



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 172 – THURSDAY 21 JULY 2011

BROLGA ROOM
NOVOTEL DARWIN ATRIUM
100 THE ESPLANADE
DARWIN

MEMBERS PRESENT: Peter McQueen (Chairman), Grant Tambling, Bob Elix and Heather Sjoberg

APOLOGIES: David Hibbert

OFFICERS PRESENT: Margaret Macintyre (Secretary), Hanna Stevenson, and for part of the meeting Peter Sdraulig and Steven Conn (Development Assessment Services)

COUNCIL REPRESENTATIVE: Nil

Meeting opened at 9.45 am and closed at 11.15 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 **SUBDIVISION FOR THE PURPOSE OF A LEASE IN EXCESS OF 12 YEARS**
PA2011/0175 **LOT 4579 (18) RAPID CREEK ROAD, TOWN OF NIGHTCLIFF**
APPLICANT **OPTUS MOBILE PTY LTD**

Pursuant to section 97 of the *Planning Act*, Mr Peter McQueen, Chairman of the Development Consent Authority declared a conflict of interest and was not present and did not take part in the deliberation of this item.

Pursuant to section 101(3) of the *Planning Act*, in the Chairman's absence Mr Grant Tambling was elected by the Division members to preside during the determination of this item.

The applicant did not attend.

RESOLVED
147/11

That, pursuant to section 53(a) of the *Planning Act*, the Development Consent Authority consent to the application to develop Lot 4579 (18) Rapid Creek Road, Town of Nightcliff for the purpose of subdivision for the purpose of a lease in excess of 12 years, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with drawing numbers 2011/0175/1 endorsed as forming part of this permit.
2. Prior to the issue of Part V clearance, the lessee of the land must provide evidence of the lease agreement with the land owner that demonstrates that legal access over Lot 4579 Town of Nightcliff to the proposed lease area has been achieved to the satisfaction of the consent authority.
3. Prior to the issue of Part V clearance the applicant is to provide advice from a suitably qualified building certifier that as a result of the lease the existing buildings on the site will not cease to comply with the *Building Act*.
4. 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.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity services to the lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

6. 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 on the plan of subdivision submitted for approval by the Surveyor General.

REASONS FOR THE DECISION

1. A departure from the minimum lot size requirements of SD11 is supported as the development is generally consistent with the expectations for a subdivision for the purpose of a lease to facilitate the construction and operation of a telecommunications facility.
2. Condition 2 will ensure that access over Lot 4579 Town of Nightcliff to the lease area is maintained at all times.
3. Condition 3 is required to ensure that the requirements of the *Building Act* are continued to be met.

ACTION: Notice of Consent and Development Permit

ITEM 2
PA2011/0374

134 MOTEL SUITES AND A CARETAKER'S RESIDENCE IN AN 11 STOREY BUILDING, AND OFFICES IN A 17 STOREY BUILDING, PLUS 2 LEVELS OF BASEMENT PARKING

LOTS 2193, 2194, 2197 & 2203 (79) SMITH STREET, (81) SMITH STREET, (6) BRIGGS STREET & (3) MOTT COURT, TOWN OF DARWIN

APPLICANT

JUNE D'ROZARIO & ASSOCIATES PTY LTD

DAS tabled an addendum which included late comments from Darwin City Council and the Power and Water Corporation.

Ms June D'Rozario (June D'Rozario & Associates) attended and tabled:-

- Plans of the porte Cochere approved by DCC; and
- Copies of Notices of consent for various lots DP07/0450 and DP08/0462;

RESOLVED
148/11

That, the Development Consent Authority determine to reduce the car parking requirement from 475 bays to 427 bays pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Northern Territory Planning Scheme, and vary the requirements of Clause 6.3.2 (Volumetric Control in Central Darwin), Clause 6.3.3 (Urban Design Requirements in Central Darwin), Clause 6.5.1 (Parking Requirements) and Clause 6.6 (Loading Bays) of the NT Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lots 2193 & 2194 (79 & 81) Smith Street, Lot 2197 (6) Briggs Street & Lot 2203 (3) Mott Court, Town of Darwin for the purpose of 134 motel suites and caretakers residence in an 11 storey building, and offices in a 17 storey building plus 2 levels of basement car parking, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to endorsement of the plans and prior to the commencement of works (including site preparation), the applicant is to submit plans and additional information in respect to the porte cochere's location, and showing treatment to the abutting road reserve to the requirements of Darwin City Council and to the satisfaction of the consent authority.
2. Prior to endorsement of the plans and prior to the commencement of works (including site preparation), the applicant is to liaise with Darwin City Council in order to obtain an appropriate level of treatment to the Smith Street footpath, to the requirements of Council and to the satisfaction of the consent authority. All such works are to be at no cost to Council.
3. Prior to endorsement of plans and prior to the commencement of works (including site preparation), the applicant is to prepare a schematic plan demonstrating all stormwater to be collected on the site and discharged underground to Council's stormwater drainage system, to the requirements of Darwin City Council and to the satisfaction of the consent authority.
4. Prior to endorsement of plans and prior to the commencement of works (including site preparation), written advice from Darwin City Council is required confirming that the Traffic Impact Study prepared by i3 consultants dated 27/06/2011 is to the requirements of DCC, to the satisfaction of the consent authority.
5. Prior to the commencement of works (including site preparation) a full set of 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 three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) correct net floor area for each upper level office; and
 - (b) a landscape plan and associated planting schedule specifying plant species and quantities for all landscaped areas.

GENERAL CONDITIONS

6. Works carried out under this permit shall be in accordance with the plans endorsed as forming part of this permit.
7. Before the use commences the owner must, in accordance with section 70(3) of the *Planning Act* provide 427 parking bays. In accordance with section 70(5) of the Act, 18 of the required parking bays may be provided through the payment of a monetary contribution to the Darwin City Council. The contribution is to be calculated in accordance with the requirements of section 70(6) of the Act.

8. Prior to commencement of use, in accordance with Section 70(5) of the *Planning Act*, a monetary contribution is to be made to Darwin City Council with respect to the on-street car parking bays on Smith Street and Briggs Street that will be lost as a result of the development. The contribution is to be calculated in accordance with the requirements of Section 70(6) of the *Planning Act*.
9. Pursuant to Part 6 of the *Planning Act*, 'Developer Contributions', a monetary contribution shall be paid to Darwin City Council in accordance with Council's 'Developer Contribution Plans for Stormwater Drainage Works'.
10. Parking meter (No. 3702) on Briggs Street must be relocated to the requirements of Darwin City Council, and to the satisfaction of the consent authority, and be at no cost to Council.
11. Parking meter (No. 711) on Smith Street must be relocated to the requirements of Darwin City Council, and to the satisfaction of the consent authority, and be at no cost to Council.
12. Design drawings showing the proposed location of replacement street lighting must be submitted to Council, to the satisfaction of the General Manager of Infrastructure, Darwin City Council, to the satisfaction of the consent authority, and be at no cost to Council. The street lighting must be installed prior to the commencement of use.
13. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage facilities, and electricity to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
14. 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.
15. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Darwin City Council, to the satisfaction of the consent authority.
16. The owner shall:
 - (a) remove disused vehicle and/ or pedestrian crossovers;
 - (b) provide footpaths/ cycleways;
 - (c) collect stormwater and discharge it to the drainage network; and
 - (d) undertake reinstatement works;all to the technical requirements of and at no cost to Darwin City Council to the satisfaction of the consent authority.
17. Before the use or occupation of the development starts, the areas 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,
 - (e) line marked to indicate each car space and all access lanes; and
 - (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.

18. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
19. The porte-cochere must be retained and kept available at all times for use by motel guests and others visiting the motel development.
20. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.
21. A tree is to be planted, to the requirements of Darwin City Council, to the satisfaction of the consent authority, replacing the tree to be removed as a result of the introduction of the porte-cochere, and is to be at no cost to Council.
22. Before the use/ 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.
23. 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.
24. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
25. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
26. All air conditioning condensers are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
27. Storage for waste disposal bins is to be provided to the requirements of Darwin City Council to the satisfaction of the consent authority.

28. The managers residence hereby permitted must comply at all times with a caretakers residence which is defined in the Northern Territory Planning Scheme as 'a dwelling which is ancillary to the lawful use of the land on which it is erected and which is used by the caretaker of the land'.
29. An Occupancy Permit under the *Building Act* shall not be granted until such time as Lots 2193, 2194, 2197 & 2203, Town of Darwin have been consolidated and a new title issued in respect of that consolidated allotment.
30. Details of any cranes or other equipment used in the construction of the development, which exceed a height of 90m above ground level and/ or 122m AHD must be supplied to Department of Defence and Darwin International Airport for approval prior to the erection thereof.

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 to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/ or surrounding infrastructure.
2. Power and Water Corporation advise that Lots 2197 and 2203 currently have a sewer easement currently passing through it. For the development to proceed the easement can either remain and development in the easement remain subject to what is permitted by PWC, or the easement can be extinguished with pipe L 23#2811 abandoned and connection to the lot being established via MH 231.
3. Notwithstanding the approved plans, any works within Council's road reserve is subject to Council's approval and shall meet all Council's requirements to the satisfaction of the General Manager or Infrastructure, Darwin City Council and at no cost to Council.

REASONS FOR THE DECISION

1. The proposal is consistent with the primary purpose of Zone CB (Central Business), which is to provide for a diversity of activities including administrative, judicial, professional, office, entertainment, cultural, residential, retail and other business activities, with a commitment to the separation of incompatible activities.
2. A variation to Clause 6.3.2 (Volumetric Control in Central Darwin) of the Northern Territory Planning Scheme is supported as:
 - the proposed motel is an existing building and compliance with the Tier 2 requirement to set the building back 6.0m from the Briggs Street frontage would be impractical in this instance; and

- the additional 85 m² floor plate area for each Tier 2 office level and the reduced separation between Tier 2 levels of each building is addressed by an alternative design solution whereby Tier 1's development potential of 100% site coverage is significantly reduced and other setbacks increased, resulting in overall development with less building coverage and building massing, and achieving the purpose of the clause of maximising potential view corridors and penetration of light and breezes through and around the site.
3. A variation to Clause 6.3.3 (Urban Design Requirements in Central Darwin) of the Northern Territory Planning Scheme is supported as the level of active street frontage and awning able to be provided to Briggs Street is limited by the design and layout of the existing building which is proposed to be retained. Nevertheless, the overall development gives a significantly improved appearance to the street and area, while working within the constraints of a refurbishment of an existing building, and is seen to reflect the purpose of this clause, being to promote exemplary urban design in Central Darwin.
 4. A reduction of 48 car parking spaces (from 475 to 427) is supported as:
 - it is considered justified that the motel use is likely to generate only 20% of its normal demand during day time, with its full demand capable of being accommodated outside business hours when the office demand is less; and
 - 1 parking bay for every 3 motorcycle bays, (to a maximum of 19 motorcycle bays) is considered warranted as it provides legitimate parking opportunities in appropriate sized bays which will reduce demand for full sized car parking spaces to be used.
 5. A variation to the on-site provision of parking spaces required under clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme is supported as a payment in lieu to the Darwin City Council for 18 spaces will ensure that parking will be made available in the locality in the long term, and as the provision of parking for commercial uses in a publicly accessible centralised pool promotes land use efficiency and improves availability of parking to the full community.
 6. A variation to clause 6.6 (Loading Bays) of the Northern Territory Planning Scheme to provide 2 loading bays instead of 7 loading bays is supported in recognition of the uses being of a type and nature which are unlikely to require the full need for loading bay requirements.
 7. Amended plans are considered necessary to correct an error in nominated floor areas to avoid any ambiguity, and to ensure landscaping provides spaces that are attractive, safe and functional for pedestrians, in line with the treatments sought through Clause 6.3.3 (Urban Design Requirements in Central Darwin) of the Planning Scheme.

ACTION: Notice of Consent and Development Permit

ITEM 3 **REMOVING CONDITION 1 AND MINOR CHANGES TO THE BALCONY**
PA2010/1300 **CONFIGURATION OF UNITS 2, 4 AND 6**
 LOT 4969 (10) SOMERVILLE GARDENS, TOWN OF DARWIN
APPLICANT **AQUARIUS HOLDINGS PTY LTD**

Mr Andrew Wee (Aquarius Holdings Pty Ltd) attended.

RESOLVED That, pursuant to Section 57(5) of the *Planning Act*, the Development Consent
149/11 Authority refuses to consent to remove condition 1 of DP11/0162 for the following
 reasons:

1. No adequate justification has been provided to support the removal of the condition. Furthermore, the relevant service authority does not support the removal of the condition.

ACTION: Notice of Refusal

RESOLVED That, pursuant to section 57(3) of the *Planning Act*, the Development Consent
150/11 Authority consent to the application to vary Development Permit DP11/0162 for the
 purpose of minor changes to the balcony configuration of units 2, 4 and 6 once
 condition precedent 1 has been resolved.

ACTION: Advice to applicant

ITEM 4 **MIXED USE DEVELOPMENT COMPRISING GROUND LEVEL OFFICES AND**
PA2011/0203 **SHOPS AND 18 X 2 BEDROOM MULTIPLE DWELLINGS IN A 3 STOREY**
 BUILDING PLUS BASEMENT CAR PARKING
 LOTS 7625 & 7626 (157) RYLAND ROAD & (82) NIGHTCLIFF ROAD, TOWN OF
 NIGHTCLIFF
APPLICANT **JUPITUR (NT) PTY LTD**

DAS tabled a further submission from Danyelle Bodaghi.

Ms Bodaghi and Ms Marion Lejune sent their apologies as they are unable to attend the meeting.

Mr George Savvas (Concept Designs) attended on behalf of the applicant.

Submitters:- Mr Andrew Pazniewski and Mr Geoff Yates attended.

Mr Fergus McEwan – Darwin & Palmerston Sun attended as an interested party.

RESOLVED That the Development Consent Authority determine to vary the requirements of
151/11 clause 7.1 (Residential Density and Height Limitations) of the Northern Territory
 Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the
 application to develop Lots 7625 and 7626, (157) Ryland Road & (82) Nightcliff
 Road, Town of Nightcliff for the purpose of a mixed use development comprising
 ground level offices and shops and 18 x 2 bedroom multiple dwellings in a 3 storey
 building plus basement carparking, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the commencement of works (including site preparation) a 'Traffic Management Plan' shall be prepared to the satisfaction of the Department of Lands and Planning's Public Transport Division that addresses the ongoing provision of public transport services during construction.
2. Prior to the commencement of works (including site preparation) confirmation is to be received from the Department of Lands and Planning's Public Transport Division that bus shelter no. 221 (asset identification OOBUSNBF) immediately to the northeast of the site on Ryland Road, is relocated to the requirements of the Public Transport Division, to the satisfaction of the consent authority.

GENERAL CONDITIONS

3. Works carried out under this permit shall be in accordance the plans endorsed as forming part of this permit.
4. 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.
5. An Occupancy Permit under the *Building Act* shall not be granted until such time as Lots 7625 and 7626, Town of Darwin have been consolidated and a new title issued in respect of that consolidated allotment.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity and telecommunications services to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time, as determined necessary by the Power and Water Corporation.
7. The owner shall:
 - (a) remove disused vehicle and/ or pedestrian crossovers;
 - (b) provide footpaths/ cycleways;
 - (c) collect stormwater and discharge it to the drainage network; and
 - (d) undertake reinstatement works;all to the technical requirements of, and at no cost to, Darwin City Council, and to the satisfaction of the consent authority.
8. Before the use or occupation of the development starts, the areas 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; and
 - (d) drained;to the satisfaction of the consent authority.
Car spaces, access lanes and driveways must be kept available for these purposes at all times.

9. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.
10. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street, and at the junction of the pedestrian accessway and the ground level carparking area.
11. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
12. Before the use/ 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.
13. The landscaping shown on the endorsed landscaping plan, and as detailed on the endorsed plant schedule, must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
14. All air-conditioning condensers are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed to ground level in a controlled manner to the satisfaction of the consent authority.
15. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
16. Storage for waste disposal bins is to be provided to the requirements of Darwin City Council, to the satisfaction of the consent authority.

NOTES:

1. It is advised that, notwithstanding the approved plans, any proposed awnings, footpaths and landscaping works within Council's road reserve are subject to approval from Darwin City Council, and shall be undertaken at no cost to Council.
2. Notwithstanding the approved plans, all signage is subject to the approval of Darwin City Council.
3. The 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.

4. The developer is to contact Service Stream on Commercial.leadin@servicestream.com.au or 1-800-773-776 prior to any work commencing, to facilitate the installation of Telstra's network.

REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act*, the Development Consent Authority must take into consideration the Planning Scheme that applies to the land to which the application relates. A variation to the requirements of clause 7.1 (Residential Density and Height Limitations) of the NT Planning Scheme is supported as, in accordance with the relevant purpose for clause 7.1, the development "is of a density compatible with the existing and planned provision of reticulated services and community facilities which will service the area", as noted by the comments provided by all service authorities and the level of compliance with all other relevant clauses of the Northern Territory Planning Scheme. Furthermore, the development does not conflict with the purpose of Zone C (Commercial), being to "provide for range of business and community services", and is considered acceptable for the subject site and locality.
2. In accordance with the requirements of section 51(e) of the *Planning Act*, due consideration has been given to the submissions received, all of which were appropriately addressed and considered by the development consent authority. In particular, the issue of road safety was addressed by the developer's liaison with the Department's Public Transport Division, and the negotiated agreement to move bus shelter no. 221, such that there are acceptable sight lines for vehicles and pedestrians, while not affecting convenience in relation to use of the bus stop.
3. In accordance with the requirements of section 51(m) of the *Planning Act*, all matters raised by the service authorities have been addressed via conditions on the development permit.
4. An assessment of the application against section 51(n) of the *Planning Act*, has concluded that the development will not unreasonably impact on the existing and future amenity of the area in which the land is situated. 'Amenity' being defined in clause 3.0 of the Planning Scheme as, "any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable". The development gives due consideration to the land uses surrounding the site, with particular attention given to the amenity of the residences adjoining its northeastern and southeastern boundaries, through setbacks beyond that required in Zone C (Commercial) and fencing and landscaping that pay particular attention the adjoining residences.
5. In addition to sections 51(a), 51(e), 51(n) and 51(m) of the *Planning Act* as referred to in Reasons for Determination 1, 2, 3 and 4, the authority has fully considered the remaining sections of section 51 and has determined that there are no matters of such significance to the assessment of the application under these sections to warrant specific mention in these reasons.

6. A 'Traffic Management Plan' is to be provided to the satisfaction of the Department of Lands and Planning's Public Transport Division as the site is on a services route and assurance is required that bus routes will not be affected, including during the construction phase.
7. Bus shelter no. 221 is required to be moved to ensure adequate sight lines for vehicles exiting the subject site and to prevent disruption or disadvantage to free movement of buses along Ryland Road.
8. Consolidation is required by Power and Water Corporation as only one point of power supply will be provided for the proposed development, which currently extends over both lots 7625 and 7626, Town of Darwin.

ACTION: Notice of Determination

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



PETER MCQUEEN
Chairman

25/7/11

