



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 460 – FRIDAY 17 JULY 2026

**AGORA ROOM, HUDSON BERRIMAH
4 BERRIMAH ROAD, BERRIMAH**

MEMBERS PRESENT: Suzanne Philip, Marion Guppy, Rod Applegate, Peter Pangquee and Mick Palmer

APOLOGIES: None

LEAVE OF ABSENCE: None

OFFICERS PRESENT: Madison Harvey, Kaleb Thomas, Amber Roth (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 10.10 am and closed at 10.25 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 TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1
PA2026/0182
APPLICANT

**CHANGE OF USE FROM WAREHOUSE TO LEISURE AND RECREATION
(PILATES STUDIO) (TENANCY 4)
LOT 8914 TOWN OF NIGHTCLIFF, 2 TANG STREET, COCONUT GROVE
MACH1 FITNESS**

Applicant: Mark Ewins (Mach1 Fitness) attended.

**RESOLVED
42/26**

That, the Development Consent Authority vary the requirements of clause 5.2.4.1 (Car parking spaces) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 8914 (2) Tang Street, Coconut Grove, Town of Nightcliff for the purpose of a change of use from warehouse to leisure and recreation (pilates studio) (tenancy 4), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawing numbered 2026/0182/01 endorsed as forming part of this permit.
2. The use and/or development as shown on the endorsed plans must not be altered without the further consent of the consent authority.
3. The use and operation shall provide:
 - a. No more than 4 patrons and one staff member at any one time from Monday to Friday between 8:00am and 4:30pm.
 - b. At all other times, except as specified above, no maximum number of patrons and staff at any one time.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
Please refer to notation 1 for further information.
5. 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. The Power and Water Corporation advises that the Power Network Engineering Section (powerdevelopment@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 onsite and/or surrounding infrastructure.

2. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.
3. The applicant is advised to engage a Northern Territory registered building certifier to ensure that the intended use of any existing buildings or structures is permitted by occupancy certification in accordance with the *Building Act 1993*.
4. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.

REASONS FOR THE DECISION

1. The application seeks approval for a change of use from warehouse to leisure and recreation (pilates studio) (tenancy 4) at Lot 8914 (2) Tang Street, Coconut Grove, Town of Nightcliff (the site). The use of leisure and recreation (pilates studio) has been occurring in breach of the *Planning Act 1999* (the Act) and the application seeks to rectify the breach and achieve compliance with the Act.

The site is 1250 m² in area and is in Zone LI (Light Industry) of the Northern Territory Planning Scheme 2020 (NTPS2020). The area subject to this application (herein referred to as the development site) is located adjacent to the southern property boundary, has a primary pedestrian entrance to Dick Ward Drive, and internal pedestrian/vehicle access to the rear car parking area that is accessed off Tang Street.

The development site is located within a Light Industry (LI) zoned complex and the application states it has been operating as a leisure and recreation (pilates studio) for approximately 11 years. No building works, external alterations, or increases to floor area are proposed.

The pilates studio utilises the existing ground floor areas of the tenancy to provide a reception and waiting space, with reformer, matwork and strength training areas located on the ground floor and mezzanine level. The pilates studio will operate on a structured booking system with small class sizes, private and semi-private sessions. Activities are conducted entirely within

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the building, with no outdoor components, and the operation is designed to maintain clear circulation and separation between activity areas.

At the meeting, Mr Mark Ewin (the applicant), explained that the bulk of the pilates operation takes place before and after standard business hours. Mr Ewin advised that most patrons prefer to park on the street, as the on-site car parking spaces are narrow, however, some patrons that have disability parking permits utilise the on-site accessible parking space. Mr Ewins further noted that he normally rides his bike to the studio in the mornings, and drives and parks on-site for evening classes, and that in the evenings most patrons will park on the street and walk in.

Mr Ewins explained there are 4 other instructors, with crossover of instructors on Monday night, where there may be 3 instructors, and Wednesday night, where there may be 2 instructors. Mr Ewins highlighted that Sunday mornings normally saw the greatest number of people on-site, where there may be 13 people (12 patrons and one instructor).

Ms Suzanne Philip, Chair of the Development Consent Authority (the Authority), queried Mr Ewin on what the car parking situation was like in the locality on Saturday mornings.

Mr Ewin advised that classes commence at 8:00am and 9:00am, and that patrons ordinarily park on the street. Mr Ewin noted that he estimates that up to 80% of businesses located on Tang Street are not open or operating on Saturday mornings.

2. Pursuant to section 51(1)(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 Authority notes that the Northern Territory Planning Scheme 2020 (NTPS2020) applies to the land and a change of use from warehouse to leisure and recreation (pilates studio) (tenancy 4) requires consent under clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under clause 1.8(1)(c)(i); therefore, the Darwin Mid Suburbs Area Plan 2016 (being the most detailed strategic framework document), the zone purpose and outcomes of Zone LI (Light Industry), and clauses 5.2.1 (General Height Control), 5.2.4 (Car Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), 5.6.1 (Setbacks and Building Design in Zones LI, GI and DV), 5.6.2 (Expansion of existing Developments in Zones LI and GI), and 5.8.5 (Leisure and Recreation), need to be considered.

The Authority notes the assessment completed by Development Assessment Service (DAS) which found that the application complies with the relevant requirements of the NTPS2020 except for Clause 5.2.4.1 (Car parking spaces), which is discussed further below.

A summary of the relevant parts of the NTPS2020 is as follows:

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Part 2 – Strategic framework

Darwin Mid Suburbs Area Plan

The Darwin Mid Suburbs Area Plan 2016 (DMSAP) provides guidance and policy as themes that apply across Nightcliff, Rapid Creek, Millner, Coconut Grove and portion of Ludmilla north of Ludmilla Creek. In addition, the DMSAP identifies several focus areas to address particular issues/support particular development outcomes at specific locations.

The DMSAP 2016 identifies that the site is:

- Intended for light industrial land uses
- Not located over or in close proximity to any identified social infrastructure
- Is located adjacent to a high frequency bus corridor which occurs along Dick Ward Drive
- Not located at any specific utility locations
- Not located within a storm surge zone or in proximity to any heritage values.

The Authority notes that the application is not contrary to, or prejudice, the achievement of any relevant objectives of the DMSAP, noting that leisure and recreation is an *Impact Assessable* land use in Zone LI, and subject to specific zone outcomes.

Part 3 – Overlays

The Authority notes that the site is not affected by any overlays.

Part 4 – Zoning

The Authority notes the purpose of Zone LI is to *Provide for low impact industrial and compatible non-industrial developments that will not by the nature of their operations, detrimentally affect adjoining or nearby land.*

The application proposes a change of use from warehouse to leisure and recreation (pilates studio) and zone outcomes 3 and 8 are considered to warrant particular attention.

The Authority notes that zone outcome 3 intends that *Non-Industrial uses such as food premises-cafe/takeaway, bar-public, leisure and recreation, education establishment and hotel/motel are limited to those that:*

- (a) *will not be adversely impacted by the operation of industrial activities in the locality;*
- (b) *will not compromise or constrain the operation or viability of existing or future industrial activities; or*

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- (c) *provide a convenience, service or support role to industries and employees in the locality.*

In response to (a), it is not expected that the proposed pilates studio will be impacted by nearby industrial developments particularly as the site is on the periphery of the light industry land precinct.

In response to (b), the operation of the pilates studio is unlikely to generate traffic impacts or environmental nuisances that could detrimentally affect other nearby industrial developments or Zone LI land in the vicinity.

In response to (c), it is reasonably expected that the pilates studio will be accessible and provide a benefit to local employees, as well as the wider community.

The Authority notes that zone outcome 8 then intends that *Development does not detrimentally impact on the capacity, safety or efficient operation of the local road and footpath network.*

In response to this zone outcome, while the proposed development generates a car parking demand greater than that ordinarily expected for industrial developments, the application indicates that peak times of operation will be outside standard business hours, with only private and semi-private sessions (with a maximum of 4 patrons and 1 staff) running during business hours.

As the peak demand will occur outside of business hours, the on street car parking utilised by the surrounding LI land uses would be available, providing additional car parking spaces for the pilates studio. While this may be considered as detrimental to the ongoing operation of the local road infrastructure, it is not considered to be a of scale where it is contrary to this zone outcome, particularly as no concerns were raised by the City of Darwin in relation to adverse traffic impacts.

Part 5 – Development requirements

As outlined above, the proposed development was found to comply with the relevant part 5 development requirements of the NTPS2020, except for clause 5.2.4.1 (Car parking spaces).

3. Pursuant to clause 1.10 (Exercise of Discretion by the Consent Authority), subclause (5), of the NTPS2020, *The consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:*
- (a) The purpose and administration clauses of the requirement; and*
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).*

The Authority notes that the application has been found not to be in accordance with clause 5.2.4.1 (Car parking spaces), because the proposal

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will worsen the existing 4 car parking space shortfall by 16 car parking spaces, and result in a revised shortfall of 20 car parking spaces at the site.

The Authority notes the report completed by DAS, which completed a review of the planning history at the site, which indicates that the other on-site land uses require 14 car parking spaces, comprised of:

- Tenancy #1 – 2 car parking spaces (warehouse)
- Tenancy #2 – 2 car parking spaces (warehouse)
- Tenancy #3 – 9 car parking spaces (food premises-restaurant with ancillary warehouse)
- Dwelling-caretakers – 1 car parking space

In total, the site is therefore calculated as requiring 32 car parking spaces to cater for existing and proposed land uses, where 12 car parking spaces are shown on the plans associated with DP22/0032 (which is the most recent approval that approved changes to the layout of the car parking area, and represent the existing layout at the site).

As such, this application will worsen the existing shortfall of 4 car parking spaces, and result in a revised shortfall of 20 car parking spaces. It is noted that this assessment has considered the entirety of tenancy 4 (with the exception of ablution facilities and tea room facilities) as net floor area, to reflect the dynamic nature of leisure and recreation, and ensure a conservative estimate to inform the maximum potential car parking demand.

In response to clause 1.10(5)(a), the purpose of clause 5.2.4.1 (Car parking spaces) is to *Ensure that sufficient off-street car parking, constructed to a standard and conveniently located, are provided to service the proposed use of a site.*

In response to clause 1.10(5)(a), administratively, subclause 2 states *The consent authority may consent to a use or development that is not in accordance with subclause 4 if it is satisfied a reduction of the number of car parking spaces is appropriate with regard to:*

- (a) *the zoning of the land, the use or development or proposed use or development of the land, and the possible future use or development of the land;*

In response to subclause (a), the proposed development is for a change of use from warehouse to leisure and recreation (pilates studio) within an existing LI zoned complex. The existing complex contains 4 tenancies that are utilised for various land uses including warehouse (tenancies 1 and 2) and an existing food premises-restaurant (tenancy 3). The nature of each use is expected to operate with varying parking demands.

The specific nature of a pilates studio is such that the application of an alternative approach to car parking rather than broad leisure and recreation car parking rate is appropriate. The proposed pilates studio will operate

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sessions and classes and therefore the car parking required would be based upon the average group size and running times.

The application states that hours of operation will be between 6:00am to 11:30am, and 4:30pm to 7:30pm, with only private (maximum one patron and one staff member) and semi-private (maximum 4 patrons and one staff member) sessions occurring during standard business hours. The larger classes (maximum 11 patrons and one staff member) occur outside standard business hours.

Within standard business hours, there are expected to be a maximum capacity of 5 people comprising 4 patrons and one staff member, while outside business hours, there would be a maximum capacity of 18 people including 16 patrons and 2 staff members. The Authority has addressed this through a general condition which limits the maximum number of people on site to 4 patrons and one staff member within the standard business hours of 8:00am to 4:30pm, Monday to Friday. This is to ensure adequate car parking is available for all land uses on the site.

(b) the provision of car parking spaces in the vicinity of the land;

In response to subclause (b), on-street car parking is available along Tang Street and Dick Ward Drive and patrons are generally expected to be at the site for an hour, ensuring that there will be a consistent turnover of on-street car parking spaces.

In addition, the application advises the proposed pilates studio will operate predominantly outside of standard business hours and the hours of operation for the existing tenancies on-site, that not all classes operate at maximum capacity and that some participants carpool, walk or cycle to the site, which cumulatively help ensure the ongoing provision of available car parking spaces in the locality.

(c) the availability of public transport in the vicinity of the land; and

In response to subclause (c), the site is located in close proximity to the Darwin-Casuarina bus route #4 and approximately a one kilometre walk to bus route #10.

(d) the potential impact on the surrounding road network and the amenity of the locality and adjoining property;

In response to subclause (d), the proposed development will increase the existing car parking space shortfall at the site, with demand for car parking spaces likely to rely upon existing car parking available along Tang Street, and along Dick Ward Drive. However, no concerns/objections were received from the City of Darwin, who manage the local road network.

The proposed development has access to public transport, with bus stops located in close proximity, therefore encouraging alternative modes of transport and reducing reliance on private cars.

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The pilates studio use will be wholly within the existing building, and there are no residential land uses abutting the site. Accordingly, the application is unlikely to adversely impact the amenity of the locality or adjoining properties.

For the above reasons, there is considered to be sufficient car parking available to accommodate future site users and the proposed pilates studio is unlikely to have any unreasonable adverse impacts on the surrounding road network.

The Authority considers that a variation to clause 5.2.4.1 (Car parking space) is appropriate in this instance as the shortfall in car parking spaces is not likely to result in unreasonable adverse impacts on the local street network beyond those ordinarily expected for a mixed-use development within an existing light industrial area.

The Authority noted it does not seek to discourage the adaptive re-use of existing developments and recognises the age and established nature of the existing development in this instance.

In response to clause 1.10(5)(b), the considerations listed under clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NTPS2020, except for the non-compliant clauses as identified and discussed above.

Notwithstanding the above, while the application was found to be compliant with the other relevant development requirements, the Authority considered that further discussion of clause 5.8.5 (Leisure and recreation) is warranted.

The purpose of this clause is to *Ensure leisure and recreation use and development:*

- (a) is established in appropriate locations to meet the needs of users;*
- (b) provides convenient vehicle access and does not interfere with the safe or efficient operation of the local road and footpath network;*
- (c) incorporates appropriate building and landscape design to ensure that there is no unreasonable loss of amenity for adjoining and nearby property; and*
- (d) is operated to be considerate of the amenity of adjoining and nearby property.*

In response to subclause (a), the application states that it offers an activity which has been well utilised to date by the local community.

In response to subclause (b), while the application did not include a traffic impact assessment, no concerns were raised by the City of Darwin, who manage the local road network.

In response to subclause (c), the application does not propose any substantial changes to the existing building frontage, with it to continue to comprise a high degree of landscaping and windows (albeit with security screening).

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In response to subclause (d), the ongoing operation of the leisure and recreation land use is considered acceptable, with it contributing another type of land use to the existing mixed-use development at 2 Tang Street.

Based on the above discussion, the Authority considers that the application complies with the requirements of and supports the relevant purpose of clause 5.8.5 (Leisure and recreation).

4. Pursuant to section 51(1)(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 other land, the physical characteristics of which may be affected by the development.

The Authority notes that the site is connected to reticulated power, water and sewerage, and is flat, cleared of native vegetation and outside areas of identified flooding or storm surge. While the site is located within the Australian Noise Exposure Forecast (ANEF, 2043) 25 to 30 contour (for which Table 2.1 of the AS2021 - 2000 Acoustics – Aircraft noise intrusion – Building siting and construction considers a commercial development as conditionally acceptable) it is noted that the proposed development does not alter the existing commercial building.

Additionally, the Development Coordination Branch of DLPE did not identify or raise any issues of concern in relation to land capability.

Subsequently, the land is considered to have the capacity to support the proposed development.

5. Pursuant to section 51(1)(m) of the *Planning Act 1999*, 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 application was circulated to the relevant authorities and comments received from these authorities are addressed by recommended conditions and / or notations on the development permit.

It is noted that the City of Darwin (local government council) requested that any development permit include a requirement for the proponent to provide a monetary contribution for any shortfall of car parking spaces. The Authority has decided not to apply a permit condition requiring a part or in-full contribution for the car parking shortfall at the site for the following reasons:

- The peak demand of the leisure and recreation will be outside the main hours of operation of the nearby industrial land uses

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- Leisure and recreation patrons are generally expected to be at the site for an hour, ensuring that there will be a consistent turnover of on-street car parking spaces
 - The proximity of alternative modes of transport (i.e. public transport, walking and cycling).
6. Pursuant to section 51(1)(n) of the *Planning Act 1999*, 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

Amenity is defined in the *Planning Act 1999* as *in relation to a locality or building, any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.*

The Authority considers it unlikely that the proposed development will have a significant impact on the amenity of the area particularly as it is for a part change of use within an existing commercial/warehouse building. Additionally, the proposed development is consistent with the Darwin Mid Suburbs Area Plan, the purpose of zone LI and complies with the NTPS2020, except in relation to car parking space matters, which are considered in detail at section 1 of these reasons.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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



Suzanne Philip
2026.07.20
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SUZANNE PHILIP
Chair
20 July 2026