



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 347 – FRIDAY 22 NOVEMBER 2019

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

MEMBERS PRESENT: Mark Blackburn (Presiding Member), Marion Guppy, Peter Pangquee and Simon Niblock

APOLOGIES: Suzanne Philip (Chair) and Mick Palmer

OFFICERS PRESENT: Margaret Macintyre (Secretary), Anthony Brennan, Richard Lloyd and Emmet Blackwell (Development Assessment Services)

COUNCIL REPRESENTATIVE: Conneal Brown and Brian Sellers

Meeting opened at 10.00 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.

That, pursuant to section 101(3) of the *Planning Act 1999*, in the Chair's absence the members of the Darwin Division of the Development Consent Authority elect Mark Blackburn to preside at the meeting held on Friday 22 November 2019.

ITEM 1

PA2019/0349 CHANGE OF USE FROM WAREHOUSE TO EDUCATION ESTABLISHMENT PORTION 1757 (50) GRAFFIN CRESCENT, WINNELLIE, HUNDRED OF BAGOT

APPLICANT/S Eagle Training Services NT

Mr Gary Carter (Eagle Training Services NT) sent his apologies.

**RESOLVED
188/19**

That, the Development Consent Authority vary the requirements of Clause 9.1.1 (Industrial Setbacks) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Portion 1757 (50) Graffin Crescent, Hundred of Bagot for the purpose of change of use from warehouse to education establishment, subject to the following conditions:

CONDITION 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 with the application but modified to show:
 - (a) the removal of the first four car parking bays located outside of the fenced area.

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. Any developments on or adjacent to any easements on site shall be carried out to the requirements of relevant service authorities, to the satisfaction of the consent authority.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water, sewerage and electricity services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
5. 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.

6. 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-seal coat;
 - (d) drained; and
 - (e) line marked to indicate each car space and all access lanes to the satisfaction of the consent authority.
7. The car parking shown on the endorsed plan(s) must be available at all times for the exclusive use of the occupants of the development and their visitors/clients.

NOTES:

1. Notwithstanding the approved plans, all existing and proposed signage is subject to Darwin City Council approval and compliance with City of Darwin Policy Number 042 – Outdoor Advertising Signs Code, at no cost to Council.
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. The development must be designed and constructed to comply with AS2021-2015 'Acoustics – Aircraft noise intrusion – Building siting and construction' (AS2021).
4. The applicant is advised to engage a building certifier, within the meaning of the *Building Act 1993*, as to whether the building/s comply with the *Building Act 1993* and associated Regulations.

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 primary purpose of Zone GI (General Industry) is to provide for general industry. Offices are expected to primarily provide a service to the general industry in the zone and be of a size commensurate with the service provided. An Education Establishment is a discretionary use within the GI zone.

The proposed business is considered to be predominantly a trade training centre, therefore setting it apart from traditional educational establishments such as a school or college. Being a trade training provider, it is less likely to be sensitive or negatively impacted by the industrial uses typically present in the GI zone, which can potentially be noisy and dirty. All training is proposed to take place inside the existing building, therefore shielding attendees from persistent noise or environmental pollutants potentially generated from nearby industrial land uses. The proposed location in the GI zone will also potentially

service many businesses within the surrounding industrial areas, who may choose to send their staff to this establishment for trade training provided by the operator. The proposal's office space is ancillary to the proposed education establishment and minimal in floor space. Overall the proposed use is deemed to comply with the purpose and provisions of the GI zone.

2. Clause 9.1.1 (Industrial Setbacks) requires that *all street frontages, except access driveways or footpaths, are to be landscaped to a minimum depth of 3m*. Currently the site has two raised masonry planters, one circular and one rectangular, containing landscaping within the front setback. The remainder of the front setback area contains brick paving. The City of Darwin verge adjacent to the sites front boundary does contain a mix of grass and taller plants and small trees. No changes are proposed to the existing landscaping or exterior of the building.

It is unknown when or if the existing landscaping was endorsed as part of a planning or building approval, as the departments records do not cover the initial development or landscaping of the subject site within the current building. The authority has granted a variation to the landscaping requirements under Clause 9.1.1 and approved the proposal without requiring additional landscaping, as the following special circumstances pursuant to Clause 2.5 have been identified:

- The site provides existing landscaping along the side and rear boundaries of the site which is in excess of the landscaping requirements of the scheme.
 - The City of Darwin road reserve contains significant landscaping in the form of medium sized palms and shrubs which screen the development and provide greening to the frontage of the site.
 - The existing landscaping within the front setback area in the form of two raised masonry garden beds does already provide substantial areas of vegetation and is a reflection of the historical development and landscaping of the site prior to town planning requirements.
3. Conditions have been included on the development permit requiring amended plans to show the removal of four parking spaces (surplus to requirements) and to ensure that the car parking area is sealed, drained and line marked, to ensure compliance with Clause 6.5.3 (Parking Layout) is achieved.
 4. 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 proposal comprises the change of use to an existing building from warehouse to education establishment. There are no concerns with regards to the capability of the land. The land is not affected by flooding or storm surge.

The subject site is located within ANEF Zones 20 to 25. According to the Department of Defence and Darwin International Airport comments which are discussed in section 7(m) of this report, schools are considered conditionally acceptable within the ANEF Zones 20 to 25. Given the proposal is a tertiary education establishment teaching trade related skills, attended by adult students for a short period of time, as opposed to a children's school, it is not considered a typical educational establishment and is therefore appropriate in this location. If the proposal was a more standard education establishment, such as a school, a condition of approval would typically be used to ensure that the development is designed and constructed to comply with AS2021-2015 'Acoustics – Aircraft noise intrusion – Building siting and construction' (AS2021). As the proposal is unique as an education establishment, being located in an industrial area and providing trade based training, the above described condition is instead included as a notation on the development permit.

5. 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 proposed business is considered to be predominantly a trade training centre, therefore setting it apart from a traditional educational establishments such as a school or college. Being a trade training provider, it is less likely to be sensitive or negatively impacted by the industrial uses typically present in the GI zone, which can potentially be noisy and dirty. All training is proposed to take place inside the existing building, therefore shielding attendees from persistent noise or environmental pollutants potentially generated from nearby industrial land uses. Given the utilisation of an existing building, generous supply of car parking and absence of any public submission during the exhibition period, the proposal is unlikely to affect existing amenity of adjoining lots or the surrounding GI Zone.

ACTION: Notice of Consent and Development Permit

ITEM 2

PA2019/0293

RECONSIDERATION: ALTERATIONS AND ADDITIONS TO AN EXISTING TWO STOREY SINGLE DWELLING WITH A REDUCED FRONT SETBACK LOT 1029 (11) NORCOCK PLACE, RAPID CREEK, TOWN OF NIGHTCLIFF

APPLICANT/S

One Planning Consult

Mr Israel Kgosiemang (One Planning Consult) attended.

**RESOLVED
189/19**

That, the Development Consent Authority vary the requirements of Clause 7.3 (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 1029 (11) Norcock Place, Town of Nightcliff, for the purpose of alterations and additions to an existing two storey single dwelling with a reduced front setback, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin 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 site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.
2. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with drawings 2019/0293/001 to 2019/0293/003, 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 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.
4. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin, to the satisfaction of the consent authority.
6. Before the occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
7. 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.

NOTES:

1. 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.
2. The location, design and specifications for proposed and affected crossovers shall be provided at the applicant's expense, to the satisfaction of City of Darwin.

3. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
4. This development permit does not grant building approval. You are advised to contact a NT registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.

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 development proposes alterations and additions to an existing two storey single dwelling with a reduced front setback. The proposal is consistent with development anticipated in Zone SD (Single Dwelling Residential) of which the purpose is to provide single dwellings (including ancillary structures) on individual lots.

The proposal has been assessed against the relevant clauses of the NT Planning Scheme that apply to Zone SD, and a non-compliance was identified against Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

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 standards set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The amended proposal is an improved design on the initial proposal with an increased setback of approximately 1m (along with a reduced height and width), which reduces the visual impact of building massing when viewed from Oliver Street in particular. This makes the amended design lend itself more positively to the overall streetscape. The existing and proposed additional landscaping to provide screening for the development will further assist reduce visual impact on the streetscape. It is also noted that the site is on a corner block and the same proposal sited along Norcock Place (as the site's secondary street), would fully comply with the NT Planning Scheme.

3. Pursuant to Section 51(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 application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of conditions and/or notations on the development 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.

With the reduction of the bulk and scale of the proposal, in addition to increasing compliance with the front setback provisions, it is considered that the impact on the amenity of the area will not be significant. The existing and proposed additional landscaping to provide screening for the development will also assist reduce visual impact.

ACTION: Notice of Consent and Development Permit

ITEM 3

PA2019/0369

CHANGE OF USE FROM OFFICE TO MEDICAL CLINIC (UNITS 4 & 12)

LOT 6118(1) CARYOTA COURT, COCONUT GROVE, TOWN OF NIGHTCLIFF

APPLICANT/S

One Planning Consult

Mr Israel Kgosiemang (One Planning Consult) and Ms Samantha Harley (Northside Health) attended.

RESOLVED

190/19

That, the Development Consent Authority reduce the car parking requirements pursuant to Clause 6.5.2 (Reduction in Parking Requirements), and vary the requirements of Clause 6.6 (Loading Bays) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 6118 (1) Caryota Court, Town of Nightcliff for the purpose of change of use from office to medical clinic (Units 4 & 12), subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with drawings numbered 2019/0369/001 to 2019/0369/003, 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 applicant is advised to engage a building certifier, within the meaning of the *Building Act 1993*, as to whether the building/s comply with the *Building Act 1993* and associated Regulations.

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 development comprises change of use from office/warehouse to medical clinic (Units 4 & 12). The proposal is consistent with development anticipated in Zone LI (Light Industry) of which the purpose is to provide for light industry uses or development activities that will not by the nature of their operations, detrimentally affect adjoining or nearby land.

The proposal has been assessed against the relevant clauses of the NT Planning Scheme that applies to Zone LI, and a non-compliance was identified against Clause 6.5.1 (Parking Requirements) and Clause 6.6 (Loading Bays).

The assessment identifies that the proposal generates a technical shortfall of 7 parking spaces on the site.

A reduction to the parking required under Clause 6.5.1 (Parking Requirements), pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Scheme is supported based upon the following reasons:

- The site is zoned LI (Light Industry) under the Planning Scheme and it is unlikely that this zoning will change in the future.
 - There is public parking available along Caryota Court and given the particular nature of the clinic, there should not be an adverse effect with parking demand.
 - The site is serviced by the public bus network being Route 4 between the Darwin and Casuarina interchanges.
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 standards set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The assessment identifies that approved plans through DP96/0576 show two loading bays on the site and one is proposed to be replaced by 4 car parking spaces. Two loading bays are technically required for the site as the NT Planning Scheme requires 1 loading bay for warehouse and 1 for office/shop, and both these uses exist on the site. The loading bay proposed to be replaced has been used as car parking spaces for the past three years with existing car parks used for loading and unloading to the adjacent units (with apparent body corporate agreement), as deliveries are made by standard size vehicles. No concerns have been raised with this arrangement and as such, it is considered that the loading bay to be replaced is not required.

3. Pursuant to Section 51(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 application was circulated to the relevant authorities and comments received from these authorities are addressed by the inclusion of conditions and/or notations on the development 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 potential impact of the proposal on the existing and future amenity of the area is considered low particularly as the site and its surrounding area is zoned LI (Light Industry) and CP (Community Purposes), and the proposal is considered to be consistent with the zone.

ACTION: Notice of Consent and Development Permit

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

Marion Guppy

MARION GUPPY
Delegate

29.11.2019