

**DEVELOPMENT CONSENT AUTHORITY**

**DARWIN DIVISION**

**MINUTES**

**HEARING No. 236 – THURSDAY 24 JULY 2014**

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

**MEMBERS PRESENT:** Peter McQueen (Chairman), Grant Tambling, Ross Baynes, Garry Lambert and Bob Elix

**APOLOGIES:** Nil

**OFFICERS PRESENT:** Nicole Negrete (A/Secretary), Anthony Brennan, Dawn Parkes, Adelle Godfrey. (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Nil

**Hearing opened at 9.45 am and closed at 10.00 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.**

**ITEM 1**                    **ADDITION TO AN EXISTING WAREHOUSE EXCEEDING 8.5 METRES IN HEIGHT**  
**PA2014/0419**            **A REDUCTION IN CAR PARKING BAY AND LANDSCAPING AND REDUCED SIDE**  
                                 **AND REAR SETBACKS**  
**APPLICANT**            **LOT 4842 AND 4843 (19) RAPHAEL ROAD, HUNDRED OF BAGOT**  
                                 **MEATPAK ASUTRALIA PTY LTD**

Nadia Smith (City of Darwin) Attended

Michel Rankin Attended in representation of Michael Hillan (Meatpak Australia Pty Ltd)

**RESOLVED**  
**168/14**

That, the Development Consent Authority vary the requirements of Clause 6.1 (General Height Control), Clause 6.5.1 (Parking Requirements), Clause 6.5.3 (Parking Layout) and Clause 9.1.1 (Industrial Setbacks) of the NT Planning Scheme, and pursuant to section 53(a) of the Planning Act, consent to the application to develop Section 4842 (19) Raphael Road and Section 4843 (17) Raphael Road, Hundred of Bagot for the purpose of additions to an existing warehouse exceeding 8.5m in height, a reduction in car parking bays and landscaping and reduced side and rear setbacks, subject to the following conditions:

**GENERAL CONDITIONS:**

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 two copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - (a) Front entrance gates that do not open outwards onto City of Darwin land.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), approval for the development to be built within a City of Darwin stormwater easement must be obtained from the City of Darwin, and submitted to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental Construction Management Plan (ECMP), to the requirements of the City of Darwin, to the satisfaction of the consent authority. The ECMP 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.

4. Prior to the endorsement of plans and 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:**

5. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
6. Section 4842 and Section 4843 must be consolidated. An Occupancy Permit under the Building Act must not be issued until all land affected by the development has been consolidated and a new title issued for the consolidated lot.
7. 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.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities arrangements to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
9. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.  
and  
The owner shall:
  - (a) remove disused vehicle and/ or pedestrian crossovers;
  - (b) provide footpaths/ cycleways;
  - (c) collect stormwater and discharge it to the drainage network; and
  - (d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
10. Before the use or occupation of the development starts, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
  - (a) constructed;
  - (b) properly formed to such levels that they can be used in accordance with the plans;
  - (c) surfaced with an all-weather-seal coat;
  - (d) drained;
  - (e) line marked to indicate each car space and all access lanes; and
  - (f) Clearly marked to show the direction of traffic along access lanes and driveways; to the satisfaction of the consent authority.

11. 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.
12. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
13. Before the use/occupation 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.
14. 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.
15. Before the use/occupation of the development starts, a Waste Management Plan addressing the City of Darwin's Waste Management Policy 054 as well as the requirements of the Environmental Health branch of Department of Health, must be prepared to the requirements of the City of Darwin and the Environmental Health branch of Department of Health, to the satisfaction of the consent authority.
16. 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.
17. Soil erosion control and dust control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.

**Notes:**

1. This permit will expire if one of the following circumstances applies:
  - (a) the development is not started within two years of the date of this permit; or
  - (b) the development is not completed within four years of the date of this permit.The consent authority may extend the periods referred to if a request is made in writing before the permit expires.
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto:powerconnections@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.
3. The Power and Water Corporation advises that:
  - The developer will need to contact Power and Water's Trade Waste department to discuss trade waste requirements and obtain preliminary approval of the concept design.
  - A trade waste permit has been issued by PWC for the existing facility. This permit will be due for renewal in late 2014 and the new development should be incorporated during renewal.

- It is confirmed that the existing sewerage easement within lot 4843 is still required – the development application indicates that there is a proposed concrete driveway over the easement. The developer is required to enter into a deed of indemnity regarding a non-compliant easement encroachment with Power and Water.
4. The Environmental Health branch of Department of Health advise that:
    - The developer is to ensure that all development work is undertaken in a manner that prevents the creation of a public health nuisance from dust or other particle matter.
    - An area of land should be set aside for the safe storage of waste in order to prevent illegal dumping taking place and the creation of a potential public health nuisance and environmental pollution.
    - All waste, including hazardous and toxic waste, must be disposed of in a manner that it avoids the creation of nuisance or vermin harbourages, and should be transported to an approved waste disposal facility.
    - Any new waste disposal site should be developed in accordance with the NT 'guidelines for the siting, design and management of solid waste disposal sites'.
    - Detailed plans must be submitted to DoH, via a building certifier, for approval prior to the commencement of any building works. Following assessment and approval the premises are required to be registered as a food business with DoH prior to operating.
  5. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to Council.
  6. Notwithstanding the approved plans, any proposed works (including landscaping and structures) within Council's road reserve and Council land is subject to Council's approval and shall meet all Council's requirements, to the satisfaction of the General Manager of Infrastructure, City of Darwin and at no cost to Council.
  7. City of Darwin advises that a Tree Protection Zone (TPZ) shall be constructed for all existing trees to be retained within the development, in accordance with Australian Standards – AS 4970-2009 Protection of Trees on Development Sites.
  8. The Environment Protection Agency of the Department of Lands, Planning and the Environment advises that construction work should be conducted in accordance with the Agency'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.
  9. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from Department of Land Resource Management.

## REASONS FOR THE RECOMMENDATION:

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

The proposal has been assessed against the relevant clauses of the NT Planning Scheme and is consistent with the type of development anticipated in Zone GI (Generally Industry).

- A variation to Clause 6.1 (General Height Control) is supported in this instance as although an overall increase in height of approximately 1m is proposed, the highest part of the roof presents to the street frontage and is some 17m-29m away from both the front and rear boundaries. The part of the roof that is over height is not considered to be overbearing on the surrounding development or streetscape, and the proposed building is considered to still be of a height that is consistent with development provided for by Zone GI (General Industry). The applicant has endeavoured to provide a building that is of architectural merit rather than another 'industrial shed' that will uphold their international image as a contemporary business. Furthermore, the applicant has provided an extensive explanation as to why the proposed building has been designed in such a way. The extra height is needed to serve the intended use, but also to aid in stormwater management and energy efficiency and a variation is considered acceptable given these circumstances.
- A variation to Clause 6.5.1 (Parking Requirements) is considered acceptable in this instance due to the following combination of factors:
  - The applicant has demonstrated that the development generates a higher parking requirement than is necessary in reality given that 520m<sup>2</sup> (41%) of the warehouse space is largely dormant and requires few employees to operate in this area.
  - The total site frontage is 65.5m with just one 6m crossover, enabling kerb side parking directly in front of the site for approximately 8 vehicles.
  - Raphael Road is approximately 30m wide and provides on-street parking in the centre of the road as well as still being wide enough to allow for kerbside parking on both sides of the road (and still sufficient room for traffic to pass by unhindered).In summary it is considered that sufficient off-street car parking, constructed to a standard and conveniently located, is provided to service the proposed use of a site as per the purpose of this clause.
- A variation to Clause 6.5.3 (Parking Layout) is considered acceptable in this instance as the applicant has explained that given the limitations of the site in terms of dimensions, angles, easements etc; that the building has been designed to serve the intended use as well as comply with building regulations and meet planning requirements as closely as possible; the space left over has been used to design the car parking area in accordance with Australian standards and the space left over only allows for a 1.5m distance to the boundary which will be landscaped. It is considered that an effective landscape buffer can still be provided within the 1.5m area through the use of

appropriate plant species and there is always the option of further planting within the road reserve (subject to Council approval) if this was considered necessary.

- A variation to Clause 9.1.1 (Industrial Setbacks) is supported in this instance as the dimensional limitations of the site are acknowledged and a reduced side and rear setback, together with a reduced landscaping strip are not considered to compromise the achievement of the objectives of this clause as explained below:

- Side Boundary: The proposed development still provides a setback of between 3m and 5m to the adjoining lot (section 4844) which happens to have its development located well away from this shared boundary. Given that the Scheme requires a 0m setback to one side boundary and a 5m setback to the other side boundary; possible outcomes are a 0m, 5m or 10m separation between developments on adjoining lots. In this instance, although the subject site is proposing a reduced side setback, overall separation between buildings will still be in excess of 10m therefore providing an adequate level of visual amenity in industrial zones as per the purpose of this clause. Furthermore it should be noted that a 3m setback is also proposed to the eastern side boundary where a 0m setback is permitted. Together, the two side boundaries provide a setback of 6m which could be seen as a better outcome in terms of visual amenity than a 0m setback on one side and 5m setback on the other side.

- Rear Boundary: Due to the angle of the rear lot boundary, the rear setback varies between the required 5m to 3m at the closest point as the boundary tapers towards the south west. It is acknowledged that rectangular buildings are the most economical to build and the proposed use in particular needs to make use of modular, rectangular spaces. Given that the building needs to be of a rectangular design, the shape of the lot is irregular, and that the required 5m setback is still achieved where possible the non-compliance is considered to be acceptable. In addition, the rear of the building does not exceed 8.5m in height and is not expected to impact on the adjoining rear lots as they also use this boundary as their rear boundary which can be considered to be the less utilised and visible part of the site.

- Landscaping: The proposed landscaping of the street frontage, to a depth of 1.5m rather than the required 3m, is dictated by the space left over after the design of the building, the car parking area and associated setbacks, clearances, manoeuvring space etc. A variation is considered acceptable given that landscaping is provided in other areas of the site, particularly in front of the existing building to a depth of at least 3m. An effective landscape buffer can still be provided within the 1.5m area through the use of appropriate plant species and there is always the option of further planting within the road reserve (subject to Council approval) if this was considered necessary.

2. 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 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 land is generally flat and is serviced by reticulated power, water and sewerage. The lot is Zoned GI and therefore anticipates a development such as the one being proposed. Furthermore, service authorities did not raise any particular land capability concerns with the development hereby being proposed. There does not appear to be any reasons to suggest that the land is not capable of supporting the proposed development.

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.

Given that the proposed development is an extension of the existing use and is consistent with the type of development that can be expected in Zone GI (General Industry), the potential impact on the existing or future amenity of the area is considered to be negligible. Where the development does not comply with the relevant clauses of the NT Planning Scheme, the impact on existing and future amenity has been considered and a variation has only been supported in cases where this amenity will not unduly be impacted upon.

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

Condition Precedents on the development permit require: approval from CoD for the development to be built within a City of Darwin stormwater easement, a schematic stormwater management plan and an environmental construction management plan. It is anticipated that these measures, combined with standard conditions relating to the connection and upgrade of utility services and the provision and treatment of easements, are expected to ensure that the land is developed in accordance with physical capabilities; address concerns raised by service authorities; and, ensure utility and infrastructure requirements are appropriately addressed.

5. A Condition Precedent requiring amending plans to show front entrance gates that do not open outwards onto City of Darwin land has been included at Council's request.
6. Section 4842 and Section 4843 need to be consolidated to ensure compliance with the Building Code of Australia.

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

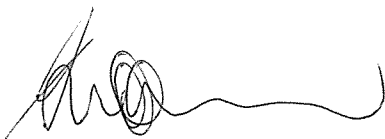


*"Tribute to retiring chairman (Mr Peter McQueen) –*

*Members of the DCA/Darwin unanimously resolved to record their appreciation of the 8 years of service and the professional contribution as Chairman of the Development Consent Authority by Peter McQueen.*

*All members expressed support for the resolution, and acknowledged the hard work, diligence and personal interest in Northern Territory town planning demonstrated by Mr McQueen throughout his term of office".*

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



**PETER MCQUEEN**  
Delegate

31 /07/14