



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 334 – THURSDAY 18 APRIL 2019

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

MEMBERS PRESENT: Suzanne Philip (Chair), Marion Guppy, Sherry Cullen and Mick Palmer

APOLOGIES: Mark Blackburn

OFFICERS PRESENT: Margaret Macintyre (Secretary), Dawn Parkes and Adelle Godfrey (Development Assessment Services)

COUNCIL REPRESENTATIVE: - Nil

Meeting opened at 10.00 am and closed at 10.45 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 **ALTERATIONS AND ADDITIONS TO AN EXISTING SINGLE DWELLING**
PA2019/0043 **WITH A REDUCED FRONT SETBACK**
APPLICANT **LOT 4011 (14) HUDSON COURT, TOWN OF DARWIN**
ONE PLANNING CONSULT

Mr Israel Kgosiemang (One Planning Consult) attended.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 7.3
73/19 (Building Setbacks of Residential Buildings and Ancillary Structures) of the
Northern Territory Planning Scheme, and pursuant to Section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 4011 (14) Hudson Court, Town of Darwin for the purpose of alterations and additions to an existing single dwelling with a reduced front setback, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and within one month of the date of this permit, 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 must generally be in accordance with the plans submitted with the application but modified to show:
 - a. An accurate floor plan and elevation of the structure existing on site;
 - b. The maximum overall height of the structure existing on site measured from the ground level; and
 - c. The location of the existing pool pump shed located along the front boundary and an elevation plan of the pool pump shed. [Note: the height of the pool pump shed must be below the block wall fence line of the boundary along Hudson Court).

2. Prior to the endorsement of plans and within one month of the date of this permit, 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 generally be in accordance with the amended landscape plan provided in the application except that the plan must show:
 - a. A planting schedule of all proposed trees, including botanical names, common names, size at planting (height), size at maturity (height), and quantities of each plant. The species of plants selected must be capable of screening the approved structure from the street; and
 - b. The location of the pool pump shed in relation to the proposed landscaping.All species selected must be to the satisfaction of the consent authority and must provide screening of the approved structure from the street.

3. Prior to the endorsement of plans and within one month of the date of this permit, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the local 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 surface flow direction, downpipe direction and any connection to Council connection points.

GENERAL CONDITIONS

4. The works carried out under this permit shall be in accordance with drawings endorsed as forming part of this permit.
5. 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.
6. 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.
7. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
8. Within three months of the date of this permit, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
9. 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.
10. The use of the land for the purpose of alterations and additions to an existing single dwelling as approved through this permit must cease 12 months from the date of issue of this permit and the structure must be immediately removed from the site.

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 (NTEPA) 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 7 am and 7 pm Monday to Saturday and 9 am to 6 pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
3. The City of Darwin advises that designs and specifications for landscaping of the road verge adjacent to the property shall be submitted for approval by the General Manager Infrastructure, City of Darwin and all approved works

shall be constructed at the applicant's expense, to the requirements of the City of Darwin.

4. The City of Darwin advises that any proposed works on/over City of Darwin property shall be subject to separate application to the City of Darwin and shall be carried out to the requirements and satisfaction of the City of Darwin.

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.

Lot 4011 Town of Darwin is identified within Zone SD (Single Dwelling Residential) of the NT Planning Scheme (NTPS) and is surrounded by lots predominantly developed as single dwellings. The primary purpose of Zone SD is to provide for single dwellings on individual lots. The proposal is for additions and alterations to the existing single dwelling, and as such the development is considered consistent with the purpose of the zone.

2. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Northern Territory Planning Scheme the Authority may consent to a development that does not meet the standard set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The application seeks a retrospective approval for a bedroom, with attached toilet and shower, addition to an existing single dwelling within the primary street front setback. The bedroom addition is in the form of a transport container, which is substantially prefabricated, to be used as an extension to an existing dwelling.

The subject site is located at the corner of Hudson Court and Mallam Street. Given the NTPS specifies that the classification of primary and secondary streets are determined by the width of the street and amount of traffic flow on streets; Hudson Court is considered as the primary street since it is expected to have greater traffic flow of the two streets.

The bedroom addition proposes a setback of 2.86 meters to the primary street (Hudson Court) where a minimum setback of 6 meters is required. A variation to the requirements of Clause 7.3 (Setbacks of Residential Buildings and Ancillary Structures) is therefore sought.

In support of the variation sought, the applicant stated that:

- The site is located towards the end of Hudson Court when approaching it from the north-eastern direction which represents the longest part of the street. The proposed landscaping on the north-eastern corner and partially along the front boundary would significantly reduce the visibility of the structure when viewed from the street. Also, as the approach line to the site along Hudson Court is longer, the visibility of the structure will be diminished due to additional screening and compatibility with established heights along the street.

- The traffic along this part of Hudson Court is localised to residents of the area as there is no connection to the collector road with busier traffic movement.
- There is no vehicle access driveway along the affected lot boundary, and therefore the impact of a reduced front setback is minimised by full perimeter solid fencing coupled with additional landscaping vegetation for visual screening.
- The proponent's elderly relative is unable to care for themselves and requires family assistance in a room that meets their daily needs. The proposed bedroom which has been modified would allow the family to take care of the elderly relative for as long as the structure is required.

The Authority noted the applicant's comments in support of a variation and reiterated the requirements for special circumstances to be present. The applicant suggested that in this instance the special circumstances could be found beyond the numerical requirements of the Clause in the unique social situation that presented itself. The Authority questioned the applicant on whether or not the landowner would be amenable to a time limited permit for a period of 12 months. The applicant was not opposed to a time limited permit but suggested that a period of 24 months would be more suitable. The Authority also questioned the applicant on why the existing dwelling could not be modified to accommodate their needs to which the applicant responded that there was little room available and considerable modifications would need to be made.

The Authority noted the recommendation provided by Development Assessment Services (DAS) in which it considered that a variation could be supported for the following reasons:

- The existing 1.8m - 2.1m high block wall fencing along the front boundary will largely screen the structure from the street. The applicant proposes landscaping along the front boundary which will provide additional screening to the remainder of the structure visible from the street. This will also minimise the effect of building massing when viewed from the street.
- Hudson Court runs long and joins with Bagot Road to the East. As the subject site is located close to the western turning alignment of Hudson Court, the impact of reduced setbacks on the streetscape will be minimum.
- The height of the structure is consistent with the existing development and nearby development within the locality.
- Due to the relatively small size and corner location of the block, design options for the proposed additions are constrained.

After careful deliberation on the matter the Authority determined to approve the proposal for a period of 12 months only, noting that the applicant could seek to extend the time period of the permit at a later date should the structure still be required. The Authority determined to require the amended plans to be submitted within one month of the date of the permit, and that the required landscaping be carried out within three months of the date of the permit.

The imposed timeframes were considered critical to the approval of the proposal as without them it was considered no special circumstances existed to support the variation to Clause 7.3. The Authority considered that the approval of the structure for a time limited period would improve the existing amenity of the area through removal and remediation of existing non-compliant structures on site, and through the addition of landscaping which will screen the structure from the street and provide a softer edge to the existing streetscape.

3. Pursuant to Section 51(m) of the *Planning Act 1999*, 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.

The application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of standard conditions and notations on the development permit.

4. 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 (1) public submission from PPlan: the Planning Action Network Inc. was received under section 49(1) of the *Planning Act 1999*. The submission raised concern regarding the reduced setback, encroachment on an easement and other additions shown on the floor plan of the existing house.

The Authority noted the submitter's comments. The reduced front setback is discussed above in reason 2. In summary the Authority supported a variation to the requirements of Clause 7.3 but granted consent for a period of 12 months only. The Authority also required the addition of mature landscaping to screen the structure from the street.

In relation to the encroachment on the easement, Development Assessment Services advised that a review of the planning history shows that the drainage easement which previously existed along the northwest side boundary has been extinguished by the service authority, and no easement currently exists on the title of the lot. Furthermore, the City of Darwin has confirmed that a recent stormwater study completed in the area does not identify any stormwater pipe on the lot.

In relation to other additions and alterations such as the carport, verandah and storeroom along the side boundary with reduced setbacks, it is acknowledged that these additions were approved under DP08/0305 and are not part of this application. Further, the rumpus room located at the rear is not part of this application; however, it is fully compliant with the requirements of NTPS.

5. 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.

Amenity under Section 3 of the Act and Clause 3 of the NTPS is defined as:

“amenity” in relation to a locality or building, means any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.

The Authority determined that the inclusion of mature landscaping, that will screen the structure from the street, would ensure that the existing and future amenity of the area was not unduly impacted as a result of the proposed addition. The Authority also noted that as a result of the proposal, the rectification of existing non-compliant structures will occur which together with the addition of landscaping, will improve the existing amenity of the immediate area.

6. Pursuant to section 51(t) of the *Planning Act 1999*, the consent authority must take into consideration any other matters it thinks fit.

The Authority noted its distaste of retrospective applications and that a retrospective application should neither pre-empt full consideration of the merits of an application, nor pre-suppose a favourable decision by the Authority. In this instance the application was assessed on its merits and the Authority were satisfied that special circumstances justified the giving of consent for a time limited period only.

ACTION: Notice of Consent and Development Permit

NOTE:

Authority member, Ms Sherry Cullen, did not support the application.

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

SUZANNE PHILIP
Chair

23 April 2019