



**DEVELOPMENT CONSENT AUTHORITY**

**KATHERINE DIVISION**

**MINUTES**

**MEETING No. 169 – WEDNESDAY 5 SEPTEMBER 2018**

**DIPL CONFERENCE ROOM  
1<sup>ST</sup> FLOOR GOVERNMENT CENTRE  
5 FIRST STREET  
KATHERINE**

**MEMBERS PRESENT** Suzanne Philip (Chair), Alan Sprigg, Allan Domaschenz, Peter Gazey and John Zelle

**APOLOGIES:** Fay Miller

**OFFICERS PRESENT:** Julie Bennett and Alana Mackay (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Absent

**Meeting opened at 11.15 am and closed at 12.45 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                    CHANGE OF USE FROM OFFICE TO MEDICAL CLINIC (TENANCY ONE)**  
**PA2018/0320            LOT 3158 (16) KATHERINE TERRACE, TOWN OF KATHERINE**  
**APPLICANT             HANNA STEEVENS**

In attendance Ms Hanna Steevens and Mr Michael Patrick (Anglicare Facilities Manager) via video teleconference. DAS tabled comments from the Department of Infrastructure, Planning and Logistics.

**RESOLVED**  
**50/18**

That, the consent authority grant a reduction to the parking requirements of Clause 6.5.1 (Parking Requirements) under Clause 6.5.2 (Reduction in Parking Requirements) of the Northern Territory Planning Scheme (the Scheme), vary Clause 6.5.3 (Parking Layout) of the Scheme and pursuant to section 53(a) of the *Planning Act*, consent to the proposed development to develop Lot 3158 (16) Katherine Terrace, Town of Katherine for the purpose of a change of use from office to medical clinic within a defined flood area 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 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.
3. Storage for waste disposal bins is to be provided to the requirements of the Katherine Town Council to the satisfaction of the consent authority.
4. The car parking shown on the endorsed plan must be available at all times for the exclusive use of the occupants of the development and their visitors.

**NOTES**

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto: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.

**REASONS FOR THE DECISIONS**

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The primary purpose of Zone CB (Central Business) of the Scheme is to 'provide for a diversity of activities including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities with a commitment to the separation of incompatible activities'. The proposed change of use is consistent with the purpose of the zone, as it will provide for a use appropriate to the zone and has adequate separation between potentially incompatible activities.

A variation to Clause 6.5.3 (Parking Layout) of the Scheme is supported in this instance to permit a car park that is not accordance with the design requirements as it is existing and approved under DP98/0196.

2. A reduction in parking required by Clause 6.5.1 (Parking Requirements) of the Scheme through provision of Clause 6.5.2 (Reduction in Parking Requirements) can be granted because:
  - The parking generation rate for the use does not reflect the demand of a typical medical clinic and clients are predominantly anticipated after general business hours; and
  - There are car parks on both Katherine Terrace and Railway Terrace available in the vicinity of the development.
3. Pursuant to section 51 (n) of the *Planning Act*, the consent authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated.

The proposed change of use does not include any external changes to the building or parking area and the operation of the medical clinic service will not, by its nature, adversely impact on amenity of the area.

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

**ITEM 2** **CHANGES TO DP15/0093 FOR INDEPENDENT UNIT IN EXCESS OF 50m2 IN**  
**PA2018/0156** **A DEFINED FLOOD AREA**  
**APPLICANT** **LOT 240 (16) SHEPHERD STREET, TOWN OF KATHERINE**  
**JASON HILLIER**

Mr Jason Hillier (applicant), Ms Melissa Fisher and Mr Phil Fisher (land owners) attended the meeting.

**RESOLVED** That, pursuant to section 53(c) of the *Planning Act*, the consent authority refuse  
**51/18** to consent to the application to develop Lot 240 (16) Shepherd Street, Town of Katherine for the purpose of changes to DP15/0093 for an independent unit in excess of 50m<sup>2</sup> in a defined flood area for the following reasons:

**REASONS FOR THE DECISION**

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The Northern Territory Planning Scheme (the Scheme) applies to the land to which the application relates. The land is in Zone SD (Single Dwelling Residential) and Clause 7.10.4 (Independent Units) allows for the addition of independent units not exceeding 50m<sup>2</sup> in floor area in Zone SD. The purpose of Clause 7.10.4 is to ensure that an independent unit does not detrimentally impact on the amenity of adjoining and nearby property and remains ancillary to the single dwelling on a site. The clause allows the consent authority the discretion to approve an application for an independent unit that is not in accordance with the maximum floor area, only if it is satisfied that the independent unit is appropriate to the site having regard to the potential impact of the independent unit on the amenity of adjoining and nearby properties.

On 24 February 2015, Development Permit DP15/0093 was granted for the purpose of an independent unit in excess of 50m<sup>2</sup> in a defined flood area. A variation to Clause 7.10.4 (Independent Units) was supported by the consent authority in that instance *“as the scale and design of the development is consistent with existing development in the area. The 8m<sup>2</sup> variation sought will provide a functional, usable space for the residents without impacting on the amenity of the single dwelling, or any adjoining properties”*.

The consent authority noted that the current application proposed changes to DP15/0093 for an independent unit in excess of 50m<sup>2</sup> in a defined flood area by increasing the floor area of the independent unit by 32m<sup>2</sup> (i.e. 58m<sup>2</sup> to 90m<sup>2</sup>).

As a preliminary matter, the consent authority was addressed by the applicant as to whether the floor area of the unit should be considered as including the enclosed areas nominated as ‘verandah’. The definition for ‘floor area’ in the Scheme indicates that *“in relation to a building, includes all wall thicknesses of the external walls and all roof areas used as floors, but does not include verandahs, balconies or areas set aside for car parking or access thereto”*. The consent authority considered that the louvres and screens enclosing the verandah amounted to external walls so that the entire enclosed area should be considered as the floor area of the independent unit and, therefore, amounted to 90m<sup>2</sup>. The nature of the enclosure rendered that area, although described as a ‘verandah’, an interior space.

The consent authority initially deferred consideration of the application to enable the applicant to submit further information and to enable the consent authority to undertake a site inspection of the independent unit.

The additional information provided by the applicant stated that the verandah protects the occupants and the building itself against inclement weather conditions; adds to the aesthetics of the building; allows the space to be ventilated in wet season and in dry season to reduce heating costs (though the use of louvres) and provides a safe and secure area for family living activities.

The consent authority noted the additional information but were not satisfied that such information justified an increase in floor area to 90m<sup>2</sup>. ‘Independent Unit’ is defined in Part 1 Clause 3 of the Planning Scheme as being an ancillary dwelling constructed on the same site as a single dwelling. ‘Dwelling’ is further defined as a building, or part of a building, designed, constructed or adapted as a self-contained residence. Part 4 Clause 7.10.4 sets conditions through which an independent unit may be developed on a site including, *inter alia*, that there will be no more than two dwellings on the site and the unit does not exceed 50m<sup>2</sup> in

floor area in Zone SD. Although the consent authority has discretion to approve an independent unit that is not in accordance with the maximum floor area, if it is satisfied that the independent unit is appropriate to the site having regard to the potential impact of the independent unit on the amenity of adjoining and nearby properties, in this case, the authority could not be satisfied that the unit was appropriate to the site. Further, the authority could not be satisfied that, given the scale of the unit, that the unit was “ancillary” as required by the definition or that it amounted to a single unit and not two units. In that regard, the consent authority noted the results of the site inspection, including such matters as the presence of two external doors, two kitchens and two washing machines and, further, the advertising materials dated 2<sup>nd</sup> July 2018 and produced in the DAS Report. Although Ms Melissa Fisher, representing the landowner, addressed the consent authority in respect of the issues relating to the size of the unit and whether it amounted to one unit or two, the authority was not satisfied with her explanations.

The primary purpose of Clause 7.10.4 (Independent Units) is to ensure that an independent unit does not detrimentally impact on the amenity of adjoining and nearby property and remains ancillary to the single dwelling on a site.

The consent authority noted that the revised floor area of 90m<sup>2</sup> was a large departure from the 50m<sup>2</sup> permissible in zone SD and that previously approved by DP15/0093. Complaints received from the public about the use of the land since 2016 further demonstrated to the consent authority that the use is currently having a detrimental impact on the amenity of adjoining and nearby properties.

The consent authority noted that the information obtained as a result of the site inspection indicated that the independent unit is unlikely to be ancillary to the single dwelling. It is consistent with the definition of ‘multiple dwellings’ and the current configuration indicated that two self-contained multiple dwellings have been established. By definition contained within the Scheme multiple dwellings means ‘*a building or group of buildings on a site which individually or collectively contain more than one dwelling (including serviced apartments) but does not include an independent unit*’. While Zone SD (Single Dwelling Residential) permits an ancillary dwelling to be constructed on the same site as a single dwelling, multiple dwellings are prohibited.

2. Pursuant to section 51(n) of the *Planning Act*, 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 revised floor area of 90m<sup>2</sup> was a large departure from that permitted by the zone (50m<sup>2</sup>) and previously approved by DP15/0093 (58m<sup>2</sup>). The consent authority noted that if it were to grant a variation to allow an independent unit with a floor area almost twice the size permissible within the zone, it would jeopardise the existing and future amenity of adjoining landowners and the broader area.

**ACTION:** Notice of Refusal

**ITEM 3**                    **CHANGE OF USE FROM SHOWROOM SALES TO OFFICE WITHIN A**  
**PA2018/0289**           **DEFINED FLOOD AREA**  
**APPLICANT**           **LOTS 93 & 94 (9 & 7) SECOND STREET, TOWN OF KATHERINE**  
**CLAYTON CONTRACTORS**

Mr Clayton Holland (applicant) attended the meeting. Applicant tabled amended plans.

**RESOLVED  
52/18**

That, the consent authority grant a reduction to the parking requirements of Clause 6.5.1 (Parking Requirements) under Clause 6.5.2 (Reduction in Parking Requirements) of the Northern Territory Planning Scheme (the Scheme) from 26 to 13 car parking spaces (a reduction of 13), vary clause 6.5.3 (Parking Layout) of the Scheme and pursuant to section 53(a) of the *Planning Act*, and consent to the proposed development to develop Lot 93 and Lot 94, (9 and 7) Second Street, Town of Katherine for the purpose of a change of use from showroom sales to office within a defined flood area subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the endorsement of plans and prior to 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 two copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - (a) At least four undercover car parks within the existing garage (not less than 13 in total onsite) and addition of a compliant loading bay;
  - (b) access for persons with disabilities;
  - (c) pedestrian safe path to the laundry and ablution facility;
  - (d) the fence and gate style to provide line of sight for drivers and avoid swinging gates opening into the road reserve;
  - (e) on site waste bin storage; and
  - (f) elevations of demountable structure including firewall.
2. Prior to the commencement of the use, an access easement is to be registered over Lot 94 in favour of Lot 93, to the extent that Lot 94 is affected by the parking layout encroachment.

**GENERAL CONDITIONS**

3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. Before the use or occupation of the development starts, the area(s) 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 driveways to the satisfaction of the consent authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times.

5. The use is conditional on the availability of land within Lot 94 for the purpose of car parking as depicted on the endorsed plan and an access easement over Lot 94 in favour of Lot 93, registered over the parking area to the extent of the boundary encroachment.
6. The use is limited to part of the building for the purposes of offices with a net floor area of no greater than 200m<sup>2</sup>, associated interview rooms, reception and passages, in accordance with the endorsed drawings, to the satisfaction of the consent authority.
7. Storage for waste disposal bins is to be provided to the requirements of the Katherine Town Council to the satisfaction of the consent authority.
8. The use and development as shown on the endorsed plans must not be altered without further consent of the consent authority.
9. 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.
10. 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
11. 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.
12. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street.

## NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([landdevelopmentnorth@powerwater.com.au](mailto:landdevelopmentnorth@powerwater.com.au)) and Power Network Engineering Section ([powerconnections@powerwater.com.au](mailto: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.

## REASONS FOR THE DECISION

1. Pursuant to section 51(a) of the *Planning Act*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The primary purpose of Zone CB (Central Business) of the Northern Territory Planning Scheme (the Scheme) is to 'provide for a diversity of activities including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities

with a commitment to the separation of incompatible activities'. The proposed change of use is consistent with the purpose of the zone, as it will provide for a use appropriate to the zone and has adequate separation between potentially incompatible activities.

A variation to Clause 6.5.3 (Parking Layout) of the Scheme is supported in this instance to permit a parking area with a landscaped setback of 1.2m rather than 3m from the road to maximise on-site parking and in consideration of the existing mature tree which lessens the visual impact of the car parking area.

2. A reduction in parking required by Clause 6.5.1 (Parking Requirements) of the Scheme through provision of Clause 6.5.2 (Reduction in Parking Requirements) can be granted as:
  - The parking generation rate is reduced through the change of use from showroom sales to office;
  - The use is predominantly limited to offices with a net floor area of no greater than 200m<sup>2</sup>;
  - There are six car parks at the entrance to the premises on Second Street constructed as part of the original site development for the purpose of showroom sales.
3. Pursuant to section 51 (n) of the *Planning Act*, the consent authority must take into account the potential impact on the existing and future amenity of the area in which the land is situated.

The proposed change of use is located, as conditioned, will provide suitable screening to the proposed demountable structure, and is otherwise wholly within the existing building, such that there is not likely to be an adverse impact on amenity of the area .

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

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

**SUZANNE PHILIP**  
Chair

12 SEPTEMBER 2018