



# **DEVELOPMENT CONSENT AUTHORITY**

## **DARWIN DIVISION**

### **MINUTES**

**MEETING No. 407 – FRIDAY 7 JULY 2023**

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

**MEMBERS PRESENT:** Suzanne Philip (Chair), Marion Guppy and Peter Pangquee

**APOLOGIES:** Mark Blackburn, Mick Palmer and Morgan Rickard

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Amit Magotra and Sonia Barnes  
(Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Apology

**Meeting opened at 10.15 am and closed 11.00 am**

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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**                    **SUBDIVISION TO CREATE ONE LOT FOR THE PURPOSE OF A LEASE IN EXCESS OF 12 YEARS**  
**PA2023/0145**            **LOT 5182 (213) DICK WARD DRIVE, LUDMILLA, TOWN OF DARWIN & LOT 8630 (95) DICK WARD DRIVE, COCONUT GROVE, TOWN OF NIGHTCLIFF**

**APPLICANT**            Tatam Planning Co

Applicant Cat Tatam (Tatam Planning Co), Seth Chin & Victor Harris (Chin Property Group) attended.

Interested Party Margaret Clinch (PLan the Planning Action Network Inc) attended.

**RESOLVED**            That, pursuant to section 53(a) of the *Planning Act 1999*, the Development  
**27/23**                      Consent Authority consent to the application to develop Part Lot 5182 (213) Dick Ward Drive, Ludmilla, Town of Darwin and Part Lot 8630 (95) Dick Ward Drive Coconut Grove, Town of Nightcliff for a subdivision to create one lot for the purpose of lease in excess of 12 years, subject to the following conditions:

## **CONDITIONS PRECEDENT**

1. Prior to the commencement of works, an updated revised, signed version of the hydrological assessment report be provided to the satisfaction of the consent authority.

## **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. 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 on the plan of subdivision submitted for approval by the Surveyor General.
4. The owner of land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, and electricity and telecommunication services to the lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
5. Part V clearance for subdivision will not be granted until the relevant Certificate of Compliance has been issued for the development as shown on DP15/0078.

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## NOTES

1. Any proposed 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.
2. All land in the Northern Territory is subject to the *Weeds Management Act 2001* (WM Act). The WM Act describes the legal requirements and responsibilities that apply to owners and occupiers of land regarding declared weeds. Section 9 general duties include the requirement to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading. There are additional duties including a prohibition on buying, selling, cultivating, moving or propagating any declared weed and the requirement to notify the Weed Management Branch of a declared weed not previously present on the land within 14 days of detection. Should you require further weed management advice contact the weed management branch by phone on (08) 8999 4567 or by email to [weedinfo@nt.gov.au](mailto:weedinfo@nt.gov.au)
3. 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 website at <http://ntepa.ntg.gov.au/waste-pollution/guidelines/guidelines>.

The Act, administered by the Northern Territory Environment Protection Authority, is separate to and not reduced or affected in any way by other legislation administered by other Departments or Authorities. The Environment Operations Branch of the Environment Division may take enforcement action or issue statutory instruments should there be non-compliance with the Act.

4. The Aboriginal Areas Protection Authority recommends that the permit holder obtain an Authority Certificate to indemnify against prosecution under the *Northern Territory Aboriginal Sacred Sites Act 1989*. For advice on how to obtain a certificate please contact the Aboriginal Areas Protection Authority.
5. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All

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telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>.

6. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works, to the satisfaction of the consent authority.

Information resources are available on the IECA website [www.austieca.com.au](http://www.austieca.com.au) and the Department of Environment, Parks and Water Security ESCP Standard Requirements 2019 and Land Management Factsheets available at <https://nt.gov.au/environment/soil-land-vegetation>. For further advice, contact the Land Development Coordination Branch: (08) 8999 4446.

### 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 application proposes a subdivision to create one lot for the purpose of a lease in excess of 12 years over existing Lots 5182, Town of Darwin and 8630, Town of Nightcliff. The new leased lot is 2.5ha in area and is located in the northern corner of Lot 5182 and the southern part of Lot 8630, fronting Dick Ward Drive. The leased area follows the mapped boundaries of Zone SD44 (Specific Use Zone Darwin No 44), which was created under Planning Scheme Amendment No. 324 and gazetted on 26 March 2014.

The purpose of Specific Use Zone Darwin SD44 is to provide for light industrial development that addresses the effects of primary storm surge and preserves the safety and maintains the curfew free operation of the Darwin International Airport.

The Authority notes the assessment of the Development Assessment Services (DAS), which concludes that the proposed subdivision is generally consistent with the purpose of Zone SD44. Sub-clause 2 of Zone SD44 requires that prior to subdivision and the commencement of works, to address the issue of storm surge, a hydrological assessment approved by the (former) Department of Land Resource Management must be provided to the satisfaction of the consent authority.

Condition Precedent 1 of the permit requires the proponent to provide an updated revision of the hydrological assessment report with accurate and up to date information concerning the storm surge levels to inform the future development of the site.

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Further, Zone SD44 requires subdivision of land to be in accordance with the requirements of Clause 11.3.2 (Infrastructure in Industrial Subdivisions) and Clause 11.3.3 (Lot size and configuration in Industrial Subdivisions) of the Northern Territory Planning Scheme 2007.

The purpose of Clause 11.3.2 (Infrastructure in Industrial Subdivisions) is to ensure industrial lots are integrated with the required infrastructure, and that subdivision can provide a safe connection to the existing road network and reticulated services.

The proposed lease lot currently has a single vehicle access to Dick Ward Drive. The proponent will be responsible for providing appropriate electrical, water and sewer infrastructure to site. Conditions are included in the permit requiring the applicant to enter into agreements for the provision of appropriate infrastructure to the requirement of the relevant authority.

The purpose of Clause 11.3.3 (Lot Size and Configuration in Industrial Subdivisions) is to ensure that lots are of an appropriate size and configuration to accommodate a range of activities and is of sufficient space to accommodate industrial operations and provide for safe vehicle entry and exit.

The proposed lease area of 2.5ha follows the mapped boundaries of Zone SD44 and exceeds the minimum lot size of 1225m<sup>2</sup> requirements of Clause 11.1.1 (Minimum Lot Size Requirements for subdivision in Zone LI) and is considered to be of a size to accommodate future development in accordance with the specific use zone.

The Authority is satisfied that the creation of the lease parcel will facilitate future development of the land in accordance with Zone SD44, which can be developed with further consent, in accordance with the requirements of the specific use zone.

2. 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 capability of the land relies on the filling of land approved by Development Permit DP15/0078. A condition is included in the permit that Part 5 clearance for the subdivision will not be granted until the relevant compliance certificate has been issued for the fill development in accordance with DP15/0078. This will ensure that future development can occur on the leased parcel in accordance with the provisions of Zone SD44.

Additionally, the Department of Environment and Natural Resources did not identify or raise any issues of concern in relation to land capability for the proposed subdivision for lease in excess of 12 years.

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3. 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.

The proposed subdivision for lease in excess of 12 years is not considered to impact the existing or future amenity of the area. The creation of the lease parcel will facilitate future development of the land in accordance with Zone SD44, at which time potential impacts on amenity will be further considered as part of any future applications for built form on the subject land.

The development is located within 25 – 30ANEF (Australian Noise Exposure Forecast) contour having light industry as acceptable uses as per *Table 2.1 of AS 2021 – 2000 Acoustics – Aircraft noise intrusion – Building siting and construction*. The creation of the lease parcel will facilitate future development of the land in accordance with Zone SD44, which can be developed with further consent, in accordance with the requirements of the specific use zone and *Table 2.1 of AS 2021 – 2000 Acoustics – Aircraft noise intrusion – Building siting and construction*.

4. Pursuant to section 51(1)(t) of the *Planning Act 1999*, the consent authority must take into consideration any other matters it thinks fit.

On 16 June 2023, Ms Margaret Clinch of PAn: the Planning Action Network Inc, submitted late comments in relation to the application. The comments do not identify specific matters for the authority to consider, however asserts that the previous approvals were contentious at the time and changes to the planning scheme and processes requires “such issues to be freshly tested”.

In accepting the late comments, which are not considered a late submission under Section 49 but rather a matter to be considered under Section 51(t), Development Assessment Services refers to a previous decision of the NTCAT - *In Association of Islamic Da'Wah in Australia Inc v Development Consent Authority [2019]*, which noted the following:

*The submission was made outside the time frame for formal submissions under section 49 of the Planning Act 1999 (NT); however, in my view, it was open to the respondent to pay regard to it. By section 51(t) a consent authority may, in considering a development application, take into account "other matters thinks fit". In my view the matter raised by the submission is substantial and it is difficult to see how, once it had been raised, it could appropriately have been disregarded by the respondent. In reaching that conclusion, I should not be taken to be suggesting that late submissions should be taken into account as a matter of course. A person who wishes to guarantee that their views are taken into account in the context of the planning decision should obviously ensure that they make a submission in accordance with the timeframes specified in the Planning Act 1999 (NT) (see section 49 (1)).*

Ms Catriona Tatam of Tatam Planning Co (applicant), Mr Seth Chin and Mr Victor Harris of Chin Property Group (Lessee) attended the hearing and spoke further about the proposal.

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Ms Tatam provided an overview of the proposal and clarified that the land is under a crown lease in perpetuity to Gwalwa Daraniki Association Incorporated with a sub-lease granted to Chin Property Group, and it is not envisaged that the land will ever be freehold title. The lease arrangement is only for the extent of the land within the defined boundaries of the specific use zone SD44.

Ms Margaret Clinch of PAn: the Planning Action Network Incorporated attended the hearing. Ms Clinch's concerns regarding the application impact on the adjoining conservation land, airport noise, effect of primary storm surge and protection of sacred site in the proposed subdivision were discussed.

In relation to the impacts of primary storm surge on subject land, the applicant clarified that the purpose of SD44 is to provide for light industrial development that addresses the effects of primary storm surge and preserves the safety and operation of the Darwin Airport. The clause requirements of the specific use zone will ensure that all future development on the land meets the purpose of the zone. The applicant explained that Development Permit DP15/0078 approved the filling of the land subject to conditions to address the issue of storm surge. The applicant advised that the works were underway to finalise the fill permit, which is valid until 12 February 2025.

In relation to the airport noise, Ms Tatam stressed that the current application proposes to create lease boundaries that follow the existing zone boundaries of Zone SD44. The creation of the lease parcel will facilitate future development of the land in accordance with Zone SD44, which can be developed with further consent, in accordance with the requirements of the specific use zone and *Table 2.1 of AS 2021 - 2000 Acoustics - Aircraft noise intrusion - Building siting and construction*.

In relation to the protection of the sacred site within the proposed leased area the applicant clarified that the location of the sacred site is shown on the proposed leased plan and any development around the sacred site will need to comply with the requirements of the relevant authority. Note no. 4 included on the permit requires the applicant to obtain an Authority Certificate from the Aboriginal Areas Protection Authority prior to undertaking any development activity or other work on the leased lot.

In response to concerns raised by Ms Clinch regarding the location of the crossover to the site located close to the Bagot Road/Totem Road intersection that can create traffic issues, Ms Tatam clarified that no new crossovers are proposed in the subdivision. The site has one existing crossover that is located north of the Bagot Road/Totem Road intersection. Ms Tatam further clarified that any new crossover proposed would require approval from the City of Darwin.

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Ms Clinch appeared satisfied that her concerns had been clarified and there would be further opportunity to review and comment on any future proposed development of the land.

**FOR: 3**

**AGAINST: 0**

**ABSTAIN: 0**

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

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

**SUZANNE PHILIP**

**Chair**

11 July 2023