



## DEVELOPMENT CONSENT AUTHORITY

### DARWIN DIVISION

### MINUTES

MEETING NO. 430 – FRIDAY 4 OCTOBER 2024

AGORA ROOM  
HUDSON BERRIMAH  
4 BERRIMAH ROAD  
BERRIMAH

**MEMBERS PRESENT:** Marion Guppy (Deputy Chair), Mark Blackburn, Peter Pangquee and Jimmy Bouhoris

**APOLOGIES:** None

**LEAVE OF ABSENCE:** Suzanne Philip (Chair), Mick Palmer

**OFFICERS PRESENT:** Elya Sugg (Acting Secretary), Amit Magotra, and Kaleb Thomas (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Apology

Meeting opened at 10:15 am and closed at 10:45 am

THE MINUTES RECORD OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIME DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

**ITEM 1**                    **PART CHANGE OF USE IN AN EXISTING BUILDING FROM SHOP TO OFFICE**  
**PA2024/0246**

**APPLICANT**            **LOT 7667 (26) STUART HIGHWAY, STUART PARK, TOWN OF DARWIN**  
**TATAM PLANNING CO.**

Applicant: Catriona Tatam attended

Submitters in attendance: None

**RESOLVED**  
**68/24**

That, the Development Consent Authority (DCA) vary the requirements of Clause 5.2.4.1 (Car Parking Spaces) 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 7667 (26) Stuart Highway, Stuart Park, Town of Darwin for the purpose of part change of use in an existing building from shop to office, 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 the provision of on-site bicycle parking facilities.

#### **GENERAL CONDITIONS**

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply and sewerage to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notation 1 for further information.

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 as shown on the endorsed plans must not be altered without the further consent 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. The applicant is advised to engage a Northern Territory registered building certifier to ensure that the intended use of any existing buildings or structures is permitted by occupancy certification in accordance with the *Building Act 1993*.
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.

## 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 (NTPS2020) applies to the land and Office requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(i), therefore the Strategic Framework (Part 2 of the Scheme, including the Darwin Inner Suburbs Area Plan), Part 3 – Overlay, zone purpose and outcomes of Clause 4.12 Zone SC (Service Commercial), and Clauses 5.2.1 General Height Control, 5.2.4 Car Parking, 5.2.5 Loading Bays, 5.2.6 Landscaping, 5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR, 5.3.7 End of Trip Facilities in Zones HR, CB, C, SC and TC, 5.5.2 Commercial Plot Ratio, 5.5.3 General Building and Site Design, and 5.5.4 Expansion of Existing Development in Zones CB, C, SC and TC, need to be considered.

The Authority notes the assessment completed by the Development Assessment Services (DAS), which concludes that the proposed use (hereinafter referred to as 'development') complies with the relevant requirements of the Planning Scheme except for Clause 5.2.4 (Car Parking Requirements).

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### Part 2 – Strategic Framework Darwin Inner Suburbs Area Plan 2016 (DISAP)

The subject site is identified as an 'area for change' to Mixed Use – Residential, Commercial and Showrooms in the Concept Plan for Stuart Highway, Stuart Park included in the DISAP.

This will require rezoning before the land use and development potential envisaged by the Area Plan can be realised. The Authority notes that The DISAP 2016 further identifies (on page 5 - Existing Zoning and Existing Use Rights) that the Area Plan does not prevent the use of land consistent with the current town planning zone that applies to a site.

The proposed use is identified as *Impact Assessable* in the NTPS 2020, and the consideration of the applicable relevant clauses of the NTPS 2020 found that the proposal is generally compliant except for car parking requirements. The uses proposed are not prohibited in Zone SC and rezoning is not required to accommodate the proposed use. The Authority also notes that the proposal will increase the diversity of commercial land uses at the subject lot and that this change of use will not create inconsistencies with the expected development of the Stuart Highway, Stuart Park Concept plan area

### Part 3 - Overlays and Part 4 – 4.12 Zone SC (Service Commercial)

No overlay listed under Part 3 applies to the land. The land is zoned SC (Service Commercial). The purpose of this zone is to *Facilitate destination retailing, commercial and other activities that individually require a large floor area for the handling, display and storage of bulky goods, or activities, in locations that enable convenient access by the broader regional population.*

The Zone Outcomes relevant to the proposed development are:

1. *A diversity of service commercial activities that consist predominately of retail business activities such as showroom sales, vehicle sales and hire, and leisure and recreation.*
5. *Buildings provide variety and interest at street level and allow passive surveillance of public spaces, with a scale and character appropriate to the service function of the locality.*
6. *Development is designed to provide clear connections within the development and to external pedestrian, bicycle, public and road transport networks and infrastructure.*

Regarding the purpose, the Authority notes that the site measures 955m<sup>2</sup>, and the existing building has a floor area of 582m<sup>2</sup>. Therefore, the ability to use the site for bulky goods and large-format displays is limited by the lot size, car parking, and existing building, and the proposed office use is considered reasonable having regard to the site's existing constraints.

Regarding Outcome (1), the site is surrounded by various commercial establishments, such as a gym, food premises (cafés, takeaways), and a service station, as well as service commercial uses, including showroom sales and car sales and hire along the Stuart Highway. The proposed office use is unlikely to result in any adverse outcomes, considering the nature of current uses surrounding the area.

Regarding Outcomes (5), the Authority notes that the existing building's position fronting Stuart Highway and glass façade provide opportunities for passive surveillance. Furthermore, the establishment of a use in a vacant building will allow for continued passive surveillance of surrounding streets. In regard to Zone Outcome (6), the Authority notes that the site is conveniently accessible to the broader population, with convenient access to car parking spaces.

Part 5 - Development Requirements

Relevant clauses from of the Part 5 of the NTPS 2020 have been considered and complies with the relevant requirements of the Planning Scheme except for Clause 5.2.4 (Car Parking Requirements). The non-compliance is discussed below.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NTPS2020, *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).*

As stated above, the proposal has been found not to be in accordance with Clause 5.2.4.1 (Car Parking Spaces).

*Requirement:*

*Table to Clause 5.2.4.1 provides the following car parking requirements for a shop/restaurant is:*

- *For an office uses, 2.5 for every 100m<sup>2</sup> of net floor area.*
- *For a warehouse, 1 for every 100m<sup>2</sup> of net floor area.*

It is noted that the NTPS2020 defines net floor area as *Net floor area in relation to a building includes all the area between internal surfaces of external walls but does not include:*

- (g) *stairs, cleaners cupboards, ablution facilities, lift shafts, escalators or tea rooms where tea rooms are provided as a standard facility in the building;*
- (h) *lobbies between lifts facing other lifts servicing the same floor;*
- (i) *areas set aside as public space or thoroughfares and not used exclusively by the occupiers of the building;*
- (j) *areas set aside as plant and lift motor rooms;*
- (k) *areas set aside for use of service delivery vehicles; and*
- (l) *areas set aside for car parking or access.*

The Authority notes that the combined floor area of the office use, including conference, office, reception, training, and open office areas is 351.27 m<sup>2</sup>. The warehouse area at the rear is 196.30m<sup>2</sup>. As such, the proposal requires 10.74 spaces (11 rounded), with 9 spaces required for the proposed office use and 2 spaces for the warehouse use. As no new car parking is provided on site, a reduction to the parking requirements is required.

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The *relative* Administration under subclause (2) provides that – *the consent authority may consent to use or development with fewer car parking spaces, if it is satisfied that reduction of the number of car parking spaces is appropriate with regard to:*

- (a) the zoning of the land, the use or development or proposed use or development of the land and the possible future use or development of the land;*
- (b) the provision of car parking spaces in the vicinity of the land; and*
- (c) the availability of public transport in the vicinity of the land; or*
- (d) the potential impact on the surrounding road network and the amenity of the locality and adjoining property; or*  
*if the use or development relates to a heritage place and the Minister responsible for the administration of the Heritage Act 2011 supports the reduced provision of car parking spaces in the interest of preserving the significance of the heritage place.*

A summary of the comments provided by the applicant in support of the reduction sought are:

- *The proposed part change of use from Shop to Office decreases the calculated parking requirement by 14 bays.*
- *There is ample on-street parking within the Stuart Highway, adjacent to the front boundary of the subject site.*
- *There is ample on-street parking within the median strip of Stuart Highway. Refer Google Street View image below at Figure 2.*
- *There is a bus stop immediately adjacent to the site, heading inbound towards the city. There is a bus stop 140m on the opposite side of Stuart Highway, heading outbound from the city.*
- *There is ample access to walking and cycling networks from the site, noting that e-bikes (via Beam Darwin) are available for use in the area.*
- *There is high availability for taxis, uber and rideshare in the area.*

Overall, the Authority notes the reasons provided in the applicant's Statement of Effect, and those voiced during the DCA meeting.

Regarding (a) and (d), the Authority notes that the office use proposed for the part of the building generates 50% less car parking (at 2.5 spaces per 100m<sup>2</sup> of net floor area) than the previous shop and motor repair uses, which required a car parking requirement (at 6 spaces per 100m<sup>2</sup> of net floor area). Since there is no car parking available onsite, and the previous uses with higher car parking requirements operated without impacting the surrounding road network, the reduction of car parking requirement for the change of use to the office is also unlikely to have a potential impact on the surrounding road network and the amenity of the locality and adjoining property.

Regarding (b) and (c), the Authority notes that on-street parking is available in the vicinity of the subject site, which include the parallel public parking within the Stuart Highway road reserve and the centre of the Stuart Highway (directly opposite the subject land). Furthermore, the section of the of the Stuart Highway includes a number of public transport routes providing direct access to the Darwin CBD, the northern suburbs and Casuarina, Palmerston, as well as a number of community and educational facilities. There are two bus stops on the Stuart Highway in the proximity of the site – one opposite the Queen Street intersection (on the opposite side of the subject tenancy) for outbound buses and one near the King Street intersection for buses travelling to the city. Both stops are considered to be within walking distance of the site.

The Authority determined that, given the nature of the proposed use, the availability of public car parking within the immediate vicinity of the site, and the availability of public transport, the proposal is not likely to create an undue demand for available car parking, and such, supported a variation to the car parking requirement.

5.2.7 Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR

*The purpose of the clause is to protect the visual and acoustic amenity of residential buildings where they are adjacent to non-residential development.*

*The clause requires:*

*A use or development or a proposed use or development that is:*

*(a) not a residential building;*

*(b) on land that is in a zone other than Zones LR, LMR, MR or HR; and*

*(c) abuts land in any of those zones;*

*must provide a setback to the boundary that abuts any of those zones of not less than 5m, landscaped to provide a visual screen to the adjacent land Zoned LR, LMR, MR or HR for a minimum depth of 3m, and a solid screen fence of a minimum height of 1.8m at the boundary with land in Zones LR, LMR, MR or HR.*

*The relevant Administration of the clause specifies the consent authority must not consent to a development that does not provide a visual screen to the adjacent land Zoned LR, LMR, MR or HR for a minimum depth of 3m.*

The Authority notes that the warehouse portion of the building is located at the rear, abuts land zoned LMR (Low Medium Density Residential), setback 0m from the boundary. The Authority further notes that the DAS's assessment identifies that the warehouse portion of the current building was legally constructed in 1985, with later extensions approved under Development Permit DP01/0018, allowing for a reduced setback. Furthermore, the warehouse was consistently used in conjunction with the motor repair station and shop, but it appeared to have ceased operations in September 2023, when the shop closed down. The Authority is satisfied that the warehouse use has not been discontinued for more than 12 months, and potentially, neither have the building works.

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During the hearing, Ms. Cat Tatam from Tatam Planning Co. provided an overview of the site's background, the proposed use, and the business activities that will take place from the site. Ms Tatam explained that a building construction company will occupy the building, with administrative functions conducted in the proposed office area and the rear warehouse being used for storing machinery, equipment, and operation-related samples. Mr. Tatam emphasised that the layout is suitable because it includes a separate entrance for the office and a separate area that allows for the storage of materials and equipment necessary for the business operations.

In response to a question raised by the Authority at the hearing in relation to the number of staff working in the office and availability of car parking in the Stuart Highway Road reserve, noting other business also have access to the on -street car park, Ms Tatam clarified that while the proposed use is an office, that it is expected that there will be only a limited number of office staff present at the site. It was stated that the primary purpose of the site was to provide a space for the storage of display materials and goods, with most company employees visiting for short durations of time.

The Authority questioned the applicant on what availability of nearby car parking spaces were available for office employees. The applicant indicated that although there is a limited supply for all day car parking spaces (outside of residential streets) in the locality, this is a matter for the staff to deal with.

The Authority questioned the applicant on the possibility of providing bicycle parking facilities for the office users, considering that the existing building lacks such facilities. The applicant agreed that the provision of bicycle parking facilities could be taken into account to service the proposed development and was amenable to the inclusion of a condition to this effect.

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 Northern Territory Planning Scheme 2020, except for clause 5.2.4.1 (Car Parking Spaces).

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 Authority notes that no issues identified with respect to the capability of the land for the proposed development by DAS, nor by service authorities.



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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.

In providing this assessment, consideration has been given to potential amenity impacts above under section (a). Taking into consideration the pre-existing commercial activities at the site, it is considered unlikely that there will be an unreasonable impact on the existing or future amenity of the subject site and surrounding areas.

**FOR: 4**

**AGAINST: 0**

**ABSTAIN: 0**

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

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



**MARION GUPPY**  
Deputy Chair

11 October 2024