



# **DEVELOPMENT CONSENT AUTHORITY**

## **DARWIN DIVISION**

### **MINUTES**

**MEETING No. 367 – FRIDAY 20 NOVEMBER 2020**

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

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

**APOLOGIES:** Nil

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Ann-Marie Reynolds and Julie Hillier (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Apology

**Meeting opened at 10.15 am and closed at 10.45 am**

**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**

**PA2020/0344 CARPORT ADDITION TO AN EXISTING DWELLING-SINGLE WITH A REDUCED FRONT SETBACK**

**LOT 7382 (2) PERTH STREET, BAYVIEW, TOWN OF DARWIN**

**APPLICANT** One Planning Consult

DAS tabled an addendum including amended plans from the applicant.

Mr Israel Kgosiemang (One Planning Consult) attended.

Submitter:- Ms Virginia Close attended.

**RESOLVED  
200/20**

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 7382 (2) Perth Street, Bayview, Town of Darwin for the purpose of a carport addition to an existing dwelling-single with a reduced front setback for the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the local 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 surface flow direction, downpipe direction and any connection to Council connection points.

**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. 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. 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 plans in accordance with the authority's requirements and relevant legislation at the time.
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.

## 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. 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.
3. 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. You are also advised to engage a Northern Territory registered building certifier to ensure that the intended use of any existing buildings or structures is permitted by occupancy certification in accordance with the *Building Act 1993*.

## 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 (NTPS2020) applies to the land and a carport addition to an existing dwelling-single with a reduced side setback requires consent under Clause 1.8 (When development consent is required). It is identified as *Merit Assessable* under Clause 1.8(1)(b)(ii)(2), and therefore the Authority must consider the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements. Except for Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), the proposal is compliant with all development requirements of NTPS2020.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to the purpose and administration clauses of the requirement.

The proposal has been found not to be in accordance with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), as it will result in a setback distance from:

- the front boundary of the lot to the column of the carport that is 400mm less than that permitted by the NTPS, in addition, the roof structure will be setback 3000mm; where a minimum of 3600mm is required; and

- the side boundary of the lot to the column of the carport that is 800mm less than that permitted by the NTPS, in addition, the roof structure will be setback 500mm where a minimum 600mm is required.

It is considered that a variation to this clause is appropriate in this instance because the proposal is consistent with the purpose of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) in that the proposal does not detract from the amenity of the locality, and is compatible with the streetscape and surrounding area. Administratively, the consent authority may consent to a development that is not in accordance with the setback requirements of the clause if the variation satisfies:

- a. the purpose of the clause, and
- b. the zone purpose and outcomes

This proposal results in a reduced front setback of 4.1m and reduced side setback of 0.7m, however is considered to meet the purpose of Clause 5.4.3 and the zone purpose and outcomes.

3. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

One public submission was received in relation to the application, the submission raised concerns that the carport addition will create issues associated with stormwater drainage overflow and that the reduced setback will impact on the street view and views from their front garden.

The submitter attended the meeting and raised concern that the development is not in keeping with the minimum building setback of 5m from the front boundary as established by Covenants originally on land titles in Bayview. However, the consent authority note that the Covenant does not apply to the land and that the minimum setback for open sided structures in the NT Planning Scheme 2020 is now 4.5m.

The location and design of the carport within the setback is not considered to impact on the overall streetscape or reduce views to the landscaped frontage on Perth Street as the structure is open sided, located in the current driveway which has a sealed surface and will be predominantly located within allowable setbacks for the site.

To address stormwater drainage, the recommendation is conditional on the on-site collection of stormwater and discharge into the local stormwater drainage system to the requirements of the City of Darwin.

The submitter raised further matters that relate to the conversion of the garage to a bedroom. As these works are within the existing building footprint these do not require consent.

4. 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 land has demonstrated capability to support the proposed development, having an existing dwelling-single constructed on the site. Comments from service authorities do not identify any land capability concerns.

5. 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 structure is not expected to have a detrimental impact on the existing or future amenity of the area. Stormwater impacts from the proposed structure are able to be managed by the existing stormwater network. The carport maintains the roof pitch, building line, materials and finishes of the existing dwelling-single.

**FOR: 5**

**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**

25 November 2020