



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES – ITEM 3

MEETING No. 398 – FRIDAY 7 OCTOBER 2022

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

MEMBERS PRESENT: Suzanne Philip (Chair), Marion Guppy, Trevor Dalton, Peter Pangquee and Morgan Rickard

APOLOGIES: Mark Blackburn and Mick Palmer

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Amit Magotra, Emily Hardy, Monica Pham and Breanna Lusty (Development Assessment Services)

COUNCIL REPRESENTATIVE: Cindy Robinson and Conneil Brown

Meeting opened at 10.30 am and closed at 1.10pm.

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.

The Chair, Development Consent Authority, under section 93(1) of the *Planning Act 1999*, appointed Trevor Dalton who is a member in relation to the Palmerston Division, to act as a member for Mark Blackburn in relation to the Darwin Division from 30 September 2022 to 17 October 2022 as Mark Blackburn is prevented from performing his duties of office because of absence

ITEM 3 ROOMING ACCOMMODATION WITH 72 ROOMS (INCLUDING 1 STAFF ACCOMMODATION ROOM) IN A NINE STOREY BUILDING WITH GROUND LEVEL CAR PARKING
PA2022/0287 LOT 1380 (7) SHEPHERD ST, DARWIN CITY, TOWN OF DARWIN
APPLICANT CUNNINGTON ROSSE TOWN PLANNING AND CONSULTING

Mr Brad Cunnington (Cunnington Rosse Town Planning and Consulting) attended.

Mr David Norton, Mr John Blockey, Mr Tony O'Neil (submitters) and Mr David Dallzell attended.

Late submission from Mr John Blockey was tabled at the meeting.

**RESOLVED
61 /22**

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 1380 (7) Shepherd St, Darwin City, Town of Darwin for the purpose of rooming accommodation with 72 rooms (including 1 staff accommodation room) in a nine storey building with ground level car parking, 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 more car parking spaces akin to hotel/motel use;
- amended plans showing a drop-off zone within the site; and
- further information and/or amended plans addressing concerns raised by the City of Darwin regarding waste management, including waste collection and compliance with the City of Darwin's Waste Management Guidelines

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 rooming accommodation with 72 rooms (including 1 staff accommodation room) in a nine storey building with ground level car parking requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 4.10 Zone CB (Central Business), therefore Clauses 5.2.3 (Buildings in Central Darwin), 5.2.4 (Vehicle Parking), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.4.7 (Communal Open Space) and 5.4.8 (Building Design for Dwelling-Group, Dwelling-Multiple, Rooming Accommodation and Residential Care Facility), need to be considered.

Further information is required for a number of these clauses for the reasons given below.

At the hearing, Mr Brad Cunnington of Cunnington Rosse Town Planning and Consulting (applicant), spoke to the purpose of the application. Mr Cunnington requested that the condition precedent for amended plans with awning be removed. Mr Cunnington argued that awnings should not be required as the building at the ground floor is setback to allow for the communal open space which contributes to the ground level amenity. Mr Cunnington advised that full awnings would negate the ability to provide deep soil planting and landscaping for the communal open space and would cause a detrimental impact. Mr Cunnington noted that there are few footpath awnings in the Shepherd Street Wood Street area.

The Authority questioned the applicant as to the nature of the use, noting that, on the basis of the development application, three possible uses as defined in Schedule 2 of the NT Planning Scheme 2020 were potentially applicable as follows –

- **hotel/motel** means premises primarily used for the short term accommodation of travellers. The use can include where ancillary, meeting and function rooms, food premises-restaurant, a bar-small, and recreation facilities, but does not include a bar public, club, or nightclub entertainment venue;
- **rooming accommodation** means premises such as hostels, guest houses, student and worker accommodation used for the accommodation of unrelated persons which may include: (a) the provision of food or other services and facilities, and/or (b) on-site management or staff and associated accommodation,
- **serviced apartments** means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and which is regularly serviced or cleaned

Mr Cunnington clarified the nature of the land use, the proposed business operation model and the target market for the proposed development. Mr Cunnington advised that the proposal is a commercial development, where a range of workers and students could be accommodated, although he could not rule out use of the premises by tourists. Mr Cunnington noted that the units are not self-contained because they lack laundry facilities and the kitchenettes do not include a stove or oven. He advised that there was no ability to reside in the units as presently configured on the proposed plans without relying on the communal facilities provided such as the communal dining, kitchens, open space, car parking and laundry facilities. The Authority, however noted the extremely limited car parking provided by the proposal.

Mr Cunnington referred to the definitions of hotel/motel, serviced apartments and rooming accommodation. The rooming accommodation use anticipates a wide range of different services and characterises the development as student and workers accommodation wanting to stay in the CBD. Mr Cunnington noted that the proposal currently would be classified under the National Construction code as a Class 3 building, which cannot be unit titled. Mr Cunnington agreed that it is possible for the building to be

upgraded however any change to the use of the building would require a change of use application subject to an assessment under the NT Planning Scheme and any change to the land use would be subject to compliance enforcement.

Mr Cunnington noted that the provision of additional car parking can have commercial implications on the proposal and would be problematic. Mr Cunnington further argued that the length of stay for occupants, as required under the proposed operator model, fits outside the feasible length of time to hire a car and noted the active transport network in the CBD.

Mr Cunnington accepts DAS' assessment of the building setback non-compliances and advised that the reason for the increased setbacks at the lower level and tower level is the result of the architect's approach to increase amenity at ground level. Mr. Cunnington reiterated justification for the variation to the active street frontage and noted that it would not be feasible to make the services along Wood Street smaller.

Mr Cunnington noted that the proposed development does not include an on-site drop/off area and that ride share and taxis or mini-buses will drop off guests on the verge.

Mr Cunnington commented that the nature of the use is not a tourist facility and the reliance on buses for the proposed development is on the public bus network and has not provided an on-site drop-off area and would not be an efficient use of land. Mr Cunnington notes that bicycle parking is provided on each level and the proposed development is reliant on the range of transport options in the CBD.

Two public submissions were received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal. Four late public submissions were received.

Concerns regarding traffic congestion and on-street parking generated by the development, the existing dwelling-single on site and mature frangipani tree, the car parking requirements for rooming accommodation, pick up and drop off arrangements, traffic congestion, impact on amenity of the proposed development, details of the how the building will be run and who the target market is and the rooming accommodation and service apartments definitions were raised in the written submissions.

The Authority also heard from submitters present at the hearing.

Mr Norton, a neighbour of the site, spoke to the history of the site and requested the mature frangipani tree be retained. Mr Norton reiterated his concerns regarding car parking requirement, traffic congestion and noise from tourist buses and potential for increased traffic generated by the development.

Mr O'Neill, a nearby business and property owner, spoke to implications of over 100 people potentially staying at the development and the lack of car parking spaces provided.

Mr Blockey, a neighbour, spoke to the concerns with the car parking requirements, reliance on public transport, the potential of the development to be converted and the pick-up and drop off arrangements proposed along the verge.

The Authority has taken all comments into account and carefully considered the submitters' concerns and the applicant's response to the matters raised.

The Authority considers that there are considerable similarities and overlap between the Planning Scheme definitions of rooming accommodation, hotel/motel and service apartment and that characterisation of a use as falling within one or another has significant impact on the resultant scheme requirements for elements such as car parking and private open space. In respect to the proposed development, much of the discussion in relation to characterisation of the use was predicated on the operational model to be adopted by the proposed operator of the business, which involves guests paying for a membership for minimum periods of one month as opposed to renting on a daily or weekly basis. The Authority, however, considers that it cannot feasibly condition and subsequently enforce a permit containing conditions that would reflect such a business model. The Authority also notes that the use is not limited to student accommodation as such or worker accommodation for a particular employer or project or industry, but rather covers a broad range of possible users who may well require their own or work vehicles or collection and drop off by employer-provided transportation such as mini-buses. Further, it is quite possible that the facility may in fact be used by tourists or others requiring transportation to and from the airport and other destinations. Due to the location and nature of the proposed development and taking into account a number of concerns raised by submitters the Authority, pursuant to Clause 1.10.6 requires a higher standard of development than is set out in a requirement in relation to car parking. The Authority requests amended plans showing more car parking spaces akin to a hotel/motel use.

The Authority further considers that the nature of the development could attract some visitors arriving by bus or dropped-off by taxis and as such request amended plans showing a drop-off zone within the site. The Authority notes that there are no known heritage values identified for the site.

2. Pursuant to Section 51(1)(m) of the *Planning Act 1999*, the consent authority must consider 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.

At the hearing, City of Darwin (Council) spoke to its comments regarding awnings, servicing, waste management plan, access, replacement of on-street car parking, sightlines for vehicles, pedestrians and cyclists. Council queried the target users of the facility and, on the basis that such users may encompass a far broader cross-section of people than students, advised that the development would likely generate more demand for the limited on-street parking. The Council also indicated that it would require onsite waste collection for such a development and not merely collection from the verge.

The Authority has taken Council's comments into account and carefully considered the concerns raised. The Authority notes that the plans provided do not adequately address Council's comments regarding waste collection, therefore the Authority requests further information and/or amended plans addressing concerns raised by the City of Darwin regarding waste management, including waste collection and compliance with the City of Darwin's Waste Management Guidelines.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Deferral

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

**SUZANNE PHILIP
CHAIR**

14 October 2022