



DEVELOPMENT CONSENT AUTHORITY

PALMERSTON DIVISION

MINUTES

MEETING No. 222 – WEDNESDAY 21 AUGUST 2019

**BOULEVARD ROOM
QUEST PALMERSTON
18 THE BOULEVARD
PALMERSTON**

MEMBERS PRESENT: Suzanne Philip (Chair), Steve Ward, Trevor Dalton, Sarah Henderson and Ben Giesecke

APOLOGIES: Nil

OFFICERS PRESENT: Breanna Lusty (A/Secretary), Sally Graetz and Alexander Deutrom (Development Assessment Services)

COUNCIL REPRESENTATIVE: Rebecca de Vries

Meeting opened at 10.00 am and closed at 10.35 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 **ALTERATION AND ADDITIONS TO THE EXISTING DEVELOPMENT**
PA2019/0268 **LOT 7079 (23) CALLANAN ROAD, TOWN OF PALMERSTON**
RESULTING IN OFFICE WITH ACILLARY WORKSHOP IN A 2 STOREY
BUILDING

APPLICANT/S AB Consulting Pty Ltd

The applicant did not attend.

Mr Ben Giesecke left the meeting in accordance with section 97(1)(b) of the *Planning Act 1999*.

RESOLVED That, pursuant to section 53(a) of the *Planning Act 1999*, the Development
31/19 Consent Authority consent to the application to develop Lot 7079 (23) Callanan
Road, Town of Palmerston for the purpose of alterations and additions to the
existing development resulting in office with ancillary workshop in a 2 storey
building for the following reasons:

CONDITIONS PRECEDENT

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 must be generally in accordance with the plans submitted on 2 August 2019 but modified to show the extent of sealed outdoor surfaces associated with car parking areas and outdoor storage areas to be provided as part of the development.

GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Palmerston as the case may be to the satisfaction of the consent authority.
5. A waste management plan must be prepared, to the requirements of the City of Palmerston, to the satisfaction of the consent authority.

NOTES:

1. The Power and Water Corporation advises that the Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email in 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.

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 proposal has been assessed against the Northern Territory Planning Scheme (NTPS) and is fully compliant with the relevant clauses. The site is zoned SC (Service Commercial). The primary purpose of Zone SC is to provide for commercial activities, which, because of the nature of their business or size of the population catchment, require large sites. The proposed occupier of the site, Yilli Housing, is a commercial venture, which because of the nature of its business, requires a large site.

As outlined in the technical assessment, the proposal complies with the car parking requirements of Clause 6.5.1, where 24 car parking bays are required and 25 car parking bays are provided. The proposal also complies with the parking layout provisions outlined in Clause 6.5.3 (Parking Layout) and provides a loading bay in accordance with the requirements of Clause 6.6 (Loading Bays).

2. Pursuant to section 51(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under the section 49, and any evidence or information received under section 50, in relation to the development application

No public submissions were received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal.

3. Pursuant to section 51(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 proposal was circulated to the City of Palmerston (Council), Power and Water Corporation and the Department of Environment and Natural Resources for comment. In its comments, Council advised that it was not able to support the application as it required further information around the use of the workshop and the inclusion of any outdoor storage to undertake a proper assessment of the application.

The applicant provided an amended statement of effect and dimensional plans on 2 August 2019 in response Council's concerns. The amended application specified the workshop as a 'light industry' use, provides outdoor storage and provides additional parking in accordance with the requirements of the NTPS. Council attended the meeting and advised that it had no objection to the amended proposal.

Council also advised the requirement of a waste management plan could be dealt with as a standard condition, and that a stormwater management plan was requested due to the site being bituminised as

part of the proposal. The Authority determined to include a condition precedent on the permit requiring amended plans showing the extent to which the site will be bituminised, and determined to include a standard stormwater condition on the permit.

4. Pursuant to section 51(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.

The proposal is for minor internal works and will not significantly alter the general appearance of the site from the street. It is fully compliant with the relevant provisions of the NTPS and provides additional parking on site. As such, the proposal is not expected to negatively impact on the existing or future amenity area.

ACTION: Notice of Consent and Development Permit

ITEM 2 **CHANGE OF USE FROM OFFICE TO PLACE OF WORSHIP (PART LEVEL 1)**
PA2019/0213 **LOT 635 (11) PALMERSTON CIRCUIT, TOWN OF PALMERSTON**
APPLICANT/S Northern Planning Consultants

Mr Brad Cunnington (Northern Planning Consultants) and Mr Jared Archibald attended on behalf of the applicant. Submitter, Ms Nathalie Campion (Ella Bache Palmerston) also attended.

Mr Cunnington tabled two photographs taken on Sunday 18 August 2018 showing car parking utilisation surrounding the site.

RESOLVED
32/19

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 635 (11) Palmerston Circuit, Town of Palmerston for the purpose of a change of use from office to place of worship (part level 1), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings numbered 2019/0213/01 – 2019/0213/03 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 of the relevant service authority to the satisfaction 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. The Department of Environment and Natural Resources advises that construction work should be conducted in accordance with the Northern Territory Environment Protection Authority' 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.

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 application is for a change of use from office to place of worship at Lot 635 (11) Palmerston Circuit, Town of Palmerston. The change of use relates to tenancy B and C on the upper level.

The land is within Zone CB (Central Business) of the NT Planning Scheme (NTPS). 'Place of worship' is a discretionary land use within the zone and consent is therefore required to establish the use. Additionally, the proposal seeks a reduction in parking requirements under Clause 6.5.2 (Reduction in Parking Requirements) of the NTPS.

Place of worship attracts a parking requirement of 5 bays for every 100m² of net floor area which results in a calculated demand for the use of 18 bays.

In its existing form as an office, the tenancy would generate a calculated parking demand of 9 bays.

The change of use increases the calculated parking demand by a further 9 bays and, as these 9 bays cannot physically be provided within the site, the application seeks to reduce vehicle parking requirements under Clause 6.5.2 (Reduction in Parking Requirements of the Scheme).

The application states that, 'notwithstanding the proposed shortfall, the nature of a place of worship is such that peak occupation only occurs for a short period each week, in this case a period of two hours on a Sunday morning and Sunday evenings.' It states that peak operating hours are therefore outside normal business hours, occurring between 10am and 12pm on Sunday morning and 6pm and 8pm on Sunday evenings. Outside peak operating hours, the use is limited to 'small-group religious teachings and activities, volunteer administrative duties and genealogy research.' Based on this expected restricted usage, the application concludes that parking generated during these times will be well below that created by the existing office and will be 'able to integrate with existing premises' with the varied peak times enabling the proposal to operate without placing undue pressure on surrounding public parking.

The consent authority acknowledged the considerations it must make in determining a reduction in car parking requirements under Clause 6.5.2. The consent authority considered that the proposal would enable

use of an existing tenancy within an existing building which is likely to increase activity within the CBD located space. The land is zoned for activity of this nature and the applicant put forward arguments that, because of the specific nature of the use, supported the claim that the use would not place undue pressure on public parking in the area. There are in the order of 150 public car parking spaces within the immediate area of the site. Separate site visits by Development Assessment Services and the applicant confirmed an availability of public parking during the suggested peak usage time, noting this the Authority was satisfied that there was sufficient supply in the area to accommodate the development. The site is located within the CBD which is well serviced by existing public transport, including the Palmerston bus interchange approximately 200m away and a closer bus stop approximately 150m away.

The Authority acknowledged the request from the City of Palmerston for imposition of a condition requiring a monetary contribution in lieu of the parking shortfall. However, the Authority was persuaded by the evidence presented by the applicant regarding the limited nature of the use during the week and usage on weekends and the current availability of public car parking in the area to support the use. It relied on this evidence in determining that a reduction under clause 6.5.2 of 9 bays was appropriate in this situation.

2. 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 other land, the physical characteristics of which may be affected by the development.

The application is for a change of use of an existing tenancy. The change of use results in a 9 bay parking shortfall. The applicant demonstrated that, despite the shortfall, due to the specific and limited nature of the use and availability of public car parking in the surrounding area, adequate parking is still available in the area to support the development.

No further land capability concerns were identified.

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.

Three public submissions were received regarding the application during the public exhibition period. One submission was later withdrawn as the matters raised in the submission had been addressed. The remaining submissions raised concerns with construction noise associated with the development and anti-social behaviour within and around the buildings. Restrictions on when construction works can occur were also sought.

In relation to construction noise, the Authority noted that some construction noise was to be expected given the nature of the development. At the meeting, the applicant indicated that his clients were expecting construction works to occur within a two week period

where some noise would occur. The applicant further indicated however that the works associated with the lift installation were being managed by building owners and were being undertaken separately.

The Authority noted that the NT EPA administers the Waste Management and Pollution Control Act 1998 (WMPC Act), which includes provisions that prevent a person from creating an environmental nuisance (which may include unreasonable construction noise). The NT EPA's 'Noise guidelines for development sites in the Northern Territory' details hours that construction activities should occur within including, between the hours of 7am to 7pm Monday to Saturday and between the hours of 9am to 6pm on Sunday or public holidays. It also details noise levels that should not be exceeded depending on the nature of the area (e.g. residential, commercial, industrial). The Department of Environment and Natural Resources, which responds to development applications on behalf of the NT EPA, did not raise any objections to the proposal or recommend any specific restrictions. Rather than restricting hours of construction via development approval, the Authority considered that inclusion of a notation on the permit was more appropriate and would alert the developer to its responsibilities under the WMPC Act 1998, which includes appropriate hours of construction and acceptable noise levels. The Authority encourages ongoing communication between the developer and surrounding businesses so that necessary arrangements to minimise disruption to business operations can be made.

In relation to the matters raised regarding anti-social behaviour and safety for existing tenants, while the Authority was sympathetic of the issues raised by submitters, both in submission and at the meeting, these matters are considered best dealt with by building management/owners. Discussions over the control of shared building accesses/corridors/facilities is beyond the reach of the consent authority's considerations and therefore cannot be fully resolved by the planning process. The nature of the use proposed and the suggested hours of operation are likely to activate the area and provide added passive surveillance to discourage the unwanted behaviour identified by submitters.

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair
26 August 2019