



# **DEVELOPMENT CONSENT AUTHORITY**

## **DARWIN DIVISION**

### **MINUTES**

**MEETING No. 382 – FRIDAY 8 OCTOBER 2021**

**BROLGA ROOM  
NOVOTEL DARWIN CBD  
100 THE ESPLANADE  
DARWIN CITY**

**MEMBERS PRESENT:** Suzanne Philp (Chair), Marion Guppy, Mark Blackburn, Simon Niblock and Peter Pangquee

**APOLOGIES:** Nil

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Ann-Marie Dooley, Elissa Gee and Stuart Harris (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Apology

**Meeting opened at 10.30 am and closed at 12.30 pm**

**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**

**PA2021/0148 20 DEMOUNTABLE STRUCTURE ADDITIONS TO EXISTING LEISURE AND RECREATION (HORSE RACING FACILITY)  
LOT 5298 (20) DICK WARD DRIVE, FANNIE BAY, TOWN OF DARWIN  
APPLICANT MasterPlan NT**

Pursuant to section 97 of the *Planning Act 1999*, Mark Blackburn a member of the Darwin Division, Development Consent Authority disclosed an interest and was not present during, contributed to or took part in the deliberation or decision of the Division on this item.

Alex Deutrom and Chandhini Kumar (Masterplan NT) and Brad Morgan (CEO Darwin Turf Club) attended.

DAS tabled a further submission from Helena Jackson who sent her apologies as she is unable to attend the meeting.

**RESOLVED  
86/21**

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 5298 (20) Dick Ward Drive, Fannie Bay, Town of Darwin for the purpose of 20 demountable structure additions to existing leisure and recreation (horse racing facility) to require the applicant to provide the following additional information that the Authority considers necessary in order to enable proper consideration of the application:

- Amended plans showing relocation of all demountable structures to the centre of the racetrack.

**REASONS FOR THE DECISION**

1. Amended plans showing the relocation of all demountable structures to the centre of the racetrack are requested to ensure that the demountable structures do not detract from the visual amenity of residential uses along Playford and Wells Streets.

The Authority considers that the proposed demountable structures close to the southern boundary of the site does not meet the purpose of Clause 5.8.7 (Demountable Structures), as they would detract from the visual amenity of the area. The Authority is not satisfied that the location of the containers behind existing vegetation and the proposed 1.8m high aluminium slatted fencing is sufficient to screen the 2.4m high shipping containers.

In response to questions from the Chair, the applicant advised that there were no immediate intentions to construct a purpose built storage structure. The applicant explained that shipping containers were the most cost-effective and convenient form of storage space as the containers could be easily picked up and moved from one location to another during the set up and pack down of events associated with the



**RESOLVED  
88/21**

That, the Development Consent Authority vary the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) 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 9162 (32) Orchard Road, Town of Nightcliff for the purpose of a shed addition to an existing dwelling-single with reduced side and rear setbacks subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to endorsement of plans and prior to the commencement of works, approval from the City of Darwin is required for the additional driveway access to the site. If approved by Council, the driveway shall be to the requirements of the City of Darwin, to the satisfaction of the consent authority. Note: Confirmation from the City of Darwin is still required should the driveway access no longer be required.
2. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.
3. Before the development starts, a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The plan must show:
  - a. suitable colour treatments to the shed;
  - b. all existing vegetation to be retained and/or removed; and
  - c. all proposed trees/shrubs.

along the affected boundaries to demonstrate suitable treatment and screening of the shed, to the satisfaction of the consent authority.

**GENERAL CONDITIONS**

4. The works carried out under this permit shall be in accordance with drawings endorsed as forming part of this permit.
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin, to the satisfaction of the consent authority.
6. 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.
7. Sightlines shall be provided at crossovers to public streets, to the requirements of, City of Darwin to the satisfaction of the consent authority. No fence or tree exceeding 0.6 metres in height shall be planted in front of the sightline.

8. The kerb crossovers and driveways to the site are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
9. 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.
10. 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.

## 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. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
3. All works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
4. 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. Due to provisions in the National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued.

## REASONS FOR THE DECISION

1. Pursuant to section 51(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 land is within Zone RR (Rural Residential) of the Northern Territory Planning Scheme 2020 (NTPS 2020). The purpose of the zone is to provide residential lots with a semi-rural character in areas where reticulated water is available that may:

- a) cater for a range of lifestyle choices and semi-rural activities; or
- b) support the growth and viability of rural activity centres; or
- c) provide a transition between existing rural living areas and rural activity centres; or

- d) provide a buffer between urban residential uses and constrained land.

The zone outcomes relevant to the application include that the design and site layout of all development are sympathetic to the existing streetscape, scale and character of surrounding development.

The development requirements of Part 5 of the NTPS 2020 include Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), which requires that residential buildings and ancillary structures are setback a minimum of 5m from a side boundary and must:

- a) be compatible with the streetscape and surrounding development including residential buildings on the same site;
- b) minimise adverse effects of building massing when viewed from adjoining land and the street;
- c) avoid undue overlooking of adjoining properties; and
- d) facilitate breeze penetration through and between buildings.

Clause 5.4.3 sub-clause 1 states that the consent authority may consent to a development that is not in accordance with sub-clause 5 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and the zone purpose and outcomes. It is appropriate to the site regarding such matters as its location, scale and impact on adjoining and nearby property.

At the hearing, Ms Cat Tatam (Town Planning Consultant - Tatam Planning Co) gave an overview of the proposal. Ms Tatam explained to the Authority that the variations sought to the northern and eastern boundaries as well as the associated truncation were due to the location of a mature tree along the northern boundary and the landowner's preference to retain it due to its substantial size, maturity as well as the amenity and shade it provides.

Ms Tatam stated that the location of the shed along the battle-axe boundary would not impact on the lifestyle or amenity of the property to the rear as the portion of the lot was considered non-habitable. Ms Tatam also noted that the 9m x 9m shed was commensurate with the zone and compatible with the neighbourhood in general.

In relation to the second access gate referred to in the City of Darwin's comments, Ms Tatam advised the Authority that the access was created to install the shed only and the gate would be locked and area revegetated once construction is completed. Ms Tatam requested that the condition precedent which required City of Darwin's approval be removed as it was deemed unnecessary.

The Authority considers that a variation to the requirements of Clause 5.4.3 to allow the shed to be situated 4.90m from the northern boundary, 1.10m from the truncated north east boundary and 1.50m from the eastern side boundary where a 5.0m setback is required acceptable for the following reasons:

- The proposal meets the purpose and requirements of clause. The setback to the northern boundary is relatively minor, and the existing landscaping along the affected boundary is considered sufficient to screen the shed from the property at the rear of the site.
- The truncation on the north east corner of the lot limits suitable site locations. By applying the required 5.0m setback to the truncation, the shed would be situated centrally in the back yard, which would be likely limit its functionality and access.
- The shed will be located 1.50m from the eastern boundary of the site. This boundary forms part of a battle-axe strip which provides access to Lot 9325, to the rear of the site. Any adverse effects of building massing when viewed from the battle-axe strip of Lot 9325 will be limited given it serves as an access point only and does not form part of the building envelope or useable space within Lot 9325. In addition, the shed will be partially screened by an existing good neighbour fence erected along the eastern boundary of the site and by suitable landscaping as required by Condition Precedent 3.
- The shed is commensurate with development in the immediate area, given the average lot size is 2000m<sup>2</sup>. Furthermore, no undue overlooking is anticipated from the northern boundary. Regardless of the landscaping present, the setback variation approved is minor (4.9m where 5.0m is required) and there are no windows or openings proposed along the northern elevation of the shed.

In relation to the driveway access, the Authority considers that regardless of whether the second drive access is temporary or not; confirmation is required from the City of Darwin to ensure the driveway is either approved or removed to its satisfaction. In addition, the Authority requires the applicant seek City of Darwin approval/confirmation prior to endorsement of the associated plans as the outcome may alter the plans submitted.

2. Pursuant to Section 51(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 amenity impacts are likely to be minimal due to the limited views from Orchard road and the battle-axe strip and the screening provided by both the 1.8m solid Colorbond fence and the existing and proposed landscaping. Condition Precedent 3 ensures suitable landscaping will be included to provide suitable screening.

3. Pursuant to Section 51(t) of the *Planning Act 1999*, the consent authority must take into consideration other matter it feels fit.

One public submission was received after the exhibition period ended. Ms Suzy Kruhse-Mountburton, the landowner of the neighbouring property to the north, Lot 9325. Ms Kruhse-Mountburton indicated concerns relating primarily to the reduced setbacks, also referencing the size of the shed. Ms Kruhse-Mountburton believes the setback requirements should be enforced, citing visual amenity impacts.

The Authority notes the concerns raised in the submission however considers the site is unique in that it is situated within a residential section of Coconut Grove, which is zoned RR (Rural Residential) and contains larger blocks averaging 2000m<sup>2</sup>.

The Authority also notes the 4.0m wide battle-axe strip provides access to Lot 9325 only and does not form part of the building envelope or useable space within the lot, as such, the impact of the proposed shed is considered minimal. In addition, the shed will be partially screened by an existing good neighbour fence erected along the eastern boundary and Condition Precedent 3 requires a landscape plan to be submitted to ensure further landscaping is provided.

**FOR: 4**

**AGAINST: 1**

**ABSTAIN: 0**

**ACTION:**

Notice of Consent and Development Permit

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

**SUZANNE PHILIP**  
**Chair**

20 October 2021