



DEVELOPMENT CONSENT AUTHORITY

PALMERSTON DIVISION

MINUTES

MEETING No. 251 – WEDNESDAY 15 JUNE 2022

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

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

APOLOGIES: Athina Pascoe-Bell and Ben Giesecke

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary) Adelle Godfrey and Emily Hardy
(Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 9.45 am and closed at 10.25 am

THESE CLOSED SESSION NOT PUBLIC MINUTES RECORDED THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE SEPARATELY. THESE MINUTES RECORDED 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 SERVICE STATION, FOOD PREMISES-FAST FOOD OUTLET AND CAR WASH
PA2021/0086

APPLICANT LOT 14828 (1) ROYSTONEA AVENUE, YARRAWONGA, TOWN OF PALMERSTON
Cunnington Rosse Town Planning and Consulting

Brad Cunnington (Cunnington Rosse Town Planning and Consulting) and Tim Beasley (Peregrin) attended.

David Wilkins (i3 Consultants WA) attended via videolink.

RESOLVED
15/22

That, the Development Consent Authority vary the requirements of Clause 5.2.1 (General Height Control), Clause 5.3.7 (End of trip facilities in Zones HR, CB, C, SC and TC) and Clause 5.5.8 (Service Station) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 14828 (1) Roystonea Avenue, Yarrowonga, Town of Palmerston for the purpose of service station, food premises-fast food outlet and car wash, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the 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. Pedestrian crossing over the food premises – fast food outlet drive through, to the footpath at the eastern internal boundary.
 - b. Pedestrian access connecting the food premises – fast food outlet to car spaces 1 – 14.
 - c. Replacement pedestrian crossing/s over the adjacent internal driveways facilitating pedestrian connection to the north-east; and
 - d. The slight widening of entry and exit areas of the car wash and Krispy Kreme drive-through to better accommodate a B99 Design Vehicle, and signage to prohibit egress to Roystonea Avenue and prevent drivers from turning left in the service road, on the advice of a qualified traffic engineer.
 - e. Swept path diagrams demonstrating the manoeuvrability of vehicles towing caravans or trailers within the site, prepared by a qualified traffic engineer.
 - f. Bicycle racks in a convenient location.

2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics and City of Palmerston, to the satisfaction of the consent authority. The plan shall include details of site levels, stormwater drain connection point/s and connection details.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossover and slip lane to the site from the Transport and Civil Services Division road reserve, to the satisfaction of the consent authority.
4. Prior to the commencement of works (including site preparation), a Construction Traffic Management Plan (CTMP) is to be submitted to and approved by the TCSD to the satisfaction of the consent authority. The CTMP should specifically address the following:
 - i. Details regarding all appropriate site management measures and construction access routes;
 - ii. Haulage routes and vehicles types;
 - iii. Existing assets and public access; and
 - iv. Risk assessment.

GENERAL CONDITIONS

5. Works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
6. 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.
7. 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.
8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Palmerston and Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
9. All proposed works (including the provision or connection of services) within, or impacting on Roystonea Avenue are to be designed, supervised and certified on completion by a practicing and registered civil engineer, and shall be in accordance with the standards and specifications of Transport Civil Services Division of the Department of Infrastructure, Planning and Logistics. Drawings must be submitted to the Transport Civil Services Division of the Department of Infrastructure, Planning and Logistics for approval and no

works are to commence prior to approval and receipt of a "Permit to Work Within a Road Reserve".

10. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of Transport and Civil Services Division, to the satisfaction of the consent authority.
11. The owner shall:
 - (a) Removed disused vehicle/or pedestrian crossovers;
 - (b) Provide footpaths/cycleways;
 - (c) Collect stormwater and discharge it to the drainage networks; and
 - (d) Undertake reinstatement worksAll the technical requirements of and at no cost to Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics to the satisfaction of the consent authority.
12. Before the use 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 drivewaysto the satisfaction of the consent authority.
Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.
13. 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 its visitors to the satisfaction of the consent authority.
14. "No entry/no exit" signs and arrows directing the internal traffic movement on site shall be provided at completion of building to the satisfaction of the consent authority.
15. The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bay and must not disrupt the circulation and parking of vehicles on the land to the satisfaction of the consent authority.
16. Upon completion of any works within or impacting upon Roystonea Avenue road reserve, the road reserve shall be rehabilitated to the standards and requirements of Transport and Civil Services Division DIPL.
17. Storage for waste disposal bins is to be provided to the requirements of City of Palmerston to the satisfaction of the consent authority.

18. The loads of all trucks entering and leaving the site of works are to be constrained in such a manner as to prevent the dropping or tracking of materials onto streets. This includes ensuring that all wheels, tracks and body surfaces are free of mud and other contaminants before entering onto the sealed road network. Where tracked material on the road pavement becomes a potential safety issue, the developer will be obliged to sweep and clean material off the road.
19. Before the use 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.
20. 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.
21. All air conditioning condensers (including any condenser units required to be added or replaced in the future) 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.
22. 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.
23. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land 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 *Weeds Management Act 2001* to take all practical measures to manage weeds on the property. For advice on weed management please contact the Department of Environment, Parks and Water Security.
3. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory *Building Act 1993* before commencing any demolition or construction works.
4. Signs shown on the elevations and perspective may require sign permit application. The application form can be found on the City of Palmerston website.

5. The Transport and Civil Services Division in their letter dated 7 April 2021 advising the following:
 - a. The proposed slip lane from Roystonea Avenue shall be designed as left in access only. Appropriate curve radius and signage to be provided to prevent left out movement from the access.
 - b. The boundary of the lot with Roystonea Avenue road reserve is to be appropriately protected in accordance with the TCSD's standards and requirements to deter unauthorised vehicular/or pedestrian movement.
 - c. Advertising signage, either permanent or temporary, e.g. 'A' frame, vehicle or trailer mounted shall not be erected or located within the Stuart Highway road reserve.
 - d. Any floodlighting or security lighting provided on site is to be shielded in a manner to prevent the lighting from being noticeable or causing a nuisance to Stuart Highway traffic.
 - e. The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e. not flashing or variable message). The sign shall be positioned:
 - i. so as not to create sun or headlight reflection to motorists; and
 - ii. be located entirely (including foundations and aerially) within the subject lot.
6. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

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 service station, food premises-fast food outlet and car wash requires consent under Clause 1.8 (When development consent is required). Service station and food premises-fast food outlet are identified as Impact Assessable under Clause 4.12 Zone SC (Service Commercial) therefore the strategic framework under the Darwin Regional Land Use Plan 2015 and Central Palmerston Area Plan 2020, zone purpose and outcomes of Clause 4.12 Zone SC (Service Commercial), Clause 5.2.1 (General Height Control), Clause 5.2.4 (Vehicle Parking), Clause 5.2.5 (Loading Bays), Clause 5.2.6 (Landscaping), Clause 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), Clause 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), Clause 5.5.2 (Plot Ratios in Commercial Zones), Clause 5.5.3 (Commercial and Other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, FD and T), Clause

5.5.8 (Service Station), Clause 5.5.9 (Car Wash) and Clause 5.5.11 (Food Premises), 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 5.2.1 (General Height Control), Clause 5.3.7 (End of trip facilities in Zones HR, CB, C, SC and TC) and Clause 5.5.8 (Service Station).

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).

Pursuant to Clause 1.10(4), the proposal has been found not to be in accordance with Clause 5.2.1 (General Height Control) for pylon signs only, Clause 5.3.7 (End of trip facilities in Zones HR, CB, C, SC and TC) for not providing end of trip facilities, and Clause 5.5.8 (Service Station) for not having screening from an internal road. The purpose and administration clauses of the requirement have been addressed with each clause in accordance with Clause 1.10(a).

- (a) It is considered that a variation to the above clauses is appropriate in this instance because:

Clause 5.2.1 (General Height Control)

The purpose of the clause is to “ensure that the height of buildings in a zone is consistent with development provided for by that zone”. The maximum height limit is 8.5m, and 3 pylon signs are 9m – 12m in height. It is noted that the non-compliance of the clause is only the pylon signs, not the service station, fast food outlet or car wash.

Pursuant to sub-clause 3, administratively “The consent authority may consent to a development that is not in accordance with sub-clause 4 if it considers the height of the building or structure achieves the zone purpose, having regard to such matters as its location, nature, scale and potential impact on adjoining property”.

Based on the height of existing signage and buildings on the broader site and the setback from sensitive uses, the variation is considered appropriate. The variation is unlikely to impact surrounding land uses, based on the nature of the signage being in proximity to the proposed development and in meeting the zone purpose to help facilitate commercial activities. The development is setback approximately 110 m from dwellings to the south-west of Roystonea Avenue making it unlikely to impact the visual amenity of the residential area. The signage details, including illumination will be at the discretion of City of

Palmerston Council and Transport and Civil Services Division. Overall, the signage height is considered appropriate.

Clause 5.3.7 (End of trip facilities in Zones HR, CB, C, SC and TC)

The purpose of Clause 5.3.7 is to “Ensure that new commercial and high density residential buildings provide sufficient safe, quality and convenient end of trip facilities to enable active travel choices by residents, visitors, workers and customers for the proposed use of the site”. The table to Clause 5.3.7 requires non-residential buildings to provide 1 bicycle parking space for 300sqm of net floor area plus 1 shower for up to 50 staff, and 1 additional shower for up to every 50 staff thereafter. With a net floor area of 627sqm, 3 bicycle parking spaces would be required plus 1 shower. None were proposed.

The applicant submitted, “The nature of the use, coupled with the relatively low staff numbers (an absolute maximum of 12 on site during peak, less during normal operation when production isn’t occurring in the Krispy Kreme facility) is such that the provision of both bicycle parking and ancillary facilities is unnecessary and would unnecessarily compromise internal space, pedestrian areas and landscaping”. The clause focuses on “non-residential buildings” which is a broad term and the clause allows variation under sub-clause 1(b) if “it would be unreasonable to provide the end of trip facilities as required by this clause with regard to, but not limited to, the location of the development and likely commute distances”.

In relation to bicycle parking, it is noted that based on the location of the development from Roystonea Avenue, the bicycle facilities are unlikely to be in high demand. The use of a service station and fast food outlet (with a drive-through) are predominantly vehicle based uses. The applicant has also noted that a service station and fast food outlet are uses that do not require bicycle parking under the Australian Standard.

The consent authority questioned whether visitor bicycle parking could be accommodated on site, noting there appeared to be adequate space available for a bicycle rack. The applicant agreed to the inclusion of bicycle racks and a condition precedent has been included to amend the site plan to include them.

In relation shower facilities, administratively the consent authority can consider a variation if “it would be unreasonable to provide the end of trip facilities as required by this clause with regard to, but not limited to, the location of the development and likely commute distances”. Based the size and purpose of the development, end of trip facilities would benefit a limited number of people. The development is also in proximity to Gateway Shopping Centre with shower facilities, therefore the variation is considered appropriate.

Clause 5.5.8 (Service Station)

The purpose of the clause is to “Ensure that a service station:

- (a) is developed in a location that provides convenient access and does not interfere with the safe and efficient operation of the local road, cycle and footpath network;
- (b) does not, because of appearance or the emission of fumes, noise or light, unreasonably affect the use and enjoyment of adjacent land;
- (c) incorporates appropriate site layout, building and landscape design to ensure that there are no unreasonable impacts on the anticipated amenity of adjacent land;
- (d) incorporates best practice environmental management measures to prevent contamination of land, stormwater, groundwater and air; and
- (e) responds to existing and anticipated development on the site and adjacent land.”

The clause requires:

- 2. Fuel bowsers associated with the service station are visually screened and are located at least:
 - (a) 20m from any residential or other commercial development on the site; and
 - (b) 20m from the boundary of any existing or potential residential or commercial development on adjoining land; and
 - (c) are set back from the road reserve in accordance with Australian Standard AS1940:20217 – the storage and handling of flammable and combustible liquids.

Administratively, “consent authority may consent to a service station that is not in accordance with sub-clauses 2-4 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site, having regard to such matters as its location, nature, scale and impact on surrounding amenity”.

The fuel bowsers meet the required setbacks and Australian Standards, however are not visually screened from the internal service road and adjacent showroom sales at the north-west boundary. The variation is appropriate as the bowsers not being screened is unlikely to impact the site and surrounding area as the wall of the adjacent showroom sales development at the north-west is windowless with a roller door only for loading, and views from this building towards the service station are unlikely. Despite the variation, the proposal remains consistent with the purpose of this clause, including not unreasonably affecting the use or enjoyment of the adjacent land, and responding to existing and future development on the site and adjacent land. The service station and fast food outlet supports commercial activities within the Gateway shopping centre area and to Palmerston, in accordance with the zone purpose.

At the hearing for the application, Ms Henderson expressed concern for the proposed access from Roystonea Avenue, and the potential increase in accidents caused by an additional slip lane to enter into the development. The applicant commented that town planners are reliant on the advice of engineers in determining the safest and best access arrangements. Mr Wilkins as the traffic engineer stated the crash record and crash potential for the access had been reviewed as part of a robust assessment, and that a left-in only access creates no conflict points. Whilst considering the concerns raised, the consent authority noted the advice from the Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics as the controlling agency for Roystonea Avenue. The advice confirmed no objections to the revised design, which included the safety barrier to the slip lane.

At the hearing, members also discussed whether the site layout accommodates vehicles with trailers and caravans. The applicant agreed to provide swept path analysis demonstrating this, which is included as a condition precedent.

Members also discussed whether the development adequately accommodates pedestrian access. A condition precedent is included for pedestrian access both from car park spaces 1 – 14, across the fast food outlet driveway, and over the adjacent driveways to the north-east over the broader site.

The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 5.2.1 (General Height Controls), Clause 5.3.7 (End of trip facilities in Zones HR, CB, C, SC and TC) and Clause 5.5.8 (Service Station) as identified above.

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

The site is currently vacant and adjacent to existing commercial uses, with connection to reticulated power, water and sewerage services. The site is situated above the 1% AEP flood event, allow for the anticipated access, stormwater and servicing requirements for the land allow for the anticipated access, stormwater and servicing requirements for the land. 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 as required.

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

The impact on amenity is considered in the context of the site and its surroundings. The development is consistent with the broader intent of Zone SC (Service Commercial) and applicable clauses of the NTPS 2020. The non-compliances identified above are minor in nature and is unlikely to unduly affect the future amenity of the site and surrounding area.

The development is setback over 110m from dwellings on the other side of Roystonea Avenue in zone SP8 (Specific Use Zone). A 3 metre landscaping buffer has been incorporated into the site along the south-western boundary adjoining Roystonea Avenue, incorporated into internal site boundaries. Lighting is considered unlikely to impact dwellings due to the setback from the Specific Use Zone and existing surrounding land uses (including Gateway Shopping Centre). Conditions are recommended on the permit to maintain the landscaping for the life of the development.

FOR: 3

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

17 June 2022