



## **DEVELOPMENT CONSENT AUTHORITY**

### **PALMERSTON DIVISION**

### **MINUTES**

**MEETING No. 220 – WEDNESDAY 15 MAY 2019**

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

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

**APOLOGIES:** Steve Ward

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Ann-Marie Dooley and Alexander Deutrom (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Rebecca de Vries

**Meeting opened at 9.45 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**                    **CHANGE OF USE FROM SHOWROOM SALES AND WAREHOUSE TO**  
**PA2019/0089**           **LEISURE AND RECREATION (SHED 2)**  
**APPLICANT**           **LOT 7058 (19) TOUPEIN ROAD, TOWN OF PALMERSTON**  
**TRIBAL DRAGON MARTIAL ARTS**

Mr Warwick Drew (Tribal Marital Arts) attended and tabled four letters of support.

**RESOLVED**            That, the Development Consent Authority reduce the car parking requirements  
**26/19**                    pursuant to Clause 6.5.2 (Reduction in Parking Requirements) and pursuant to  
section 53(a) of the *Planning Act 1999*, consent to the application to develop  
Lot 7058 (19) Toupein Road, Town of Palmerston for the purpose of change of use  
from showroom sales and warehouse to leisure and recreation (marital arts) (shed  
2), subject to the following conditions:

#### **CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), an amended site 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 plan must be drawn to scale with dimensions and two copies must be provided. The plan must be generally in accordance with the plans submitted with the application but modified to show:
  - (a) the removal of non-compliant car parking bays '7' and '8' along the northern boundary of the site; and
  - (b) car parking bays '1' and '2' on the southern side of Shed 2 designated as 'drop-and-go' bays.

#### **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 water, sewage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. Before the use or occupation of the development starts, the area(s) set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
  - (a) constructed;
  - (b) properly formed to such levels that they can be used in accordance with the plans;
  - (c) surfaced with an all-weather-sealed coat;
  - (d) drained;
  - (e) line marked to indicate each car space and all access lanes;
  - (f) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the consent authority.Car spaces, access lanes and driveways must be kept available for these purposes at all times.

5. Before the use or occupation of the development starts, the parking area designated as drop-and-go bays must be clearly marked and identified for its intended function.
6. Group classes in excess of eight students may not operate between the hours of 7:00am and after 4:30pm from Monday to Friday. Saturday and Sunday use is unrestricted.

**NOTES:**

1. Power and Water Corporation advise that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and the Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of one month prior to construction works commencing to determine servicing requirements and the need for upgrading of infrastructure.
2. The Northern Territory Environment Protection Authority (NTEPA) advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. 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.
3. The NTEPA has advised that the proponent shall adhere to their general environmental duty under section 12 of the *Waste Management and Pollution Control Act 1998* (WMPC Act). The proponent should carefully consider how compliance will be achieved with Section 12 of the WMPC Act in relation to the proposed development and its likely environment impacts.
4. The leisure and recreation use approved must not be altered without the further approval of the consent authority.

**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 site is zoned SC (Service Commercial). The primary purpose of Zone SC is to provide for commercial activities which, because of the nature of its business or size of the population catchment, requires large sites. The proposal is for a change of use of Shed 2 from 'showroom sales' and 'warehouse' to 'leisure and recreation'. 'Leisure and recreation' is a discretionary use in the zone and the Authority determined the specific nature of this proposal to be generally compatible with the zone.

The proposal was assessed against the relevant clauses of the Northern Territory Planning Scheme (NTPS). Non-compliances were identified at Clauses 6.5.1 (Parking Requirements) and 6.5.3 (Parking Layout).

The purpose of Clause 6.5.1 (Parking Requirements) 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. An assessment of the site determined that 44 car parking bays were required and 32 car parking bays were provided on site.

A reduction of 12 car parking spaces is considered appropriate given that the proposal generally satisfies the purpose of clause 6.5.2 (Reduction in Parking Requirements), based upon the following reasons:

- The nature of the proposed use and the specific operational capacity of the building limits opportunities for expansion or intensification. The floor plan shows the studio comprises of two competition mats (8mx8m); the application indicates that only 6-8 students will be using these mats at any one time, with 4-6 people potential on lookers on the sideline (including instructors) and as such, the studio will only accommodate a maximum of 14 people. The application states that classes will be staggered with 15-minute breaks between ages (kids, juniors and adults) and as such there is not expected to be overlapping in parking; and
- The studio will only operate group classes (in excess of 8 students) before 7am and after 4:30pm. As such, there is expected to be a cross utilisation of car parking bays on site between the day-time 'warehouse' use of Shed 1 (currently vacant) and the after-hours 'leisure and recreation' use of Shed 2.

The Authority noted the recommendation provided in the Development Assessment Services report ('DAS report') and considered that the additional information provided at the meeting by the proponent was sufficient to satisfy it of the appropriateness of the development. The proponent's acceptance of the Authority's suggested restrictions in relation to operating hours provided further assurances that the use could occur without limiting existing and future operation of the site and surrounding land in Zone SC.

The Authority also noted the written and verbal submissions made by City of Palmerston (Council) during the exhibition period and at the meeting in relation to the car parking shortfall.

The Authority determined that car parking on site could be managed by restricting the number students attending during business hours. Specifically, it determined to include a condition on the development permit requiring group classes in excess of eight students be carried out after 4:30pm and before 7am on weekdays.

In making this determination, the Authority noted the limited permitted uses in the zone and recognised that should Shed 1 be occupied in the future, development consent would likely be required. The Authority deems that further consideration should be given to the provision of car parking and a designated turn-around area on site.

The purpose of Clause 6.5.3 (Parking Layout) is to ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose. The proposal includes a total of 34 car parking

bays on site. Two of these bays, proposed car parks '7' and '8' do not meet the requirements of subclause 3(c), 3(e) and 3(h). A condition precedent has been included on the development permit requiring these bays be removed from the site plan prior to the endorsement of plans. All remaining car parking bays are considered to be compliant and in accordance with the purpose of the clause.

In relation to the parking layout, the Authority raised concerns about the safety of children on site being dropped off given there is no designated pedestrian links between the car parking along the western boundary and studio building itself. The proponent explained that children are required to be 'signed in/out' by an adult when arriving and leaving and will therefore be accompanied to and from the parking area.

The Authority was satisfied that the safety of children on site could be managed during drop off and pick up times and determined to include condition precedent on the development permit that requires car parking bays '1' and '2' located on the southern side of Shed 2 be shown on the plans as designated 'drop off/ pick up' bays.

2. 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.

Council objected to the proposal, noting the parking shortfall and raising concerns regarding the hours of operation of the proposal and how it will affect the use of the site moving forward.

At the meeting, Council indicated that the application could be supported if the use was managed appropriately and the hours of operation were restricted to reduce the impact on the neighbouring shed.

The Authority noted the Council's comments and considered that restricting the hours of operation was appropriate. To avoid any conflicts and to promote cross utilisation of the parking bays on site, condition 6 has been included to restrict the hours of operation on weekdays.

All other service authority comments have been addressed in the standard conditions and notations included on the development permit.

3. 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 Authority acknowledged that the change has the potential to impact on the existing and future amenity of the area. In relation to this use however, and the specific nature of the approved operations and restrictions imposed by the permit, any potential amenity impact was considered reasonable and within what could be expected.

Amended plans are required to omit non-compliant car parking spaces proposed and to illustrate designated 'drop off/ pick up' bays ensuring the safe movement of traffic.

**ACTION:** Notice of Consent and Development Permit

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

**SUZANNE PHILIP**  
**Chair**

17 May 2019