



DEVELOPMENT CONSENT AUTHORITY

TENNANT CREEK DIVISION

MINUTES

MEETING No. 56 – 29 APRIL 2020

OUT OF SESSION

MEMBERS: Suzanne Philip (Chair), Narelle Bremner and Lennart Holbrok

APOLOGIES: Kris Civitarese and Sidhant Vashist

THE MINUTES 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 LIGHTING TOWER ADDITIONS TO EXISTING LEISURE AND
PA2020/0017 RECREATION FACILITIES WITH VARIATIONS TO GENERAL HEIGHT
 CONTROLS**

LOT 2146, 82 AMBROSE STREET, TOWN OF TENNANT CREEK

APPLICANT MASTERPLAN NT

That, as deemed by Section 98(3) of the *Planning Act 1999*, Mr Kris Civitarese and Mr Sidhant Vashist, Members of the Tennant Creek Division of the Development Consent Authority declared an interest pursuant to Section 97 of the *Planning Act 1999* and did not take part in any deliberation or decision of DCA Agenda Item 1 (PA2020/0017).

**RESOLVED That, the Development Consent Authority vary the requirements of Clause 6.1 (General
0006/20 Height Control), of the Northern Territory Planning Scheme, and pursuant to section
 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 2146, 82
 Ambrose Street, Town of Tennant Creek for the addition of light towers to an existing
 leisure and recreation facility (Purkiss Reserve), subject to the following conditions:**

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings 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, to the satisfaction of the consent authority.
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.

NOTES:

1. This development permit does not grant "building approval" for the proposed structures. The Building Code of Australia requires that certain structures within 900mm of a boundary meets minimum fire resistance level requirements and you are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing demolition or construction works.
2. The applicant is advised that the provision of lighting at the site is required to be consistent with the CASA Manual of Standards (MOS-139) Aerodromes to minimise the potential for conflict with aircraft operations. The design of lighting is a developer responsibility and if it is later found that lights or glare endangers the safety of aircraft operations, the Civil Aviation Safety Authority may require the lighting to be extinguished or suitably modified.
3. The Power and Water Corporation advises that the 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.

4. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
5. A "Permit to Work Within a Road Reserve" may be required from Barkly Regional Council before commencement of any work within the road reserve.
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.
7. This permit will expire if one of the following circumstances applies:
 - (a) The development and use is/are not started within two years of the date of this permit; or
 - (b) The development is not completed within four years of the date of this permit.

The consent authority may extend the periods referred to if a request is made in writing before the permit expires.

8. 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 environmental impacts are available on the Northern Territory Environment Protection Authority (NT EPA) website at <https://ntepa.nt.gov.au/wastepollution/guidelines/guidelines>.

The proponent is advised to take notice of the attached Schedule of Environmental Considerations provided by DENR.

The Act, administered by the NT EPA, is separate to and not reduced or affected in any way by other legislation administered by other departments or authorities. The Environmental Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

REASONS

1. Pursuant to section 51(a) of the *Planning Act 1999*, in considering a development application the consent authority must take into account the planning scheme that applied to the land to which the application relates.

The primary purpose of Zone OR is to provide areas for organised recreational activities. Further, the development is to be limited to that which is consistent with the recreational opportunities of the land. Lot 2146 is developed as the Purkiss Reserve. The application relates to the installation of light poles and towers located on the southern half of the subject site. The use of the site is defined as leisure and recreation within Clause 3 (Definitions) of the NTPS.

“leisure and recreation” means the provision indoors or outdoors of recreation, leisure or sporting activities and includes cinemas, theatres, sporting facilities and the like as a commercial enterprise but does not include a licensed club or community centre.

The leisure and recreation use is listed within the zoning table of Zone OR as a discretionary use. The proposed development comprises the installation and use of six light poles to allow for evening sports training and matches. This is seen to be furthering the recreational opportunities of the land as expressed in the zone purpose. The maximum height for development in Zone OR is defined by Clause 6.1 (General Height Control) of the NTPS. The purpose of Clause 6.1 is to ensure that the height of buildings in a zone is consistent with the development provided by that zone. The clause requires the height of a building is not to exceed 8.5m above the ground level unless it is a flag pole, aerial, antenna; or for the housing of equipment relating to the operation of a lift. The development proposes 18 lighting poles which do not comply with this clause as the highest point of the proposed light structures is 21m, which exceeds the height limit by 12.5m.

In accordance with Clause 2.5 of the NTPS, the consent authority may grant a variation to this clause provided it is satisfied that special circumstances can be identified to justify the variation sought. The consent authority will need to be satisfied that despite the variation proposed, the height of the light poles is consistent with development provided in Zone OR.

A variation to Clause 6.1 is supported as:

- Zone OR is the only standard zone within the NTPS designed explicitly for land use and development to accommodate organised recreation activities, including facilities for sporting competition.
- It is evident that stadium and sports lighting is a reasonable expectation for sporting facilities in Zone OR.
- The height of the proposed lights is lower than that of the 4 towers on the Purkiss Reserve football oval
- The height of the structures is necessary to efficiently provide the desired level of lighting cover to the facility to provide for the needs of the users.
- The lights are slimline structures, typically designed for the purpose. The lights are wholly contained within the subject site. Given the urban environment and slimline design of the lights, they are not assessed to be visually bulky or out of keeping with the locality.

The assessment also notes that the height restriction in Clause 6.1(4) is a broad restriction that applies to a number of zones, but some uses are exempted from the height restriction if it is consistent with the development provided for by that zone. For example the height of buildings in Zone CP (Community Purpose) should not exceed 8.5m under the Clause; however, education establishments and hospitals are exempted from the height restriction. This is because these uses contain structures which require height exceeding 8.5m; like certain sporting facilities in the education establishment.

2. Pursuant to section 51(b) of the *Planning Act 1999*, in considering a development application the Development Consent Authority is required to take into account any proposed amendments to such a planning scheme:
 - (a) That have been or are on exhibition under Part 2, Division 3;
 - (b) In respect of which a decision has not been made under Part 2, Division 5; and
 - (c) That are relevant to the development proposed in the development application;

A proposed Planning Scheme Amendment (PA2020/0031) is relevant to this application. On 6 March 2020, a Planning Scheme Amendment that proposes to

repeal the current Northern Territory Planning Scheme and introduce the Northern Territory Planning Scheme 2020 (NTPS2020) commenced exhibition.

The consent authority noted that the proposed changes to the policy statement for Zone OR (Organised Recreation) and performance criteria for “leisure and recreation” use identify lighting infrastructure may be built on a site and lists performance criteria with respect to amenity considerations. The consent authority noted that the development application had been reviewed with regard to the proposed Planning Scheme and that Development Assessment Services envisaged that the proposed changes to the Scheme would have minimal impact on the recommendations to the consent authority.

3. Pursuant to Section 51 (m) of the *Planning Act 1999*, in considering a development application the consent authority is required to take into account 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 advisory notes on the development permit.
4. Pursuant to section 51(n) of the *Planning Act 1999*, in considering a development application the consent authority is required to take into account the potential impact on the existing and future amenity of the area in which the land is situated.

Amenity under Section 3 of the Act and Clause 3 of the NTPS is defined as: *“amenity” in relation to a locality or building, means any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable.*

The potential amenity impact by the proposed development is considered in two components. Firstly, the visual impact from the proposed structures (the light poles and luminaires), and secondly any impact (such as glare or light spill) from the operation of the luminaires. With regard to visual impact, the assessment notes that the residential properties are located significantly away from the base of the nearest lighting pole.

Notwithstanding the light poles will be a visible inclusion in the landscape, they are interspaced on site, and given the bulk and mass of the light poles is minimal as compared to a building, this will be a small addition to the existing landscape of the broader locality. Considering that the location and direction of the lighting poles are well away from the residential uses and main roads, it is considered that the visual effect of the light poles would be negligible.

It is considered that the proposed development promotes the general purpose of Zone OR by way of a facilitating use. The lighting poles are located and orientated away from adjacent uses, and the proposed and existing vegetation between the development area and the adjacent residential area acts to soften the impact of the lighting poles and the effect of the development on the existing and future amenity of the locality.

Further, the addition of lighting poles will enable evening use of the existing leisure and recreation facility. This in addition to the activation of the area will have a positive contribution to the amenity of the users of the facility.

NT Airports have advised there is a very small potential for glare to affect the Tennant Creek Airstrip, however, the towers are under 30m, and corrective changes can be made to the lights i.e. angle, direction of glare, once installed. An advisory note is included on the development permit to ensure that the final design and construction of the light poles achieves compliance with aviation safety considerations associates with the Tennant Creek Airport.

5. Pursuant to section 51(j) of the *Planning Act 1999*, in considering a development application the consent authority is required to take into account 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 proposed addition of lighting poles does not intensify the existing use of the site, and as such, the proposal is considered consistent with the clause. It is therefore considered that the land is capable of supporting the proposed development and will not unduly affect the development of other land.
6. Pursuant to section 51(p) of the *Planning Act 1999*, in considering a development application the consent authority is required to take into account the public interest, including (if relevant) how the following matters are provided for in the application:
 - (i) community safety through crime prevention principles in design;
 - (ii) water safety; and
 - (iii) access for persons with disabilities.

The proposed development does not impact on the water safety and access for persons with disabilities. It is noted that the addition of lighting poles to the existing sporting facility would enable evening training sessions and matches to take place which will provide additional activation to the area; opportunities for passive surveillance; and improve community safety. It was also considered to be in the public interest to provide additional sporting facilities that have the capacity to operate in the evening when it is cooler and therefore safer to participate in sport.

7. The application was publicly exhibited in accordance with the *Planning Act 1999* and *Planning Regulations 2000*. No public submissions were received.

ACTION: DAS TO PREPARE NOTICE OF CONSENT AND DEVELOPMENT PERMIT

RATIFIED AS A RECORD OF DETERMINATIONS MADE AT THE MEETING

SUZANNE PHILIP

Chair

05 May 2020