



DEVELOPMENT CONSENT AUTHORITY

KATHERINE DIVISION

MINUTES

MEETING No. 205 – WEDNESDAY 6 MARCH 2024

**BIG RIVERS ROOM
LEVEL 1
BIG RIVERS GOVERNMENT CENTRE
5 FIRST STREET
KATHERINE**

MEMBERS PRESENT: Suzanne Philip (Chair), Allan Domaschenz, Annabel McLarty, Denis Coburn and Madeleine Bower

APOLOGIES: Nil

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: George Maly and Chris Tickner (Development Assessment Services)
Ashleigh Hayne and Lauren Reed (DIPL Katherine).

COUNCIL REPRESENTATIVE: None

Meeting opened at 10.45 am and closed at 11.30 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 TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1
PA2023/0404 **DEMOUNTABLE STRUCTURE ADDITION TO AN EXISTING DEVELOPMENT**

APPLICANT **LOT 27 (16) FIRST STREET, KATHERINE, TOWN OF KATHERINE**
Earl James and Associates

Denis Coburn and Madeleine Bower are community members of the Development Consent Authority and councillors respectively, for Katherine Town Council. Katherine Town Council is a submitter to this application under Section 49 of the *Planning Act 1999*.

The Chair noted that section 98A of the *Planning Act 1999* - Independence of Community Members – contemplates that Community Members, while acting independently, may take account of opinion of a local government council in relation to a development application. No parties present raised any concerns with Denis Coburn and Madeleine Bower considering the application.

Pursuant to section 97 of the *Planning Act 1999*, the Chair determined that Denis Coburn and Madeleine Bower's interest or relationship was not significant or relevant, and both were permitted to form part of the quorum and participate in determination of this item.

Applicant: Kevin Dodd (Earl James and Associates) attended via teams videolink.

RESOLVED
03/24

That, pursuant to section 53(b) of the *Planning Act 1999*, the Development Consent Authority alter the proposed development and consent to the proposed development as altered, to develop Lot 27 (16) First Street, Town of Katherine for the purpose of a demountable structure addition to an existing development, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works, 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) That the demountable structure will either be painted or suitably screened by either panelling or landscaping, in a manner that will make the structure blend with its surroundings;
 - (b) That the structure will be fixed or tethered to the ground; and
 - (c) A compliant number of car parking spaces required for the site, in accordance with Clause 5.2.4 of the NT Planning Scheme 2020.
2. Prior to the commencement of works, a Waste Management Plan addressing the Katherine Town Council's waste management and storage requirements

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must be prepared and approved by Katherine Town Council, to the satisfaction of the consent authority.

GENERAL CONDITIONS

3. The works approved as part of this permit shall be carried out within 6 months of the date of this permit, in accordance with the drawings 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. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - (a) transport of materials, goods or commodities to or from the land
 - (b) appearance of any building, works or materials
 - (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - (d) presence of vermin
6. No goods are to be stored or left exposed outside the buildings so as to be visible from any public street.
7. No storage or disposal of environmentally hazardous material within the demountable structure is to occur.
8. All waste material not required for further on-site processing must be regularly removed from the site to an approved facility. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction 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. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (the Act), that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is required to comply at all times with the Act, including the General Environmental Duty under Section 12 of the Act. There is also a requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the Act. Guidelines to assist proponents to avoid

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environmental impacts are available on the Northern Territory Environment Protection Authority website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.

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 applies to the land and a demountable structure addition to an existing development requires consent under Clause 1.8 (When development consent is required). It is identified as Impact assessable under Clause 1.8(c)(i), therefore Part 2 of the Scheme, including the Katherine Land Use Plan 2016, Overlays (Part 3) clause 3.6 (Land Subject to Flooding), zone purpose and outcomes (Part 4) of clauses 4.10 (Zone CB – Central Business), and development requirements (Part 5) clauses 5.2.1 (General Height Control), 5.2.4 (Car Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC, and TC), 5.8.7 (Demountable Structures), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.8.7 (Demountable Structures).

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).

Under Clause 1.10(4) (Exercise of Discretion by the Consent Authority), “In considering an application for a use or development identified as Impact Assessable the consent authority must take into account all of the following:

- (a) any relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;
- (b) any Overlays and associated requirements in Part 3 that apply to the land;
- (c) the guidance provided by the relevant zone purpose and outcomes in Part 4, or Schedule 4.1 Specific Use Zones; and
- (d) any component of the Strategic Framework relevant to the land as set out in Part 2.

Part 2 – Strategic Framework

The Katherine Land Use Plan 2016

The Katherine Land Use Plan 2016 (KLUP) forms part of the strategic framework of the NT Planning Scheme and as such it provides detailed

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planning policy that is specific to the Katherine region. The aim of the KLUP is to position the town to respond to opportunities for growth while improving well-being and protecting valued environmental and productive assets in the locality. The KLUP includes land use policy to manage growth and guide the interpretation of the NT Planning Scheme.

The KLUP advises that vacant and underdeveloped lots within the existing centre provide opportunities for infill development which will assist in maintaining its role as the cultural and commercial hub of the town and contribute to enhancing a vibrant public realm. However, the centre is situated wholly within the predicted flood extent, which presents challenges to redevelopment of land, particularly in relation to engineering solutions and the affordability of flood proofing and insurance premiums. The KLUP identifies the site is within a 'Commercial' area. Relevant key Commercial objectives are:

- To maintain the existing business centre on Katherine Terrace to enhance its role fostering community cohesion.
- To incorporate flood mitigation design features into future development within the existing centre to minimise the impacts of flooding.
- To encourage good design in buildings and adjacent public / private spaces to maximise strong and vibrant public realm outcomes.

The proposal to provide a demountable structure to store parts and equipment is generally consistent with the KLUP Commercial objectives in so far as: providing a suitable infill development in a flood area, assisting with maintaining the Katherine Town Centre as the commercial hub to provide for community needs, and provide development that would be minimally affected by the impacts of flooding. However, the demountable structure can be viewed from the street and with no proposed landscaping or architectural embellishments, public visual amenity is considered to be negatively affected.

Part 3 – Overlays

3.6 Land Subject to Flooding

The purpose of this overlay is to identify areas with a known risk of inundation from riverine flooding and ensure that development in these areas demonstrates adequate measure to minimise the associated risk to people, damage to property and costs to the general community.

The location of the demountable structure is within a Defined Flood Area. The demountable structure does not contain any habitable rooms, the use fill to raise the floor level is not proposed and there will be no environmentally hazardous industrial material stored in the container, only parts and equipment.

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Part 4 – Zone Purpose and Outcomes

Zone CB (Central Business)

The purpose of the Central Business zone is to promote an active and attractive mixed use environment that maximises its function as the commercial, cultural, administrative, tourist and civic centre for the surrounding region that is integrated with high density residential development.

The proposal is generally consistent with the Zone purpose by facilitating/promoting additional activity in the CBD and supporting the surrounding region, and is not considered to undermine the core function of the city precinct.

The proposal is also generally consistent with the Zone outcomes as the proposed structure is of a scale and intensity commensurate with the role and function of the CBD. The proposal increases the commercial day activity and the requirement for the structure to be suitably painted or screened within 6 months of the issue of the permit will address concerns over the impact of the proposal on the visual amenity when viewed from public places and surrounding premises.

Part 5 – General Development Requirements

5.8.7 Demountable Structures

The purpose of this clause is to ensure that demountable structures do not detract from the visual amenity of an area.

Subclause 4(a) requires the demountable structure to include landscaping or architectural embellishments that will enhance the appearance of the structure. While the applicant sought to vary this requirement, the consent authority considers that compliance with the clause objectives by painting or otherwise embellishing the demountable will minimise an impact of the structure on the amenity on the site and the area.

The consent authority determined that retaining the demountable structure behind Burson Auto Parts and painting the demountable structure (architectural embellishments) will provide an adequate solution to meet the purpose of this clause, which will minimise any visual amenity impacts when viewed from public spaces or adjacent land.

The retention of the demountable structure in its current location behind Burson Auto Parts is considered to be visually consistent with adjoining and nearby development.

3. 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

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of the development on the land and on other land, the physical characteristics of which may be affected by the development.

While the site is affected by riverine flooding from the Katherine River, the proposal does not propose any habitable rooms or storage/disposal of any environmentally hazardous industrial materials. As such, the land is considered capable of supporting the proposed development as the demountable structure and use is associated with the main use, being Burson Auto Parts which is consistent with the central business district function.

A requirement for the structure to be anchored to the ground will minimise the risk of the structure being displaced by floodwaters.

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

There is no change of use proposed, with the demountable structure being associated with Burson Auto Parts. The embellishments imposed on the applicant to improve the visual appearance of the structure will minimise any adverse impacts on the existing and future amenity of the area.

5. Pursuant to section 51(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

A submission was received under section 49(3) of the *Planning Act 1999*. Concerns were raised in regards to visual amenity, location of the demountable structure, waste management, risks of flooding, and conflict with the Katherine Town Council's strategic direction to activate and improve visual amenity of the CBD.

The consent authority determined that granting conditional approval to require painting and securing the demountable structure to the ground, and requiring a Waste Management Plan are appropriate measures which addresses the concerns raised.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

11 March 2024

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