



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 396 – FRIDAY 9 SEPTEMBER 2022

**BROLGA ROOM
NOVOTEL DARWIN CBD
100 THE ESPLANADE
DARWIN CITY**

MEMBERS PRESENT: Marion Guppy (Deputy Chair), Peter Pangquee and Mick Palmer

APOLOGIES: City of Darwin

LEAVE OF ABSENCE: Suzanne Philip (Chair) and Mark Blackburn

OFFICERS PRESENT: Amit Magotra and Breanna Lusty (Development Assessment Services)

COUNCIL REPRESENTATIVE: Nil

Meeting opened at 10.10 am and closed at 10.20 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 CHANGES TO DP21/0139 TO CONVERT MEDICAL CLINIC AND OFFICE TO
FOOD PREMISES – CAFÉ/TAKE AWAY AND FOOD PREMISES – RESTAURANT.
PA2022/0263 LOT9.08 (54) BRADSHAW TERRACE, CASUARINA, TOWN OF NIGHTCLIFF
APPLICANT Tatam Planning Co.

Catriona Tatam (Tatam Planning Co.) attended.

RESOLVED
53/22

That, the Development Consent Authority determines to reduce the car parking requirements pursuant to Clause 5.2.4.2 (Reduction in Parking Requirements outside of Zone CB in Darwin) 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 9308 (54) Bradshaw Terrace, Casuarina, Town of Nightcliff for the purpose of leisure and recreation (gym) (unit 23B and part unit 23A), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. 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.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and 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.

4. 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 (waterdevelopment@powerwater.com.au) and 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 on-site and/or surrounding infrastructure.

2. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
3. Notwithstanding the approved plans, any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin Policy Number 42 – Outdoor Advertising Signs Code.

REASONS FOR THE DECISION

1. 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 NT Planning Scheme 2020 (NTPS 2020) applies to the land, and leisure and recreation (gym) requires consent under Clause 1.8 (When development consent is required). The use for the development are identified as *Merit Assessable* under Clause 4.10 – Zone C (Commercial), and therefore the zone purpose and outcomes of Clause 4.11 Zone C (Commercial), Clause 5.2.4 (Vehicle Parking), Clause 5.2.5 (Loading Bays), Clause 5.2.6 (Landscaping), Clause 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), Clause 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), Clause 5.5.1 (Interchangeable Developments in Zones CB and C), Clause 5.5.2 (Plot Ratios in Commercial Zones), Clause 5.5.3 (Commercial and other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, and T) and Clause 5.8.5 (Leisure and Recreation), need to be considered.

The land is located in Zone C (Commercial) of the NTPS 2020, of which the purpose is to provide for a range of business and community uses. The zone applies to shopping areas ranging from neighbourhood convenience shopping to regional centres. The zone also provides that 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 development is located within the Casuarina Village Precinct, which is identified as a 'Primary Activity Centre' in the Darwin Regional Land Use Plan. The scale of the development is considered appropriate to the service function of the existing commercial precinct as a primary centre and is sufficiently separated from sensitive land uses, including residential uses to the north of Bradshaw Terrace.

The application proposes the use of Unit 23B and part Unit 23A in an existing commercial building for leisure and recreation (gym). A review of planning records indicates that Unit 23B was previously granted approval for a leisure and recreation use (gym) under DP12/452 and DP12/0452 issued in August 2012 and December 2012, respectively. However, this use ceased in 2018 and remained non-operational for a

period of more than 12 months. As such, the use is abandoned pursuant to Section 37(1) of the *Planning Act 1999*.

The application seeks consent to reactivate the leisure and creation use to operate from Unit 23B and also proposes an extension into part of Unit 23A with an additional floor area of 102m². The proposed extension will be used for the new Cardio Room for gym members.

The technical assessment finds the proposal to be non-compliant with Clauses 5.2.4.1 (Parking Requirements) and seeks reduction under Clause 5.2.4.2 (Reduction in Parking Requirements outside of Zone CB in Darwin).

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, 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).

Clause 5.2.4.1 (Parking Requirements)

The purpose of Clause 5.2.4.1 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"*. Administratively, *"The consent authority may consent to a use or development that is not in accordance with the table to this clause only if it is satisfied the use or development is appropriate to the site having regard to the purpose of this clause and the potential impact on the surrounding road network and the amenity of the locality and adjoining property"*.

The combined net floor area of Unit 23B and Part Unit 23A is 640.44m² which generates a parking requirement of 64 car spaces (at 10 for every 100m² of net floor area).

While the NTPS 2020 provides the car parking assessment as 10/100m² of every net floor area for leisure and recreation uses, the Authority notes that the development approval previously granted to Unit 23B (under DP12/0452 and DP12/0452A) for leisure and recreation (gym) use considered a parking rate of 6/100m² of every net floor area based on potential impacts of a 24 hour gymnasium on the surrounding road network.

Notwithstanding the development approval previously granted to Unit 23B for leisure and recreation (gym) use was under the NT Planning Scheme 2007 (NTPS), the car parking requirements for leisure and recreation, under the current NTPS 2020 have not altered. The Authority determined that the formula adopted for parking assessment under DP12/0452 and DP12/0452A is appropriate for this development.

When applying the car parking formula adopted for DP12/0452 and DP12/0452A (6/100m²), the proposed development generates a parking requirement of 38.6 (~39) car parking spaces.

No new car parking is provided on-site. The proposed development relies on the existing car parking available within the Casuarina Shopping Village (297 car parks available), which is also shared by other tenancies in the shopping centre.

Clause 5.2.4.2 (Reduction in Parking Requirements outside of Zone CB in Darwin)

Clause 5.2.4.2 allows the Authority to approve a use or development with fewer car parking spaces than required if it is satisfied that a reduction is appropriate, having considered matters including (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*; (c) *the provision of car parking spaces in the vicinity of the land*; (c) *the availability of public transport in the vicinity of the land and*; (d) *the use or development relates to a heritage place and the Minister responsible for the administration of the Heritage Act 2011 supports the reduced provision of car parking spaces in the interest of preserving the significance of the heritage place.*

Regarding (a), the site is located in Zone C (Commercial), with zone outcomes including providing "*a diversity of commercial activities that provide for a range of needs of the surrounding area at an appropriate scale for their location...a mix of other business activities [including leisure and recreation in the list*". The use of the land for a gym is considered in keeping with Zone C (Commercial), noting the previous approval for Unit 23B.

The Authority notes that the development is part of an existing shopping centre with a diverse mix of commercial uses, which is likely to attract many multi-purpose trips to the available car parking spaces. Furthermore, the development proposed being a 24/7 gym, will have peak parking demand after hours and on weekends which can be accommodated within the available parking on-site.

Regarding matters under (b) and (c), the Authority notes that the car parking available on site is time limited and is not dedicated to the individual business, so parking turnaround is maximised. The Authority also notes that the site is in proximity to a number of other car parking areas to the north (McDonalds and Hungry Jacks restaurants), east (motor repairs and medical clinic), south (club, offices and Casuarina Square shopping centre) which patrons of the gym could also utilise. The site is also located in proximity to Casuarina Bus Interchange, with a bus stop located on Scaturchio Street, less than 200m southwest of the gym entry.

At the hearing, Ms Catriona Tatam from Tatam Planning Co (applicant) gave an overview of the proposed development and spoke about the

purpose of the application. Ms Tatam told the Authority that the application proposes reactivation of the previously approved leisure and recreation (gym) use within Unit 23B with a minor extension into part of Unit 23A to be used as a new Cardio Room for gym members. Ms Tatam stressed that the previous use of Unit 23B as leisure and recreation was approved with a parking reduction and is not altered as part of the current application. The additional parking generated due to the gym extension into part Unit 23A is deemed minimal in the context of the overall use of the premises and the intended use of the extension.

The Authority carefully considered the information provided by the applicant in the application along with the matters provided under NTPS 2020 and determined to reduce the parking required by Clause 5.2.4.1 (Parking Requirements) through the provision of Clause 5.2.4.2 (Reduction in Parking Requirements outside of Zone CB) as discussed above.

2. 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 land capability of the site has been previously assessed under DP95/0076 issue for the existing shopping centre, with the application only proposing use, not development. It is noted that existing infrastructure and services can be utilised as a part of the proposed use.

3. Pursuant to Section 51 (1)(m) of the *Planning Act 1999*, the consent authority must consider 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 Authority notes that the City of Darwin has requested a monetary contribution in accordance with its Car Parking Contribution Plan in lieu of the on-site car parking shortfall as a result of the proposed development.

The Authority is satisfied to grant a reduction to the car parking required by Clause 5.2.4.1 (Parking Requirements) through the provision of Clause 5.2.4.2 (Reduction in Parking Requirements outside of Zone CB) as discussed in Reason 2 above.

All other requirements of the service authorities are addressed by the inclusion of appropriate conditions and notes on the development permit.

4. 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

The impact on the amenity should be considered in the context of the site and its surroundings. The development is consistent with the broader intent of Zone C (Commercial) and applicable clauses. Where the development does not comply with the relevant clauses of the NTPS 2020, the impact on existing and future amenity has been considered and a variation has only been supported in cases where this amenity will not unduly be impacted upon.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Consent and Development Permit

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



MARION GUPPY
DEPUTY CHAIR

15 September 2022

