

DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 298 – FRIDAY 21 JULY 2017

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

MEMBERS PRESENT: Denis Burke (Chairman), Bob Elix, Garry Lambert, John Gleeson and Doug Phillips (Item 1 only)

APOLOGIES: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Anthony Brennan and May Patterson (Development Assessment Services)

COUNCIL REPRESENTATIVE: Cindy Robson (Strategic Town Planner)

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 **CHANGE IN USE FROM WAREHOUSE TO LEISURE AND RECREATION**
PA2017/0274 **(GYM)**
 LOT 1635 (1) CAREY STREET, TOWN OF DARWIN
APPLICANT **EVOLVE FITNESS NT**

Mr Mathew Cowling (Business Owner Evolve Fitness NT) attended.

RESOLVED That, pursuant to section 46(4)(b) of the *Planning Act*, the Development Consent
122/17 Authority defer consideration of the application to develop Lot 1635 (1) Carey
Street, Town of Darwin for the purpose of a change of use from warehouse to
leisure and recreation (gymnasium), to require the applicant to provide the
following additional information considered necessary in order to enable the
proper consideration of the application:

- Demonstration as to how the proposed development and car parking arrangement comply with the requirements of Clause 6.5.1 (Parking Requirements) of the NT Planning Scheme. Details of access to parking, parking arrangements during the periods of operation and parking management are to be provided for further consideration. In the event of a car parking shortfall on site resulting from the proposed development, demonstration as to how any shortfall may be considered under Clause 6.5.2 (Reduction in Parking Requirements) should also be provided.
- Demonstration as to how the proposed development complies with the requirements of Clause 8.2 (Commercial and other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, C, FD and T) of the NT Planning Scheme. Details including, but not limited to, class timetables, patron numbers, vehicular movements, expected noise impact, noise levels and proposed noise mitigation measures to mitigate any adverse impacts are to be provided for further consideration. Additional justification for any continued non-compliances should also be provided and presented in the context of special circumstances which justify the giving of consent.
- Any amendments to the application that arise as a result of the above information request.

REASONS FOR THE DECISION

1. The request for additional information in response to the areas of non-compliance in relation to Clauses 6.5.1 (Parking Requirements) and 6.5.2 (Reduction in Parking Requirements) is considered necessary as the application does not adequately demonstrate that the proposed car parking arrangement complies with the purpose and requirements of Clauses 6.5.1 and 6.5.2 of the NT Planning Scheme.
2. The development does not provide adequate justification and special circumstances as to why the car parking cannot be met to achieve greater compliance with the requirements of Clause 6.5.1 (Parking Requirements) of the NT Planning Scheme.

3. The development does not provide adequate justification as to how the proposed development complies with 8.2 (Commercial and other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, C, FD and T) of the NT Planning Scheme and does not address the anticipated adverse amenity impacts resulting from the development and proposed mitigation measures to minimise noise and other potential amenity impacts.

**RESOLVED
123/17**

That pursuant to section 86 of the *Planning Act*, the Authority delegates to the Chairman, or in the Chairman'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 1635 (1) Carey Street, Town of Darwin for the purpose of a change of use from warehouse to leisure and recreation (gymnasium) subject to the receipt of :

- Demonstration as to how the proposed development and car parking arrangement comply with the requirements of Clause 6.5.1 (Parking Requirements) of the NT Planning Scheme. Details of access to parking, parking arrangements during the periods of operation and parking management are to be provided for further consideration. In the event of a car parking shortfall on site resulting from the proposed development, demonstration as to how any shortfall may be considered under Clause 6.5.2 (Reduction in Parking Requirements) should also be provided.
- Demonstration as to how the proposed development complies with the requirements of Clause 8.2 (Commercial and other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, C, FD and T) of the NT Planning Scheme. Details including, but not limited to, class timetables, patron numbers, vehicular movements, expected noise impact, noise levels and proposed noise mitigation measures to mitigate any adverse impacts are to be provided for further consideration. Additional justification for any continued non-compliances should also be provided and presented in the context of special circumstances which justify the giving of consent.
- Any amendments to the application that arise as a result of the above information request.

And further subject to conditions as determined by the delegate.

ACTION: Advice to Applicant

ITEM 2
PA2017/0269

**CHANGE OF USE OF PART OF THE BUILDING FROM GUESTHOUSE TO
HOTEL INCLUDING ALTERATIONS AND ADDITIONS TO THE EXISTING
BUILDING**

APPLICANT

LOT 3751 (48) MITCHELL STREET, TOWN OF DARWIN
AFS REALTY AND BUSINESS BROKERS PTY LTD

Pursuant to section 97(1) of the *Planning Act*, Mr Doug Phillips a member of the Darwin Division of the Development Consent Authority declared a conflict of interest and was not present during and did not take part in any deliberation or decision of the Division in relation to Item 2.

Ms Pam Martin (Draftlink), Mr Matt McCourt and Mr Todd McCourt (Owners) attended.

Ms Martin tabled five amended plans including a plan showing the boundary wall extended to the full length of the proposed building envelope.

Mr McCourt tabled documents showing:

weekly sales;
monthly sales;
decibel sound checks; and
copy of a licence for outdoor dining from Council.

Submitter Mr Chris Foy attended.

RESOLVED
124/17

That, the Development Consent Authority has determined to reduce the car parking requirements under clause 6.5.2 (Reduction in Parking Requirements) for the alterations and additions from 28 spaces to five spaces, vary the requirements of clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 3751 (48) Mitchell Street, Town of Darwin for the purpose of a change of use of part of the building from guesthouse to hotel including alterations and additions to the existing building in 2 stages, 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 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, and must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The proposed boundary wall to be extended to the full length of the proposed building envelope for acoustic noise mitigation.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation) a Traffic Impact Assessment Report, is to be prepared by a suitably qualified traffic engineer in accordance with the Austroads Guidelines, with particular attention to vehicular, pedestrian and cyclist and public transport issues. The Traffic Impact Assessment report is to also include swept paths for waste collection vehicles entering and exiting the site. The report shall be submitted to and approved by City of Darwin to the satisfaction of consent authority.

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3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a Schematic Plan demonstrating the on-site collection of stormwater and its discharge into the underground 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 the site levels and stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected to the underground system.
4. Prior to the commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal is to be provided to the requirements of the City of Darwin to the satisfaction of the consent authority.
5. Prior to the commencement of works (including site preparation), a dilapidation report covering infrastructure within the road reserve is to be provided to the requirements of City of Darwin to the satisfaction of the consent authority.
6. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan to the requirements of the City of Darwin, to the satisfaction of the consent authority. The plan is to address waste management, traffic control, haulage routes, storm water drainage, use of City of Darwin land; and how this land will be managed during the construction phase.

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. Before the use commences the owner/ developer must, in accordance with section 70(3) of the *Planning Act*, provide an additional five car parking bays. In accordance with section 70(5) of the *Planning Act*, the five additional parking bays may be provided through the payment of a monetary contribution to the City of Darwin. The contribution is to be calculated in accordance with the requirements of section 70(6) of the *Planning Act*.
9. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Darwin, to the satisfaction of the consent authority.
10. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewer and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
11. 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.
12. All roof top plant equipment (such as vents and ducting associated with the requirements for stairwell pressurization 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).

13. 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. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.
14. The car parking spaces 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.
15. Storage for waste bins is to be provided to the requirements of the City of Darwin to the satisfaction of the consent authority.
16. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed to service ducts or otherwise hidden from view to the satisfaction of the consent authority.
17. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the emission of noise, artificial light, vibration, smell, or waste products.
18. No goods are to be stored or left exposed outside the building(s) so as to be visible from any public street to the satisfaction of the consent authority.

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. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to Council.
3. Notwithstanding the approved plans, the demonstrated awning in City of Darwin's road reserve is subject to Council approval at no cost to Council.
4. 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.

5. A "Permit to Work Within a Road Reserve" is required from the City of Darwin before commencement of any work within the road reserve.
6. 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.
7. This development does not grant "building approval". The Building Code of Australia requires that certain structures within 900mm of a boundary meet 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 works.
8. All developments on/or adjacent to any easements on-site, in favour of City of Darwin shall be carried out to the requirements and satisfaction of the General Manager Infrastructure, City of Darwin.
9. 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 the General Manager Infrastructure, City of Darwin.
10. Any proposed stormwater connections to City of Darwin stormwater system or 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 the General Manager Infrastructure, 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 site comprises an existing guest house and hostel with licensed café, dining facilities and beer garden, and the proposal will convert part of the ground floor communal areas associated with the hostel component, first floor hostel rooms and reconfiguration of the second floor hostel rooms for extensions to the licensed club/ restaurant and ancillary staff accommodation.

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. The Authority has carefully considered the additional car parking requirements generated by the proposal taking into account the existing development, the existing car parking area on-site, and the monetary contributions paid to Council as part of previous development permits. The authority has assessed the current

proposal as generating an additional 28 parking spaces. Pursuant to Clause 6.5.2 (Reduction in Parking Requirements) a reduction of 23 car parking spaces (from 28 to 5) for the alterations and additions associated with this proposal is granted as :

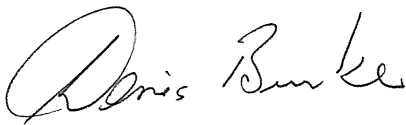
- The development is not considered to generate a significant increase in car parking generation due to the refurbishment of existing floor area from hostel use to licensed club/ restaurant and additional floor area for ancillary outdoor dining purposes associated with the existing licensed club/ restaurant use at the premises.
 - Staff generated parking is reduced due to on site accommodation provided;
 - The existing ten spaces on site accessible to the rear of the premises will be made available to staff and patrons;
 - Location of the subject site is located within the central Darwin CBD area with proximity to public transport and alternative modes of transportation;
 - Trading data provided by the applicant indicates that peak demand for car parking is expected well after 5pm which is considered to be outside standard business hours. The peak demand for trade occurs on the weekend, representing a 30% demand over a week.
 - The reduction in parking requirements granted is generally consistent with reductions granted to similar licensed club/ restaurant/ bar operations in the Darwin CBD, where a lower car parking generation is accepted given the nature of the activities, proximity to alternative modes of transportation and higher levels of multi-purpose trips.
3. The request for a further reduction to provide no additional car parking is not supported by the authority as the expansion of the main entry area and outdoor areas is considered to generate an increase in patron numbers and hence, a monetary contribution of five spaces be paid in lieu of parking on site is considered reasonable.
4. A variation to the on-site provision of parking spaces required under clause 6.51 (Parking Requirements) of the Northern Territory Planning Scheme is supported as a payment in lieu to the City of Darwin for five (5) spaces will ensure that parking will be made available in the locality in the long term, and as the provision of parking for commercial uses in a publicly accessible centralised pool promotes land use efficiency and improves availability of parking to the full community.
5. An updated Traffic and Parking Assessment Report, in accordance with the Austroads document 'Guide to Traffic Management Part 12: Traffic Impacts of Developments', is required in order to demonstrate that the development can be supported without undue impact on the site and locality.
6. Pursuant to Section 51(m) of the Planning Act, consideration has been given to all comments received from service authorities, with all relevant matters addressed through conditions or notes on the development permit, thereby ensuring that an appropriate level of service is maintained for the site and surrounding locality.

7. 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. To ensure potential noise impacts to the adjoining motel on Lot 6534 mitigated, a condition precedent requiring amended plans for an extension to the proposed boundary wall to follow the length of the building envelope has been included in the permit conditions. The authority notes that a representative of the adjoining owner attended the meeting and indicated that the amended plans addressed the concerns raised.

The City of Darwin requested conditions be included on the permit requiring the provision of a dilapidation report, schematic plan, environmental and construction management plan and a traffic impact assessment report. These requirements have been included on the permit.

ACTION: Notice of Consent and Development Permit

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



DENIS BURKE
Chairman

27/7/17

