



DEVELOPMENT CONSENT AUTHORITY

LITCHFIELD DIVISION

MINUTES

MEETING No. 212 – FRIDAY 16 JUNE 2017

**WHITEWOOD HALL
325 WHITEWOOD ROAD
HOWARD SPRINGS**

MEMBERS PRESENT: Denis Burke (Chairman), Keith Aitken, Bob Shewring, Christine Osborn and Doug Barden

APOLOGIES: Wendy Smith

OFFICERS PRESENT: Margaret Macintyre (Secretary), Dawn Parkes, Ann- Marie Dooley and Roxanne Willing (Development Assessment Services)

COUNCIL REPRESENTATIVE: Edward Li

Meeting opened at 10.00 am and closed at 12.50 pm

MINUTES RECORD THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1 **CHANGE OF USE FROM SHOWROOM SALES TO MEDICAL CLINIC**
PA2017/0185 **(TENANCY 5)**
APPLICANT **SECTION 6570 (43) FAIRWEATHER CRESCENT, HUNDRED OF BAGOT**
ELTON CONSULTING

Mr Frank Eyndhoven and Mr Scott Alcorn (both Elton Consulting), Ms Stefania Fikus and Ms Angelique Brett (both GHD) and Mr Greg Broadfoot (Danila Dilba) attended.

Mr Eyndhoven tabled a response with additional information.

Submitters: Mr Ray Patrick (Manager, Coolalinga NT Fastners), Ms Josephine Gentle (business owner in the complex), Ms Lisa Carusi (Automotive Performance NT) and Ms Inga McFarlane (NT Powersports) attended.

Submitter Mr Gerry Wood MLA sent his apologies.

RESOLVED
69/17

That, pursuant to section 53(c) of the *Planning Act*, the Development Consent Authority refuse to consent to the application to develop Section 6570 (43) Fairweather Crescent, Hundred of Bagot for the purpose of change of use from showroom sales to medical clinic (tenancy 5) for the following reasons:

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 application was assessed against the relevant clauses of the NT Planning Scheme and does not comply with Clause 6.5.1 (Parking Requirements). Furthermore, the use of 'medical clinic' is a discretionary use within Zone C (Commercial) and subject to assessment against the purpose of Clause 5.8 (Zone C – Commercial).

The site currently consists of 12 tenancies approved for shops and showroom sales uses and a motor repair station. Current tenants include but are not limited to an electrical wholesaler, power sports retailer, construction supply specialist and an equipment hire company.

The primary purpose of Clause 5.8 (Zone C – Commercial) is to provide for a range of business and community uses and development should be of a scale and character appropriate to the service function of a particular centre; respect the amenity of adjacent and nearby uses; and promote community safety in building design, having regard to adjacent and nearby uses.

The Authority considered that the site is not suitable for a medical clinic as the use is not of a scale or character appropriate to the service function of the site and does not respect the amenity of

adjacent and nearby uses. The Authority considered that the proposal has the potential to result in negative impacts on the amenity of adjacent and nearby uses as a result of the parking shortfall associated with the medical clinic and the incompatibility of the proposal with the existing shop, showroom sales and motor repair station uses on site.

Furthermore, the Authority considered that in this instance, given the proposed shortfall in car parking and the lack of pedestrian access on site, that there would be significant safety concerns for people attending the proposed medical clinic and that the site is not currently appropriate for such use.

The proposed change of use requires 20 car parking spaces where only 7 were originally required for tenancy 5, leaving a shortfall of 13 car parking spaces. The applicant has requested that a reduction in parking be considered pursuant to Clause 6.5.2 (Reduction in Parking Requirements). The applicant requests a reduction in parking on the basis that the medical clinic is for the care of aboriginal people only and therefore there is low car ownership amongst patients; public transport and taxi services will be utilised; the clinic has its own patient minibus service; and the clinic sees much fewer patients per day than a standard clinic.

The existing car parking layout was designed to service the original development of shops, showroom sales and a motor repair station, leaving only 1 car parking space surplus to requirements. While each of the 12 tenancies generates a particular car parking requirement, all car parking currently on site is communal and available for the use of all tenants and their customers.

In addition to a shortfall of 13 car parking spaces, the proposed change of use to a medical clinic also requires a dedicated parking space for a patient minibus and space to accommodate an ambulance should one be needed. The current design and lease arrangements of the site cannot accommodate such requirements as the site was not originally developed to accommodate the needs of a medical clinic.

Public transport in the area is limited to a few services a day which operate early in the morning before the proposed medical clinic would be open, and again in the evening once the proposed medical clinic would have closed. Taxi services are also limited in the area, particularly in some of the rural areas which are included in the patient catchment for the proposed medical clinic.

Notwithstanding the limited availability of alternative transport methods, the site has not been designed to accommodate pedestrians, taxis or minibus services and the site in its current form cannot safely accommodate these requirements. While there is nearby on-street parking, this is provided by Council for the use of all surrounding businesses' and their customers and the nearby large car park associated with the Coolalinga Central shopping centre is a private car park for the use of their customers only.

Clause 2.5 (Exercise of Discretion by the Consent Authority) sub-clause 4 states that “the consent authority may consent to the development of land that does not meet the standard set out in Parts 4 or 5 if it is satisfied that special circumstances justify the giving of consent.”

For the reasons outlined above, the Authority was not satisfied that sufficient special circumstances had been demonstrated to justify the granting of such a large shortfall in parking or that a reduction in parking pursuant to Clause 6.5.2 (Reduction in Parking Requirements) was appropriate for the use.

2. Pursuant to Section 51(e) of the *Planning Act*, the consent authority must take into consideration any public submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

Six public submissions were received during the exhibition period under Section 49 of the *Planning Act* with respect to the proposal. The submitters all raised concerns regarding the proposed shortfall in car parking as well as highlighting that there are current issues with the communal car parking on-site. Submitters were concerned that the proposal would exacerbate the existing parking issues on site. Safety concerns were also raised by existing tenants on site, stating that the site has not been designed for pedestrian access and that the proposed use is incompatible with the existing uses on the site.

Clause 4.1 (Northern Territory) of the NT Planning Scheme requires the administration of the Scheme to contribute to a built, rural and natural environment supporting the diverse lifestyle and the social, cultural and economic development of the Territory promoting a number of matters, including safe communities. The Authority considered that in this instance, given the proposed shortfall in car parking and the lack of pedestrian access on site, that there would be significant safety concerns for people attending the proposed medical clinic and that the site is not currently appropriate for such use.

3. Pursuant to Section 51(m) of the *Planning Act*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated, the requirements for public facilities and services to be connected to the land and the requirements, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

Litchfield Council does not support the granting of a development permit citing the existing car parking issues on site and lack of parking available for the proposed use. Council advised that it has had recent communications from the subject landowners with concern for Council’s restrictions on on-street parking as they believe it will have a significant detrimental effect on the tenant’s business. Council therefore queried how a proposal with such a significant car parking shortfall would impact car parking for existing businesses.

4. 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 not considered capable of supporting the proposed development as the change of use generates a parking shortfall of 13 car parking spaces, only 1 of which can currently be accommodated on site. The Authority considered that there was little opportunity to accommodate the required car parking spaces on site and that the shortfall, combined with existing parking issues on site, would have a negative effect on the land.

5. 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 Authority considered that the proposal has the potential to result in negative impacts on the amenity of adjacent and nearby uses as a result of the parking shortfall associated with the medical clinic and the incompatibility of the proposal with the existing shop, showroom sales and motor repair station uses on site.

ACTION: Notice of Refusal

ITEM 2
PA2017/0189
APPLICANT

SUBDIVISION TO CREATE SIX LOTS
SECTION 2866 (2180) COX PENINSULA ROAD, HUNDRED OF CAVENAGH
PLANIT CONSULTING

Ms Catriona Tatum (Planit Consulting) and Mr Peter Patsalou (landowner) attended.

Submitter Mr Gerry Wood MLA sent his apologies.

Submitter: Ms Lynley Walker attended.

RESOLVED
70/17

That, pursuant to section 53(c) of the *Planning Act*, the Development Consent Authority refuse to consent to the application to develop Section 1716 (2180) Cox Peninsula Road, Hundred of Cavenagh for the purpose of subdivision to create six lots for the following reasons:

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.

Clause 11.1.1 (Minimum Lot Sizes and Requirements) requires that lots in Zone R (Rural) be a minimum size of 8ha with a minimum 1ha of unconstrained land and Clause 11.4.1 (Site Characteristics of Subdivisions of Rural and Unzoned Land) requires that subdivisions of rural land respond to the physical characteristics of the land. The Department of Environment and Natural Resources indicated that there does not appear to be conclusive and compatible evidence that there is 1ha of unconstrained land on proposed Lots 2, 3 or 4; that the formed access required for proposed Lots 5 and 4 could modify drainage over the entire site; and overall, the uncertainty of the

drainage characteristics of the landscape remains unresolved. The Authority considers that the application fails to demonstrate that each lot contains 1ha of unconstrained land as required by Clause 11.4.1.

Clause 11.4.2 (Infrastructure in Subdivision of Rural and Unzoned Land) requires that where no reticulated sewerage is available; demonstrate that the soils are suitable for the on-site absorption of effluent without detriment to the environment and in particular to ground and surface waters. The Department of Environment and Natural Resources advises that the extent of the poorly drained soils within the site remains unresolved. The Authority considers that the application has not satisfactorily demonstrated that the soils are suitable for the on-site absorption of effluent.

Clause 11.4.3 (Lot Size and Configuration in Subdivision of Rural and Unzoned Land) requires that subdivisions of rural and unzoned land ensure that each lot has a minimum of 1ha of unconstrained land and that access to that land from a public road is similarly unconstrained. Access to proposed Lot 4 and Lot 5 are via two 10m wide battle axe strips, approximately 444m and 459m in length, respectively. The battle axe strips traverse areas constrained by poorly drained and very poorly drained soils that are subject to seasonal waterlogging. The access to both lots will need to be engineered to ensure that access to the respective lots is unconstrained.

The Authority considers that while the engineered solution proposed may provide suitable unconstrained access to proposed Lot 4 and Lot 5, its construction may increase the potential for erosion and sedimentation of the poorly drained soils and increase the potential for flooding of adjacent Lot 1715, Hundred of Cavenagh, further exacerbating erosion and sedimentation potential.

2. Pursuant to section 51(m) of the *Planning Act*, the consent authority must take into consideration 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.

The Department of Environment and Natural Resources advises that there does not appear to be conclusive and compatible evidence that there is 1ha of unconstrained land on proposed Lots 2, 3 or 4; that the formed access required for proposed Lots 5 and 4 could modify drainage over the entire site; and that overall, the uncertainty of the drainage characteristics of the landscape remains unresolved.

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 Authority considers the location of the battle axe strip to Lot 5 may increase the potential for flooding of adjacent Lot 1715, Hundred of Cavenagh and increase the potential for erosion and sedimentation of the poorly drained soils. The Authority considers that without confirmation from the Department of Environment and Natural

Resources that each lot has 1ha of unconstrained land then the future amenity of the area could be severely affected as a result of seasonal flooding/waterlogging.

ACTION: Notice of Refusal

ITEM 3
PA2015/0227
APPLICANT

RECONSIDERATION – DEVELOPMENT OF 2 x SHOPS AND 1 x WAREHOUSE IN 2 SINGLE STOREY BUILDINGS
LOT 30 (35) HENNING ROAD, HUNDRED OF STRANGWAYS
NT CONSULTING ENGINEERS

Mr Michael Cooper and Mr Pat Chaonafao (both NT Consulting Engineers) and Mr Angelo Maddalozzo (landowner) attended.

Submitters: Mr Kevin Smith, Mrs Shelley Smith, Mr Peter Dobbe, Ms Karen Sinclair and Mr Arthur Van Eigen attended.

Mr Dobbe tabled a letter in relation to this development.

RESOLVED
71/17

That, pursuant to section 53(a) of the *Planning Act*, the Development Consent Authority consent to the application to develop Lot 30 LTO69/011 (35) Henning Road, Hundred of Strangways, for the purpose of 2 x shops and 1 x warehouse in 2 single storey buildings, subject to the following conditions:

CONDITIONS PRECEDENT

1. 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 Litchfield Council stormwater drainage system shall be submitted to and approved by the Litchfield Council, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must be generally in accordance with the landscaping plan previously submitted but altered to include further landscaping along the south and south east boundaries to actively screen the development from adjoining rural zoned land.
3. Prior to the commencement of works, an Erosion and Sediment Control Plan (ESCP), is to be submitted to and approved by the consent authority on the advice of DENR. The ESCP is to be developed by a suitably qualified and experienced professional in erosion and sediment control planning and the IECA Best Practice Erosion and Sediment Control Guidelines 2008 may be referenced as a guide to the type of information, detail and data that should be included in the ESCP. The plan should detail methods and treatments for minimising erosion and sediment loss from the site during the construction phase. Information regarding erosion and sediment control and ESCP content is available at www.austieca.com.au and the DENR website: <https://nt.gov.au/environment/soil-land-vegetation/soil-management-erosion-sediment-control>.

GENERAL CONDITIONS

4. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
5. All works relating to this permit are to be undertaken in accordance with the endorsed ESCP to the requirements of the consent authority, upon the advice of the Department of Environment and Natural Resources.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage, electricity facilities and telecommunications, to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
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 use may operate only between the hours of 8.00am - 5.30pm Monday to Friday and 8.00am – 12.30pm on Saturdays.
9. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to Litchfield Council to the satisfaction of the consent authority.
10. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into Litchfield Council drains or to any watercourse.
11. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Litchfield Council 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 Litchfield Council to the satisfaction of the consent authority.
12. Before the occupation of the development starts, the areas 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.
Car spaces, access lanes and driveways must be kept available for these purposes at all times.

13. 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.
14. 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 clients.
15. The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bay and must not disrupt the circulation and parking of vehicles on the land).
16. Deliveries to and from the site (including waste collection) must only take place between 7am and 7pm Monday to Saturday
17. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the consent authority.
18. All waste material not required for further on-site processing must be regularly removed from the site to an approved facility. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the consent authority.
19. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.
20. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the consent authority.
21. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - (a) transport of materials, goods or commodities to or from the land;
 - (b) appearance of any building, works or materials;
 - (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - (d) presence of vermin.
22. Before the 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.
23. 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. 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.

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 in the Northern Territory. 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 works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
4. The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e. not flashing or variable message). The sign shall be positioned:
 - (a) so as not to create sun or headlight reflection to motorists; and
 - (b) be located entirely (including foundations and aerially) within the subject lot.
5. A "Permit to Work Within a Road Reserve" may be required from Litchfield Council before commencement of any work within the road reserve.
6. The development and use hereby permitted should be designed, constructed, registered and operated in accordance with the Building Code of Australia, the *NT Public Health Act* and Regulations, the *NT Food Act* and National Food Safety Standards.
7. Any new on-site wastewater system to be installed must be carried out by a qualified licensed Self-Certifying Plumber and must comply with the NT Code of Practice for Small On-site Sewage and Sullage Treatment Systems and the Disposal or Reuse of Sewage Effluent (The 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 revised development is consistent with the requirements of the NT Planning Scheme, including the purpose of Zone C (Commercial) which is 'to provide for a range of business and community uses'. The proposed development is of a scale and character appropriate to the growing needs of Coolalinga, which has been identified in the Darwin Regional Land Use Plan as a rural activity centre.

A revised landscaping plan is required to further screen the development, including the detention basin, from adjoining rural zoned land to the south of the development.

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

Three public submissions were received during the public exhibition period. The original submissions raised concerns regarding amenity, stormwater management, traffic increase and safety, and risk to the groundwater supply. All three submitters were provided with the additional information submitted by the applicant in response to the letter of deferral, and no further submissions were received. The Authority considers the submitter's concerns are addressed through the additional information provided and the standard and specific conditions included in the development permit, including limited hours of operation, an inclusion of suitable landscaping, a stormwater management plan, and an erosion and sediment control plan.

3. 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 considered capable of supporting the proposed development. Successful implementation of the approved stormwater management plan will prevent any risk to the groundwater supply.

4. 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 three public submissions received all raised a potential negative impact on the amenity of the area as a concern, through visual impact, pollution, increase in noise and traffic, and increase in stormwater flows across private properties. The Authority considers the inclusion of standard and specific conditions relating to stormwater management, landscaping, delivery hours and baffling of security lighting have been included on the development permit to address and mitigate these concerns.

ACTION: Notice of Consent and Development Permit

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



DENIS BURKE
Chairman

20/6/17