



# DEVELOPMENT CONSENT AUTHORITY

## DARWIN DIVISION

### MINUTES

**MEETING NO. 415-FRIDAY 16 FEBRUARY 2024**

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

**MEMBERS PRESENT:** Suzanne Philip (Chair), Marion Guppy, Mark Blackburn and Jimmy Bouhoris

**APOLOGIES:** Peter Pangquee

**LEAVE OF ABSENCE:** Mick Palmer

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Sally Graetz, David Burrow and Monica Pham (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Apology

Meeting opened at 10.15 am and closed at 10.45 am

## Darwin DCA Meeting No 415 – Friday 16 February 2024

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**                    **EXTENSION OF TIME TO DP20/0315A FOR A FURTHER PERIOD OF 1 YEAR**  
**PA2020/0201**        **PORTION 1336 (77) WINNELLIE ROAD, WINNELLIE, HUNDRED OF BAGOT**  
**APPLICANT**        Lisa Hansen

Applicant Lisa Hansen and Rebecca Leek attended.

**RESOLVED**        That, pursuant to section 59(3)(a) of the *Planning Act 1999*, the Development  
**10/24**                Consent Authority consent to the application to extend the period of  
Development Permit DP20/0315A for the purpose of a change of use from  
warehouse to animal rescue centre and veterinary clinic at Portion 1336 (77)  
Winnellie Road, Hundred of Bagot for a period of one year.

### REASONS FOR THE DECISION

1. Section 59 of the *Planning Act 1999* enables a person to apply to the consent authority, at any time before the permit lapses, for an extension of a period of the permit. The base period of the development permit DP20/315 was valid until 17 November 2022. An application was lodged with the consent authority to extend the base period, and the period of Development Permit DP20/0315A is valid until 17 November 2023 and an application to extend the period was lodged with the consent authority on 16 November 2023.
2. The consent authority noted that the application was made under Section 59, making it clear that there are no rights to make a submission under Section 49, and the matters listed Section 51(1) are not applicable. On receipt of an application the consent authority may extend the period of the permit as it thinks fit, or refuse to extend the period of the permit. The *Planning Act 1999* does not provide specific matters to be taken into account to extend the period of a permit. Furthermore, no reasons are required to be given in the event the consent authority makes a determination in accordance with the application. In this instance the application sought an extension of the period for two years, and this request is consented to by the consent authority. Therefore, reasons for the decision are not required under the *Planning Act 1999*. However, in acknowledgement of the submissions received in relation to the original application, the consent authority has decided to record its reasons for decision.
3. In determining the application the consent authority considered that while Section 59 provides no clear guidance or 'test' for the assessment of an application to extend the period of a permit, the nature of the power to extend is limited to considerations relevant to that question only, i.e. in all the relevant circumstances, should the applicant be allowed a further period of time for implementation of the planning permit? It is important that all proposals are assessed on the merits of their individual circumstances. However, in refining what amounts to relevant considerations, the consent

## Darwin DCA Meeting No 415 – Friday 16 February 2024

authority acknowledges the guidelines provided in *Kantor v. Murrindini Shire Council* 18 AATR 285. Generally referred to as the 'Kantor Test' Subsequently, an assessment of the following informed the determination: a) whether there has been a change of planning policy; b) whether the land owner is seeking to warehouse the permit; c) any intervening circumstances which bear upon the granting or refusal of the request for an extension; d) the lapse of time between the permit and the request; e) whether the time limit imposed was adequate; f) the economic burden imposed on the land owner by the permit; and g) the probability of a permit issuing should a fresh application be made. While acknowledging that the 'Kantor Test' is not exhaustive and other factors may be relevant, the consent authority considered that it is clear that such factors should focus on the reasons for delay and the impact of refusing to extend a validly granted permit.

The original application was assessed under the Northern Territory Planning Scheme 2020 which remains current planning policy. The applicant is not considered to be warehousing the permit by virtue of the use existing.

The applicant apologised for delays in meeting the conditions of Development Permit DP20/0315 and demonstrated actions toward completing those outstanding Conditions Precedent, and current works consistent with the conditions imposed.

It is probable, that if a new application were made for a similar use and/or development on the site, that a new development permit would be issued for such a use and/or development, subject to conditions.

The time limit imposed by Development Permit DP20/0315 was for 2 years with an automatic extension for another 2 years if works were substantially commenced in accordance with the permit, pursuant to Section 58(2) of the *Planning Act 1999*. In this instance the automatic extension does not apply on account of the Conditions Precedent not having been completed. However, given the duration for permits set out by Section 58 of the *Planning Act 1999*, it is not unreasonable to expect the completion of the use and development to not have occurred up until 4 years after Development Permit DP20/0315. Therefore, the consent authority considers this time limit as adequate, and it is considered unlikely that further extensions of the period of Development Permit DP20/0315 would be granted.

**Darwin DCA Meeting No 415 – Friday 16 February 2024**

Having considered the matters raised by the applicant, the consent authority was satisfied that it was appropriate to grant the extension of time as applied for.

**FOR: 3**

**AGAINST: 1**

**ABSTAIN: 0**

**ACTION:** Extension of Time

Mr Blackburn considered the explanation of management oversight did not justify another extension. Furthermore the applicant at the meeting advised that the economic burden imposed by the conditions precedent presented some ongoing challenges.

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

**SUZANNE PHILIP**  
Chair

22 February 2024