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the Planning Act, consent to the application to develop Lot 1517 (3) Searcy Street, Town of Darwin for the change of use from leisure and recreation to education establishment subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to submit a Parking Management Plan to the consent authority for approval detailing on-site car parking allocations for use during business hours associated with the operations of the education establishment, to the satisfaction of the consent authority. The Plan shall demonstrate that car parking requirements can be
accommodated on site during peak patron usage, including but not limited to:
• Staff and/or student car parking requirements; and
• Car pooling and other transportation arrangements.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the
drawings endorsed as forming part of this permit.

3. 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.

4. Any developments on or adjacent to any easements on site shall be carried
out to the requirements of the relevant authority to the satisfaction of the
consent authority.

5. The car parking shown on the endorsed plan(s) must be available at all
times for the exclusive use of the occupants of the development and their
visitors.

NOTES:

1. The Power and Water Corporation advises that the Water and Sewer
Services Development Section (waterdevelopment@powerwater.com.au)
and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a
minimum of 1 month prior to construction works commencing to determine
the Corporation's servicing requirements, and the need for upgrading of on-
site and/or surrounding 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. 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. Any proposed signage for the site shall be subject to a separate
assessment in accordance with City of Darwin Policy Number 42 – Outdoor
Advertising Signs Code.

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 site comprises a commercial change of use development within
an existing commercial tenancy.

The proposal is consistent with the primary purpose of Zone CB
(Central Business) in providing 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.

2. Pursuant to Clause 6.5.2 (Reduction in Parking Requirements) a reduction of the parking requirements for the car parking spaces from 10 parking bays to 5 parking bays may be considered as:

• The proposal includes off-street parking of five (5) spaces which ensures that there is sufficient car parking spaces to accommodate the likely generated visitors to the site;
• There are a number of bus routes which service the area and the bus stops for these routes are located a short walk from the site, including the services running along Cavenagh Street;
• The site is accessible to a number of paid car parking facilities in the CBD, all of which are within a 150 metre radius; and
• To determine the sufficiency of car parking and access, a car parking management plan is to be prepared by the applicant for further consideration to ensure the car parking spaces complies with the provisions under Clause 6.5 (Car Parking Layout) of NTPS.

3. 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 proposed change of use for an education establishment is not considered to cause amenity impacts to the locality given the use is expected to generate low noise emissions and is fully contained within the premises.

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

**ITEM 7 PA2017/0178**

Concurrent Application - Amend Clause 9 of SD42, Rezone Part Section 4262 Hundred of Bagot from Zone RD (Restricted Development) to SD42 and a Subdivision of Part Section 4262 and Section 7202 to Create 11 Lots Section 7202 (53) Jessop Crescent and Section 4262 (74) Amy Johnson Avenue, Hundred of Bagot

**APPLICANT NORTHERN PLANNING CONSULTANTS PTY LTD**

Brad Cunnington (Northern Planning Consultants) attended.

**RESOLVED 186/17**

Pursuant to section 30P(1)(a), the Development Consent Authority determine that if the Minister were to approve the amendment proposal to rezone part Section 4262 Hundred of Bagot (74 Amy Johnson Avenue, Berrimah), and amend clause 9 of SD42, the Development Consent Authority would be likely to approve the development proposal seeking consent for subdivision of land into 11 lots, subject to necessary and appropriate conditions relating to:

• Lighting controls
• Stormwater management
• Height controls
• Noise controls
• Erosion and Sediment Control Plan
• Bird controls

These minutes record persons in attendance at the meeting and the resolutions of the Development Consent Authority on applications before it. Reliance on these minutes should be limited to exclude uses of an evidentiary nature.
• Building material controls
• Land use controls

REASONS FOR DECISION

1. Pursuant to sections 30P(2)(a) and (b) of the Planning Act, the consent authority must take into account any planning scheme that applies to the land to which the application relates and the amendment proposal contained within the application.

The development accords with the policy for future development of the locality as established by the Darwin Regional Land Use Plan and the Berrimah North Area Plan, and will provide the local need for adequate industrial land to support competition in the industrial land market to avoid the unnecessary upward pressure on land prices. As well as to ensure the detailed planning for future development in the region takes account of the limited opportunities to appropriately locate strategic industrial development to minimise the potential for future land use conflict and detrimental impacts on the environment.

2. Pursuant to Section 30P(2)(i) of the Planning Act, the merits of the development proposal as demonstrated in the application include an increase in the range of light industrial land in a manner consistent with strategic planning, the constraints imposed by airport operations, and coexist with the provision of services and infrastructure to support the proposal. The proposal will increase the range of industrial land available within a central location. The proposed stormwater system will ensure the protection of the receiving areas.

3. Pursuant to Section 30P(2)(l) of the Planning Act, the consent authority must take into consideration the capability of the public utilities or infrastructure provided in the area in which the land is situated and any requirement for public facilities and services to be connected to the land; and facilities, infrastructure or land to be provided by the applicant.

The City of Darwin does not object to the granting of a Development Permit provided that issues are adequately addressed. This includes an Environmental and Construction Management Plan to ensure that issues raised by City of Darwin are properly assessed and managed for both the constructions and operational stages of the development.

The applicant is also required to seek approval from Power and Water Corporation to locate structures within its sewer easement prior to the endorsement of plans.

RESOLVED
187/17

That under section 30Q of the Planning Act, the consent authority report to the Minister for Infrastructure, Planning and Logistics advising of the likely decision in relation to the development proposal, issues raised in the submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the amendment proposal.
RESOLVED 188/17

That, pursuant to section 86(1) of the Planning Act, the Development Consent Authority delegates its powers to the Chair or in the absence of the Chair any other member of the Darwin Division of the Authority to:

- determine pursuant to Section 30W(1)(a) to consent to the development proposal contained in the concurrent application and consent to the concurrent application after receipt of a notice under Section 30U(1) that the Minister has approved the amendment proposal contained in the application;
- issue a development permit under section 54(1) in relation to the development proposal to develop Section 4262 (74 Amy Johnson Avenue), Hundred of Bagot for the purpose to rezone and subdivision to create 11 lots; and
- issue the relevant notices under Section 30Y.

ACTION: Advice to Applicant

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

DOUGLAS PHILLIPS
Delegate

26/10/17