



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 333 – FRIDAY 5 APRIL 2019

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

MEMBERS PRESENT: Suzanne Philip (Chair), Doug Phillips, Sherry Cullen and Simon Niblock

APOLOGIES: John Gleeson and Mick Palmer

OFFICERS PRESENT: Margaret Macintyre (Secretary), Dawn Parkes and Amit Magotra (Development Assessment Services)

COUNCIL REPRESENTATIVE: James Whyte and Brian Sellers

Meeting opened at 10.45 am and closed at 12 noon

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 EXTENSION OF TIME TO DP13/0012
PA2011/0272 LOT 2017 (6) QUEEN STREET, TOWN OF DARWIN
APPLICANT KATINA MAMOUZELLOS

Mr George Mamouzellos attended on behalf of the applicant and tabled seven pages of information for the Development Consent Authority (DCA).

RESOLVED That, pursuant to section 59(3)(a) of the *Planning Act 1999*, the Development
71/19 Consent Authority consent to the application to extend the base period of
DP13/0012 for the purpose of 12 x 2 bedroom multiple dwellings in a 4 storey
building plus basement car parking at Lot 2017 (6) Queen Street, Town of Darwin
for an additional period of 2 years.

REASONS FOR THE DECISION

- There have not been any substantial changes to the Northern Territory Planning Scheme since the time of issue of the original permit.
- There are no concepts for the subject land, and the land is not identified as a potential area for change in the Darwin Inner Suburb Area Plan (DISAP).

Mr George Mamouzellos tabled seven pages of information for the DCA and addressed the DCA by speaking to the tabled information. Mr Mamouzellos explained various circumstances that have had occurred in the past resulting in the delay of the development. Mr Mamouzellos expressed that the current economic downturn of Darwin has also impacted the economic viability of the development. Mr Mamouzellos is of the view that re-advertising the application, under the current requirements of the NTPS, will not raise any new physical variations or alterations then as previously approved under the original permit. Mr Mamouzellos highlighted that the assessment report prepared by the Development Assessment Services (DAS) also states that there have not been any substantial changes to the Northern Territory Planning Scheme (NTPS) since the time of issue of the original permit

In response to a question raised by the Authority at the hearing in relation to the extension of the period of permit sought for the development, Mr Mamouzellos confirmed that he is seeking an extension of two years.

The Authority gave careful consideration to the applicant's verbal submission and took these comments into consideration in making its decision. The Authority noted that the current application is for the third extension of the period of the permit. The Authority considered that notwithstanding there have not been any substantial changes to the Northern Territory Planning Scheme (NTPS) since the time of issue of the original permit, that substantial time has passed, and the nature of the locality, including owners and occupiers of adjacent and nearby developments, may have changed.

While the Authority determined to grant the requested two years extension which will extend the base period of the permit to 2021, the Authority were unanimous in determining that any further request for an extension of time to the base period of the permit is unlikely to be granted, and the applicant is encouraged to commence the development within the new base period of the permit.

ACTION: Extension of Time Permit with covering email to include the last paragraph from above, reiterating that any further extension is unlikely to be supported.

ITEM 2 **CHANGE OF USE FROM OFFICE TO MEDICAL CLINIC**
PA2019/0040 **UNIT 10864 APT 45 (OFFICE 3) GSELL COMMERCIAL, (7C) GSELL STREET,**
APPLICANT **TOWN OF NIGHTCLIFF**
 NORTHERN PLANNING CONSULTANTS PTY LTD

Mr Brad Cunnington (Northern Planning Consultants Pty Ltd) attended.

Submitters in attendance:- Ms Maureen Schaffer (Director) and Mr Darren Kovak (Golden Glow Nursing and Day Surgery).

RESOLVED That, pursuant to section 53(a) of the *Planning Act 1999*, the Development
72/19 Consent Authority consent to the application to develop Unit 10864 Apt 45
 (Office 3) Gsell Commercial, (7C) Gsell Street, Town of Nightcliff for the purpose
 of change of use from office to medical clinic (dental clinic with one consulting room
 only), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawing number 2019/0040/01 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 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.
3. Any developments on or adjacent to any easements on site shall be carried out to the requirements and satisfaction of the relevant service authority at no cost to the relevant service authority.
4. Before the use commences, one car parking space for the use of the medical clinic (dental clinic with one consulting room only) must be provided on Lot 6254, Town of Nightcliff. Evidence of a lease agreement or other arrangement must be provided to the satisfaction of the consent authority. The provision of one car parking space on Lot 6254, Town of Nightcliff must remain for as long as the medical clinic (dental clinic with one consulting room only) is in operation unless otherwise agreed in writing by the consent authority.
5. At least two of the three car parking spaces under the title of Unit 10864 Town of Nightcliff, located directly in front of the tenancy, must be available

at all times for the exclusive use of the patients/visitors of the medical clinic (dental clinic with one consulting room only).

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

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. Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to Council.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The Northern Territory Planning Scheme (NTPS) applies to the land, and the site is within Zone C (Commercial) of the NTPS. The primary purpose of Zone C is to provide for a range of business and community uses. The clause further states that the 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 proposed change of use to a medical clinic is consistent with the provision of a range of business and community uses. The subject site appears to have been developed as a specialist medical hub with some medical clinics and a pharmacy operating from the site. Therefore the proposed change of use is consistent with the other existing uses on site and is unlikely to impact the amenity of adjacent and nearby areas. Matters related to community safety in building design do not apply as the application seeks consent for the change of use of an existing tenancy and will not see any alteration to the built form.

Clause 6.5.1: Parking Requirements

The purpose of this clause is to ensure that sufficient off-street car parking, constructed to a standard and conveniently located, is provided to service the proposed use of a site.

The amended application proposes a medical clinic comprising of one consulting room, studio/ recovery room, reception and waiting areas, staff room, office, imaging (X-ray) room, sterilisation area, laboratory, and storage/plant areas. As per the table to Clause 6.5.1 a medical clinic requires four car parking bays for each consulting room provided.

The assessment notes that the existing tenancy has three exclusive car parking spaces under the title, situated immediately adjacent to the tenancy entrance, and the application proposes to provide additional car parking space off-site, within Lot 6254 Town of Nightcliff, to accommodate any additional car parking requirement as a result of the proposed change of use. The Authority notes that the applicant has provided a copy of a lease agreement between Masum Nominees Pty Ltd (unit owner) and the Potters House Christian Centre which permits the unit owner to utilise the Potters House car park at Lot 6254 Town of Nightcliff. According to the lease agreement, the Potters House Christian Centre has offered use of six bays on an ongoing basis.

The assessment notes that the off-site car park is located east of the subject land, with pedestrian access provided via the existing footpath and a walking distance of approximately 228 metres from the subject tenancy. The site has no planning history; however, the aerial view of the site shows that the site is primarily used as a car parking area. The assessment also noted that the site has 76 car parks with 10 car parking bays allocated to the place of worship located on the adjacent lot (Lot 6253 Town of Nightcliff).

The Authority noted that notwithstanding the applicant has provided a car parking arrangement to accommodate any parking shortfall from the proposed change of use to a medical clinic, the character of the existing site could change in the future, or the lease agreement could terminate at any time. To ensure sufficient parking is provided in the long term, a condition requiring the provision of one car parking space on Lot 6254 Town of Nightcliff (by lease agreement or other arrangement to the satisfaction of the consent authority) for as long as the medical clinic is in operation, is included on the development permit.

The Authority noted that the amended plan provided by the applicant replaces the consulting room (proposed in the original application) to studio/recovery room which could potentially be used as a consulting room. In addition it was noted that the two storage room areas shown on the plan have identical layouts to the consulting room. The applicant at the meeting clarified that the tenancy shall be occupied by a single dental practitioner specialising in cosmetic dental procedures with longer appointment times and more holistic patient services, and that the additional storage rooms are for the storing of specialised equipment. The applicant confirmed that the medical clinic will be operated by a single dental practitioner only, from one consulting room.

The Authority acknowledged that the application proposes one consulting room only, and given the specific use of the tenancy as a specialist dental clinic it was considered that this use is less intensive than a traditional medical clinic, due to longer procedure times which therefore result in a lower turnover of patients. The Authority determined that the approved purpose should explicitly state that the use is for a dental clinic with one consulting room only which is reflected on the development permit.

2. Pursuant to section 51(n) of the *Planning Act 1999*, 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.

The proposed change of use to a medical clinic is consistent with the provision of a range of business and community uses. The subject site appears to have been developed as a specialist medical hub with a number of medical clinics and a pharmacy operating from the site. The proposed change of use is consistent with the other existing uses on site and is unlikely to impact the amenity of adjacent and nearby areas.

The proposal complies with the requirements of the Northern Territory Planning Scheme. The applicant has provided evidence of what is considered an acceptable solution to ensure that adequate parking is provided for the development. A condition requiring the provision of one car parking space on Lot 6254 Town of Nightcliff, secured by evidence of an ongoing lease agreement, for as long as the medical clinic is in operation is included on the development permit.

Further, as stated above in reason 1, the specific use of the tenancy as a specialist dental clinic is likely to attract lower visitation rates and subsequently will reduce the potential impact on available car parking. A condition requiring the applicant to make available at least two of the three car parking spaces on-site at all times for the exclusive use of the patients/visitors of the medical clinic, will ensure that sufficient car parking is available for the patients/visitors of the medical clinic.

Provided the use continues to provide additional car parking space off-site to be utilised by staff, and at least two on-site car parks are available at all times for the patients/visitors of the medical clinic, no impact on the amenity of the surrounding areas is foreseen.

3. Pursuant to section 51(e) of the *Planning Act 1999*, 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.

One public submission was received during the exhibition of the application under section 49 of the *Act*. The submission was received from Golden Glow Nursing & Darwin Day Surgery which operate in the same building. The submitter raises concerns regarding parking shortfall from the proposed medical clinic and existing parking issues exacerbated by the residential development and expansion of the number of clinics on the site.

Following the exhibition of the proposal and receipt of the public submission, the applicant provided the amended plan and additional information which were circulated to the public submitter for further comments.

The submitter also attended the meeting accompanied by Mr Darren Kovak and spoke about the concerns raised in the submissions.

Ms Maureen Schaffer firstly raised concern in relation to the layout of the medical clinic which could potentially be used as more than one

consulting room. This concern was also raised by the Authority and is discussed above in reason 1.

Ms Schaffer expressed concerns regarding existing parking issues within the complex and explained that they are exacerbated by the residential development and number of medical clinics developed on the adjacent Lot 10490 Town of Nightcliff. Ms Schaffer stressed that notwithstanding the commercial tenancies have designated car parks, these are often illegally occupied by the visitors of the medical clinic on the adjacent lot and by occupants and visitors of the residential development. Ms Schaffer stressed that they are currently finding it hard to enforce the use of their spaces or any broader car parking management for the complex and consider the proposed change of use for another medical clinic will only add to the existing problem.

The Authority carefully considered the concerns of the submitters and took these comments into consideration in making its decision. The Authority sympathised with the existing car parking management issues and considered that this was an issue that should be clearly managed by the body corporate. While the Authority acknowledged these existing issues it accepted that they were outside of the scope of the current planning application which in summary requires four parking spaces, three of which are proposed to be provided on-site and one of which is proposed to be provided off-site through an ongoing lease agreement. The Authority has applied relevant conditions to the development permit to ensure that the car parking associated with this proposal is managed appropriately.

The Authority noted that the representative from the City of Darwin at the meeting acknowledged that due to extremely limited availability of any further on-street or off-street parking in this area the Council does not support any car parking contribution for any shortfall resulting from the medical clinic. The Council do however note that the proposed use is unlikely to have any considerable impact on the existing car parking issue.

4. Pursuant to section 51(j) of the *Planning Act 1999*, 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 another land, the physical characteristics of which may be affected by the development.

The subject land is suitably zoned for the proposed use, not affected by excessive slope, drainage or other constraints, and suitably located as part of an approved commercial complex. The proposed use is consistent with the range of uses both existing and anticipated within the locality.

The proposed medical clinic requires four car parking spaces. Given the tenancy has only three car parking spaces under the unit title, the application proposes to provide the additional car parking space off-site, within Lot 6254 Town of Nightcliff, to accommodate any additional car parking requirement as a result of the proposed change of use. Provided that the provision of one car parking space is provided off-

site for as long as the medical clinic is in operation and that the use operates as per the conditions of the development permit, the land is considered capable of accommodating the proposed use.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

12 April 2019