



DEVELOPMENT CONSENT AUTHORITY

PALMERSTON DIVISION

MINUTES

MEETING No. 252 – WEDNESDAY 21 SEPTEMBER 2022

**AGORA ROOM
HUDSON BERRIMAH
4 BERRIMAH ROAD
BERRIMAH**

MEMBERS PRESENT: Suzanne Philip (Chair), Trevor Dalton, Monica Baumgartner, Athina Pascoe-Bell and Sarah Henderson

APOLOGIES: Nil
LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Adelle Godfrey and Sally Graetz

COUNCIL REPRESENTATIVE: Nadine Nilon and Peter Lander

Meeting opened at 10.00 am and closed at 11.00 am

ITEM 1 **CHANGE OF USE FROM WAREHOUSE TO PLACE OF WORSHIP (UNIT 1)**
PA2022/0251 **LOT 1142 (55) GEORGINA CRESCENT, YARRAWONGA, TOWN OF**
 PALMERSTON
APPLICANT One Planning Consult – Israel Tshepo-Kgosiemang

Israel Tshepo-Kgosiemang (One Planning Consult) and Kolade Giwa attended.

RESOLVED That, the Development Consent Authority reduce the car parking requirements from 21
16/22 to 19 parking bays pursuant to Clause 5.2.4.2 (Reduction in Parking Requirements
 outside of Zone CB in Darwin) 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 1142 (55) Georgina Crescent, Yarrowonga, Town of Palmerston for the
 purpose of a change of use from warehouse to place of worship (unit 1), 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 must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) Unit 2 comprising of a 'warehouse' and 'office' as approved by DP04/0234 and DP04/0234A;
 - (b) An amended parking layout including revisions to bay '1' and deletion of bay '20' such that the design complies with Clause 5.2.4.4 (Parking Layout) of the NT Planning Scheme 2020; and
 - (c) Identification of a bin storage area (including suitable screen treatment).

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. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity to the development shown on the endorsed plans in accordance with the authorities' requirements and relevant legislation at the time. Please refer to notation 1 for further information.
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 drivewaysto the satisfaction of the consent authority.
Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.

5. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors/clients.
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. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the consent authority.
8. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - (a) transport of materials, goods or commodities to or from the land
 - (b) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and
 - (c) presence of vermin.
9. Gatherings for religious purposes may only occur outside of standard business hours, including but not limited to Sundays between 9:30-13:00, Wednesdays between 17:00-19:30 and Saturdays between 17:00-19:00), to the satisfaction of the consent authority.
10. No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.

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. The applicant is 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.
3. Any proposed works which fall within the scope of the Construction Industry Long Service Leave and Benefits Act 2005 must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.
4. This permit will expire if one of the following circumstances applies:
 - (a) the development and use is/are not started within two years of the date of this permit;
 - or
 - (b) the development is not completed within four years of the date of this permit.
5. The consent authority may extend the periods referred to if a request is made in writing before the permit expires.

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 a 'place of worship' requires consent under Clause 1.8 (When development consent is required). It is identified as 'Impact Assessable' under Clause 1.8(1)(c)(i), therefore the strategic framework (Part 2 of the Scheme, including the Darwin Regional Land Use Plan and Central Palmerston Area Plan are applicable), the zone purpose and outcomes of Zone 4.12 Zone SC (Service Commercial), and Clauses 5.2.1 (General Height Control), 5.2.4.1 (Parking Requirements), 5.2.4.4 (Parking Layout), 5.2.5 (Landscaping), 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.5.3 (Commercial and Other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, FD and T) and 5.8.4 (Exhibition Centre, Place of Assembly and Place of Worship) need to be considered.

These clauses have been considered and the proposal is found to comply in part. The development is assessed as compliant with Clauses 5.2.1, 5.5.3 and 5.8.4, with Clauses 5.2.7 and 5.3.7 not relevant to this development as the site is not adjacent land in Zones LR, LMR, MR or HR and does not propose any new buildings. Non-compliance with Clauses 5.2.4.1, 5.2.5 and 5.2.4.4 were identified under assessment.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), sub-clause 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:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The development is 'Impact Assessable' under clause 1.8 and the exercise of discretion by the consent authority is required under clause 1.10(4), which requires the authority to take into account:

- (a) any relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;
- (b) any Overlays and associated requirements in Part 3 that apply to the land;
- (c) the guidance provided by the relevant zone purpose and outcomes in Part 4; and
- (d) any component of the Strategic Framework relevant to the land as set out in Part 2.

The land is located within Yarrowonga, which is covered by the Central Palmerston Area Plan. The plan provides planning principles, objectives and acceptable responses for development within the plan area. Its aim is to guide development and informs the exercise of discretion for assessment of requests to vary planning scheme provisions, such as with the current proposal.

The current proposal is for a change of use from warehouse (with ancillary office) to a place of worship over part of the site. The remaining use of other parts of the site are unaltered by this proposal and remain, as approved through Development Permit DP04/0234 and DP04/0234A, approved as 'warehouse and ancillary office'.

In terms of appropriateness of the use, the proposal is generally consistent with the planning principles and objectives of the Area Plan, including protection of the ongoing use of the area for service commercial type uses. It is further consistent with the plan's vision for encouraging uses that promote social infrastructure, culture and services that support the community within the Central Palmerston area.

The consent authority finds the use to be broadly consistent with the purpose of Zone SC, particularly where it highlights that the zone is to provide for 'other activities that individually require a large floor area for...activities, in locations that enable convenient access by the broader regional population.' The use is an activity that requires a larger floor area to accommodate patrons likely to access the site in a location that has reasonable accessibility given its proximity to and ease of access to the Stuart Highway, Roystonea Avenue and Temple Terrace. Zone outcomes further seek '[a] mix of activities...' where they are 'compatible with and are of such a kind that will not adversely affect the amenity of the service function of the area' and that '[d]evelopments are operated in a manner to ensure that there is no unreasonable loss of amenity for surrounding premises, having regard to the mixed nature of the zone.' Following the design amendments required by the conditions of approval, and provided that the use is managed as outlined in the application, amenity impacts associated with the use are more likely to be caused by reverse-sensitivity rather than the use itself. The 'Preliminary Reverse Amenity Impacts Assessment' report provided with the application has been relied upon in its assessment of potential amenity impacts from surrounding land uses, and its recommendations for additional treatments within the site to ensure appropriate levels of amenity within the site can be enjoyed. Acceptance of the recommended noise attenuation treatments by the proponents as noted in the application is also noted and has been relied upon as part of consideration of the application.

In terms of compliance with Part 5 of the Planning Scheme, the submitted design results in non-compliance with car parking requirements (both numbers and design). A two bay parking reduction under Clause 5.2.4.2 (Reduction in Parking Requirements outside of Zone CB in Darwin) is considered appropriate having taken into account the zoning of the land, current and future use, and availability of on street parking and proximity of public transport in the area. The use is considered acceptable in the zone and there is considered adequate capacity and quality of on-street car parking in the immediate area. On-street parking, especially within Georgina Crescent, which is within formed and line-marked bays, has capacity to accommodate additional vehicles. Use of on-street parking within business hours is generally well utilised but as the use primarily occurs outside standard business hours, this capacity will increase such that no significant impacts on the road networks or existing or future amenity of the area is anticipated. To further minimise potential disruption, the City of Palmerston recommended restriction of the operating hours of the use which has been incorporated into the conditions of approval.

In relation to the non-compliance with Clause 5.2.4.4 (Parking Layout), the design issues can easily be rectified through submission of amended plans which the applicant agreed to at the meeting. A condition requiring submission of amended plans has been included to resolve this matter, as well as formally requiring deletion of bay '20'.

The requirements of Clause 5.8.4 (Exhibition Centre, Place of Assembly and Place of Worship) have also been considered. Only part of the clause applies to this development and provides operational requirements relating to hours of operation, capacity of patrons and management of day-to-day operations. The stated operating hours include – Sundays 9:30-13:00, Wednesdays 17:00-19:30 and the last Saturday of every month 17:00-19:00, although it was accepted at the meeting that incidental usage outside the hours was likely and to be expected (for example, use of parts of the building by a book-keeper on occasion). Stated patron capacity is approximately 40-60 people with capacity for modest growth. The application also included a reverse sensitivities report which found that 'the site could be proven fit for purpose as a place of worship if appropriate noise attenuation methods are implemented to reduce the internal noise within the Site to at or below 40dB(A).' This information has been relied upon to guide assessment and consideration of the suitability of the use for the site, with the proposal also considered to comply with the requirements of this clause.

For the reasons provided above, the development as proposed is considered acceptable.

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.

Two public submissions were received during the exhibition period, with one later withdrawn. The remaining submission raised concerns with the adequacy of car parking, suitability of the use, the capacity of reticulated services, waste storage/removal and the lack of outdoor space.

The concerns raised in the submission are noted and have been considered. The consent authority noted that advice from service authorities indicated that existing reticulated services may require upgrades, which is common for development of this nature. The land is located within Zone SC (Service Commercial) where 'place of worship' is an 'Impact Assessable' land use. The assessment by Development Assessment Services found that the proposal, which included a reverse sensitivity assessment, is an acceptable use in the zone and the consent authority accepted this position. The proposal results in a two bay parking shortfall which will result in some reliance on the surrounding on-street car parking. The surrounding area is well serviced by on-street parking, including a number of line-marked bays. While on-street parking is well utilised in the area, there is considered to be some available capacity, particularly outside of standard business hours which is when the use will predominantly occur. Having considered the above matters and that provided that the use is managed as outlined in the application, no unreasonable amenity impacts will occur as a result of the part change of use of the site.

4. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the consent authority must take into consideration 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.

The application was circulated to relevant service authorities. Generally, responding authorities advised of no significant concerns with the proposal and advised, as is fairly standard for development of this nature, that reticulated services may require upgrades as a result of the change of use. The City of Palmerston raised the potential for parking conflicts and recommended that the use should be conditioned to control its operating hours to outside of standard business hours. This recommendation has been adopted, with condition 9 included in the permit as a result.

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.

As with any change in use of land, the development has the potential to impact the current and future amenity of the area. Provided that the use is managed and operated as outlined in the application and the necessary design amendments are made to the parking layout, the potential for amenity disturbance is considered to have been sufficiently mitigated with any remaining impacts within the bounds of what can be considered reasonable for the location. Given the use, the greatest potential for amenity impacts is to the subject site itself, with the potential amenity risks likely to be sufficiently mitigated provided the recommendations of the reverse sensitivities report is followed by the proponents.

FOR: 5

AGAINST: 0

ABSTAIN: 0

ACTION:

Notice of Consent and Development Permit

ITEM 2 TELECOMMUNICATIONS FACILITY WITH A 35M HIGH MONOPOLE AND
PA2022/0179 ASSOCIATED ANTENNAS AND EQUIPMENT SHELTER
LOT 15681 (111) RADFORD ROAD, ZUCCOLI, TOWN OF PALMERSTON
APPLICANT Telstra Corporation Ltd

Athina Pascoe-Bell and Sarah Henderson advised they are Community Members of the Development Consent Authority and Ms Pascoe-Bell is Mayor of the City of Palmerston. The City of Palmerston is a submitter to this application under Section 49 of the *Planning Act 1999*. The Chair noted that section 98A of the *Planning Act 1999* – Independence of Community Members – contemplates that Community Members, while acting independently, may take account of opinion of a local government council in relation to a development application. Further no parties present raised any concerns with Ms Pascoe-Bell and Ms Henderson considering the application. Pursuant to section 97 of the *Planning Act 1999* the Chair determined that Ms Pascoe-Bell and Ms Henderson’s positions were not significant or relevant and permitted these members to form part of the quorum and participate in the determination of this item.

Further Trevor Dalton advised he was previously the general manager of the Land Development Corporation, the owner of the land. Mr Dalton advised this was many years ago and that he has no interest in the application. Further no parties present raised any concerns with Mr Dalton considering the application. Pursuant to section 97 of the *Planning Act 1999* the Chair determined that Mr Dalton’s previous position was not significant or relevant and permitted Mr Dalton to form part of the quorum and participate in the determination of this item.

Mark Baade (SAQ Consulting) and Reece Watt (Amplitel) attended.

Submitter – City of Palmerston represented by Nadine Nilon and Peter Lander attended.

RESOLVED That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 15681 (111) Radford Road, Town of Palmerston for the purpose of a telecommunications facility with a 35m high monopole and associated equipment shelter to allow the applicant to provide the following additional information that the Authority considers necessary in order to enable the proper consideration of the application:
17/22
- further information, by way of revised plans and proposed conditions precedent and/or other means proposed by the applicant to satisfy the concerns raised by the City of Palmerston regarding the proposal.

REASONS FOR THE DECISION

1. Pursuant to section 46(4)(b) of the *Planning Act 1999*, if the consent authority considers additional information is necessary to enable it to consider the application properly – require the applicant to provide the information.

The City of Palmerston lodged a submission against the development under section 49(3) of the *Planning Act 1999* raising concerns with the proposal and in particular, potential impacts on the adjacent stormwater detention/management basin to the west of the development site.

It is understood that attempts have been made to resolve the concerns, and updated advice from the City of Palmerston at the meeting indicated that while there are a number of remaining issues, the matters could be formalised via conditions precedent, if a development

permit is issued. At the meeting the consent authority noted that an amended design and draft conditions precedent had been prepared by the applicant, but were not available for the consent authority to consider at the meeting. While the progression of the design issues were noted by the consent authority, it considered that a determination could not be made until it could consider the latest design and conditions precedent drafted in order to satisfy Council's concerns.

Given the issues raised by the City of Palmerston, the additional information is requested to enable the consent authority to appropriately consider the matters required under section 51(1)(j) of the *Planning Act 1993* relating to 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, and section 51(1)(t), being other matters it thinks fit.

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

23 September 2022