



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES ITEMS 1 AND 2 ONLY

MEETING NO. 441 – FRIDAY 23 MAY 2025

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

MEMBERS PRESENT: Suzanne Philip (Chair), Rod Applegate, Monica Baumgartner and Peter Pangquee

APOLOGIES: Mick Palmer and Jimmy Bouhoris

LEAVE OF ABSENCE: Marion Guppy

OFFICERS PRESENT: Margaret Macintyre (Secretary), Amit Magotra, Madison Harvey and Lingyi Kong
(Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 10.45 am and closed at 12.00 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 TIME 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 Monica Baumgartner who is a member in relation to the Batchelor Division, to act as a member for Marion Guppy in relation to the Darwin Division from 12 May 2025 to 27 May 2025 as Marion Guppy is prevented from performing her duties of office because of absence.

ITEM 1
PA2025/0110 **SUBDIVISION TO CREATE ONE LOT FOR THE PURPOSE OF A LEASE IN EXCESS OF 12 YEARS**
SUBJECT SITE **LOT 9198 (7) ELLENGOWAN DRIVE, BRINKIN, TOWN OF NIGHTCLIFF**
APPLICANT **EARL JAMES AND ASSOCIATES**

Applicant: Kevin Dodd (Earl James and Associates) attended and tabled correspondence from the Director of Property and Facilities CDU, confirming that the proposed subdivision is purely administrative in nature and will not affect the existing student accommodation or current access arrangements.

RESOLVED
36/25 That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 9198 (7) Ellengowan Drive, Brinkin, Town of Nightcliff for the purpose of subdivision to create one lot for the purpose of a lease in excess of 12 years, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawing 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 lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
Please refer to notations 1 for further information.
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. 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.

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. As part of any subdivision, the parcel numbers for addressing should comply with the Australian Standard (AS/NZS 4819:2011). For more information contact Survey and Land Records surveylandrecords@nt.gov.au 08 8995 5356. The numbers shown on the plans endorsed as forming part of this permit are indicative only and are not for addressing purposes.

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 NTPS2020 applies to the land and subdivision to create one lot for the purpose of a lease in excess of 12 years requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(ii); therefore, strategic framework (Part 2 of the Scheme – Darwin Regional Land Use Plan 2015), and zone purpose and outcomes of Clause 4.22 (Zone CP - Community Purpose), Overlay Clauses 3.2 (CNV - Clearing of Native Vegetation), 3.4 (CR - Coastal Reclamation), 3.6 (LSF - Land Subject to Flooding), 3.7 (LSSS - Land Subject to Storm Surge), 3.9 (DHD - Darwin Harbour Dredging), and Clause 6.1 (Preliminary of Subdivision and Consolidation Requirements), need to be considered.

Part 2 (Strategic Framework)

The Authority noted that the CDU campus site is identified as an education facility in the Darwin Regional Land Use Plan (DRLUP) 2015, which recognises future university initiatives and their potential contribution to regional growth and infrastructure needs. While subdivision of the land is not specifically addressed in the DRLUP, it is not considered contrary to it. The proposed subdivision is intended to facilitate the leasing of land for student accommodation within the CDU campus, directly supporting anticipated growth in international student numbers. The Authority considered that the subdivision aligns with the key objectives for education facilities under the DRLUP 2015.

Part 3 (Overlays)

The Authority noted the assessment by Development Assessment Services (DAS), which identified that Overlays 3.2 (CNV – Clearing of Native Vegetation), 3.4 (CR – Coastal Reclamation), 3.6 (LSF – Land Subject to Flooding), 3.7 (LSSS – Land Subject to Storm Surge), and 3.9 (DHD – Darwin Harbour Dredging) are applicable to the site. However, the Authority also noted that the subdivision is purely administrative in nature, intended to create a lease boundary for the existing student accommodation facility within the CDU campus. No clearing of native vegetation, coastal reclamation, or dredging is proposed as part of the subdivision. Furthermore, the proposed lease area is not affected by the LSF (Land Subject to Flooding), PSSA (Primary Storm Surge Area), or SSSA (Secondary Storm Surge Area) overlays.

Part 4 (Zones and Assessment Tables)

The application is for subdivision with no new structures proposed, while it does not change the existing access to the established services and infrastructures. The sub-clause of relevance for this application is sub-clause 4 as it relates to subdivision, and the DAS's assessment concluded that the appropriate level of services and infrastructure required under the sub-clause are provided for the subdivision, as the development on the land (rooming accommodation), already exists. Furthermore, the comments received

from the service authorities have also not raised any concerns with the proposed subdivision. The proposed subdivision serves only an administrative purpose and therefore will not compromise the purpose and outcomes of the zone.

Part 6 (Subdivision and Consolidation Requirements)

There are no specific subdivision requirements in Part 6 of the Scheme relating to the subdivision of land in Zone CP. The relevant zone purpose and outcomes and the Strategic Framework have been discussed above.

The Authority determined that the proposal complies with the relevant requirements of the NTPS2020.

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 land is capable of supporting the proposed development. The proposed lease area is built with existing student accommodation buildings, while no changes are proposed to the established use. Necessary infrastructure and services are available, and will be maintained to support the proposed subdivision. Additionally, the Department of Lands, Planning and Environment - Development Coordination, Rangelands Division did not identify or raise any issues of concern in relation to land capability.

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 is to create one lot for the purpose of a lease in excess of 12 years intended for lease and management of the existing on-campus student accommodation. The proposed use will maintain the established use of the land, while no construction work is involved in the application. No impacts on the existing and future amenity of the area are foreseen as a result of the proposed subdivision.

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

One public submission was received from Margaret Clinch, PAn: the Planning Action Network, Inc., after the exhibition period had ended, with additional comments provided by the submitter after the lodgement of the original submission. While the submission was received outside the time limited for formal submissions under Section 49 *Planning Act 1999*, the Authority noted the late submission as a matter of public comment under Section 51(1)(t). The concerns raised in the late submission are

- Lack of detailed information is provided, making it difficult for the public to assess potential impacts on local residents and students
- The pink exhibition signs are poorly placed and difficult to read.
- the term 'Community Purposes' could encompass a wide range of undefined activities.
- management of the land and conditions of the proposed lease
- lack of details on any construction to be carried out
- any impact on neighbouring residential properties in Brinkin
- is the university still available for walking exercise

Darwin DCA Meeting No 441 – Friday 23 May 2025

- any noise created by the proposed lease
- any green space to be occupied if new buildings are proposed

Mr Kevin Dodd from Earl James and Associates, representing the applicant, attended the hearing and outlined the nature of the proposed subdivision. Mr Kevin also responded to the concerns raised by the late submitter and tabled correspondence from the Director of Property and Facilities CDU, confirming that the proposed subdivision is purely administrative in nature and will not affect the existing student accommodation or current access arrangements.

Mr Dodd told the Authority that the student accommodation has historically been managed by the CDU's property maintenance division. However, as the university's core role is education and not the management of accommodation facilities, it has entered into an agreement with Campus Living Villages (CLV), a specialist provider experienced in managing student accommodation who has been managing the facility since December 2024. The proposed subdivision is intended to enable the registration of a long-term lease, thereby providing CLV with security of tenure for the ongoing management of the facility. Mr Dodd clarified that this arrangement is expected to enhance the standard of student accommodation on site.

Addressing concerns about potential new development, Mr Dodd confirmed that no new buildings are proposed. Mr Dodd noted that while future renovations may occur, these would require assessment and approval under the *Planning Act 1999*. Mr Dodd stressed that the application considered the potential impact of the proposal on students and confirmed there would be none, as nothing on the ground is changing. Mr Dodd emphasised that the proposal would have no impact on students as it does not involve any physical changes on site.

Mr Dodd also addressed concerns regarding exhibition signs installed on-site during the exhibition period. Mr Dodd confirmed that 3 signs were installed during the exhibition period as required under the *Planning Act 1999*. Mr Dodd expressed uncertainty about the basis of the submitter's concerns, given that the signs had been properly displayed.

While the late submitter did not attend the hearing, the Authority acknowledged the written submission and considered both the concerns raised and the applicant's response provided at the hearing. The Authority noted that, as outlined under Reason 1, the proposal complies with the applicable requirement under the NTPS 2020. The proposed subdivision will not alter the nature of the existing development within the subject land, including the extent or appearance of the built form or the nature of the land use, servicing or access. The subject land already accommodates the development/use, and the proposed leased parcel will not affect other lands. No new construction is proposed as part of the subdivision works. The subdivision serves only an administrative purpose and, therefore, will not impact the amenity of the area.

In regard to the public notice, the Authority noted that the public notices installed on the site for the proposed development comply with the requirements under Section 47 of the *Planning Act 1999*. The exhibition signs were placed within a reasonable distance from each public road frontage of the site and maintained for the full exhibition period. The information provided on the signage meets the standard of the exhibition.

The Authority also noted that detailed application documents, including the Statement of Effect, were available online and from the Development Assessment Services (DAS)

Darwin DCA Meeting No 441 – Friday 23 May 2025

during the exhibition period. These documents address the lease proposal and demonstrate how the application meets the purpose and outcomes of Zone CP (Community Purpose) under Clause 4.22 of the NTPS 2020. The correspondence tabled at the hearing from CDU's Director of Property and Facilities confirmed that the subdivision will not alter the student accommodation or access arrangements and is strictly administrative in purpose.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Consent and Development Permit

ITEM 2 PA2025/0045 SUBJECT SITE APPLICANT	RESIDENTIAL CARE FACILITY (9 UNITS AND ASSOCIATED FACILITIES) IN A 4-STOREY BUILDING LOT 1229 (8) MANGOLA COURT, LARRAKEYAH, TOWN OF DARWIN GOLDBOX
--	--

Development Assessment Services (DAS) tabled:

- applicants' response to submissions;
- additional submission responding to amended development plans from Holly Supple Gurruwiwi on behalf of Mangola Court Larrakeyah;
- response from submitter William Hunter to applicants' response to submissions;
- additional submission responding to amended development plans from PJ & GE O'Connell;
- apology from submitter Andrea Calley unable to attend meeting but advising fully supports submission from PJ & GE O'Connell;
- further submission from submitter William Hunter requesting clarification on front setbacks and vehicle access and noting various other concerns.

Applicant: Maria Pajarillo (Goldbox) and Paul Winter (Habitat NT) attended.

Submitters: William and Kelly Hunter and Holly Supple-Gurruwiwi attended.

Submitter Andrea Calley sent her apologies she is unable to attend the meeting.

RESOLVED
37/25

That, pursuant to section 46(4)(b) of the *Planning Act 1999*, the Development Consent Authority defer consideration of the application to develop Lot 1229 (8) Mangola Court, Larrakeyah, Town of Darwin, for the purpose of Residential Care Facility (9 units and associated facilities) in a 4 storey building 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 drawings to:
 - include specific details of rehabilitation, medical or other support facilities that are provided in the support rooms and residential care units
 - remove showers from each bathroom in the support rooms.
 - provide 10 car parking spaces in total and an area capable of accommodating ambulances/patient transport vehicles/minibus.
 - re-design the level 1 - 3 south-western side boundary setback to achieve compliance with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme 2020 (NTPS 2020).

- architectural cladding and embellishments to the south-western wall to reduce the visual massing of the blank wall from the adjoining property.

REASONS FOR THE DECISION

1. The application seeks approval for a residential care facility comprising 9 units (with 15 beds), one overnight carer room, and 2 medical/rehabilitation support rooms in a 4-storey building. The application was submitted by Mario Pajarillo on behalf of the landowner, Skychest, with a signed owner's authorisation included as part of the submission.

The site is currently vacant and located at the corner of Mangola Court and Smith Street in the inner suburb of Larrakeyah. It is well connected to the Darwin CBD and the nearby tourist and commercial precinct of Cullen Bay Marina. The site is also in close proximity to a range of amenities, including Larrakeyah Primary School and various dining and entertainment options along Smith Street. The surrounding area is predominantly characterised by residential apartment buildings in Zone HR.

The Authority notes that Schedule 2 of the Northern Territory Planning Scheme (NTPS 2020) defines a residential care facility as *'the use of premises for supervised accommodation where the use integrates:*

- a) *rehabilitation; and/or*
- b) *medical; and/or*
- c) *other support;*

facilities for residents who cannot live independently and/or require regular nursing or personal care, and may include where ancillary an office;

The Authority, at the hearing, asked the applicant, Mr Paul Winter, to explain who the proposed occupants/residents are and if there is an operator in mind. Mr Winter clarified that the landowner Skychest, also known as Skyring, will be the operator and developer of the facility. Mr Winter advised that Skyring currently operates similar (albeit on a smaller scale) facilities in the Darwin region.

Mr Winter advised that the occupants will be High Physical Support (HPS) NDIS participants, and the bedrooms will have a hoist system. The lifts are designed to be longer than standard to accommodate gurneys. Mr Winter further explained that there will always be one carer on site, and physio and rehabilitation facilities are available in the support rooms.

The Authority observed that the support rooms could potentially be converted into self-contained dwellings and questioned the inclusion of a full bathroom (i.e. basin, toilet, and shower) and a separate balcony in their design. In response, Mr Winter explained that the showers were intended to serve as end-of-trip facilities; however, he indicated that they would be open to redesigning the support rooms to exclude the shower facilities. The Authority also noted that a residential care facility is not required to provide bicycle facilities.

Mr Rod Applegate (a member of the Authority) asked the applicant to clarify where the physio and rehabilitation equipment will be located. Mr Winter clarified that this equipment will be located in the support rooms and also in the storage area at ground level. Ms Maria Pajarillo advised that it is common practice in medical centres and

hospitals for equipment to be stored in separate areas and brought into consulting rooms as needed by medical professionals. Ms Pajarillo further advised that the plans do not show specific details at this stage; however, the design will be further developed to the operator's needs.

Ms Pajarillo argued that planning consent would be required if the support rooms are to be used as dwellings. However, the Authority emphasised that, to qualify as a residential care facility, the associated services must be integrated within the overall development.

Mr Winter stressed that it is the intent of the operator/developer to use the facility as shown on the plans and that if required a condition could be applied to any permit preventing the development from being strata titled.

To ensure that the proposed development can be considered as a residential care facility, the Authority requests that the plans are updated to include specific details of rehabilitation, medical or other support facilities that are provided in the support rooms and the residential care units and to remove showers from each bathroom in the medical/rehabilitation support rooms (deferral points 1 and 2).

2. Pursuant to Section 51(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 land is located in Zone HR (High Density Residential) under NTPS 2020 and the purpose is to *provide for a range of high rise housing options close to activity centres, public transport, open space and community facilities, where reticulated services can support high density residential development.*

The Zone Outcomes specifically require that Residential Care Facilities *are operated in a manner that is compatible with the amenity associated with high density residential development.*

Mr Peter Pangquee, a member of the Authority, asked the applicant to explain how medical waste would be disposed of. Mr Winter responded that medical waste would be managed in accordance with the City of Darwin's waste management guidelines and confirmed that this can be addressed through a recommended condition outlined in the Development Assessment Services (DAS) report.

The DAS report identified that the proposed use of Residential Care Facility is listed as *Impact Assessable* under Zone HR (High Density Residential) and therefore the following elements of NTPS 2020 need to be considered by the Authority in determining the application:

- Part 2: Strategic Framework (Central Darwin Area Plan 2019)
- Part 4: Zone Purpose and Outcomes of Clause 4.5 – Zone HR (High Density Residential)
- Clauses 5.2.1 General Height Control
- 5.2.4 (Car 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)
- 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)
- 5.4.7 (Communal Open Space)
- 5.4.8 (Residential Building Design)

- 5.4.15 (Residential Care Facility)
- 5.4.17 (Building Articulation)
- 5.4.18 (Fencing)

In relation to Part 5 of the NTPS 2020, the Authority notes the assessment of DAS, which found that the proposed development complies with the relevant requirements except for Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), Clause 5.4.7 (Communal Open Space), Clause 5.4.17 (Building Articulation) and Clause 5.4.18 (Fencing). However, the Authority does not agree with the DAS assessment in respect of the required car parking for the proposed residential care facility and considers that the proposed development would also not comply with Clause 5.2.4.1 (Car Parking Spaces). That clause requires that facility provide one car parking space for every 4 beds, plus 4 for every 100m² of net floor area used for administrative purposes. The Authority determined that the support rooms should be considered as *'net floor area used for administrative purposes'*. Further the Authority did not consider that the overnight carer accommodation amounted to a "bed" for the purposes of the clause, but, is rather a separate dwelling unit, generating a further requirement for car parking. The Authority advised that their primary concern relates to the provision of sufficient car parking spaces in order to ensure that the proposed facility is *"operated in a manner that is compatible with the amenity associated with high density residential development"* as required by the Zone Outcomes.

The Authority asked the applicant if additional car parking spaces can be accommodated. Mr Winter advised that they are unable to provide additional car parking spaces due to the NTPS 2020 requirements for car parking spaces to be setback from the lot boundaries fronting the roads. In addition, Mr Winter clarified that the occupants of the building will not be able to drive. Ms Monica Baumgartner (a member of the Authority) asked the applicant to explain why the occupants would not have vehicles. Mr Winter reiterated that the residents will be HPS NDIS participants, and at the other facilities that Skyring operates in the Darwin region, the residents do not own cars.

The Authority noted that whilst the current occupants may not be able to drive this does not prevent the building from being used differently in the future.

In addition, the Authority advised that some of the care units have 2 bedrooms, and there are no planning requirements that prevent occupants from having a family live with them, which could, in turn, create a higher car parking demand. The Authority reflected that if the facility were for single-bedroom units, there might be greater comfort regarding the use and car parking provision.

Key non-compliant clauses are discussed below.

Clause 5.2.4.1 (Car Parking Spaces)

The Authority notes that proposed development comprises a total of 15 beds and approx. 68.4m² of floor area for the support rooms and a one bedroom dwelling for use as overnight carer accommodation. This would generate a requirement of 7.838 (rounded up to 8) car parking spaces for the residential care facility beds and support rooms and a further 2 spaces for the one bedroom dwelling, totalling 10 spaces in all, where only 7 car parking spaces have been provided.

The Authority highlights the particular nature of this proposed residential care facility which consists of a mixture of 10 one and two bedroom dwelling units, all providing private open space in the nature of multiple dwellings. Were this not categorised as a residential care facility, 24 car parking spaces would be required by the NTPS 2020. The Authority does not consider that the 7 carparking spaces proposed reflect the specific circumstances of this application. The Authority further notes, pursuant to Clause 1.10.6 of Part 1 of the NTPS 2020, it is able to require a higher standard than that set out in a requirement related to car parking.

Accordingly, the Authority considers that to reflect the design and operation of this particular facility, the car parking rates should comprise as follows: 1 for every 4 beds (as per the residential care facility car parking rate), 2 to each support room (as per the medical clinic rate minus 2 spaces given the patients are already onsite), 1 for every overnight carer accommodation (as per the dwelling-caretaker rate) and 1 visitor space. Therefore, a total of 10 car parking spaces is required to be provided on-site (deferral point 3).

Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)

The Authority highlights that sub-clause 2(b) specifies that *'for all developments except dwellings-multiple in Zone MR or HR, where a lot has a boundary with a public street from which vehicular access to the lot is restricted by the controlling Agency or local government council, this boundary shall be considered a side or rear lot boundary for the purpose of calculation of the building setback'*. The Authority notes that the applicant provided email correspondence from the City of Darwin dated 2 April 2025 which stated *'City of Darwin does not support the use of Smith Street for vehicle access to this site'* and therefore Smith Street is treated as a side boundary for the purpose of assessment of this clause.

The Authority noted that the DAS's assessment has identified that the proposed development does not comply with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), as the ground level blockwork walls and gatehouse are setback between 2 – 2.5 metres from the Mangola Court lot boundary, where they are required to be setback 6 metres, and the level one – 3 balconies are setback 2.5 metres from the south-west lot boundary, where they are required to be setback 3 metres.

Mr Winter explained to the Authority that they are willing to amend the level one – three balconies south-western side boundary setback, as they can be re-designed to achieve compliance with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the NTPS 2020. The Authority was, however, willing to support a variation to the front setback, noting that gatehouses are a common feature in residential areas and can enhance the streetscape's visual appeal. The low-height block wall along the front boundary was also considered acceptable, as it functions as a fencing element. Deferral point 4 requires the applicant to provide amended plans showing compliance with Clause 5.4.3 for level one – 3 balconies from the south-west lot boundary

Clause 5.4.7 Communal Open Space

The purpose of this clause is *'ensure that suitable areas for communal open space are provided for dwellings-multiple, residential care facilities and rooming accommodation'*.

With reference to sub-clause 5, the proposed communal open space includes area that are less than 6 metres wide, and therefore does not comply.

Mr Winter acknowledged that the width of the communal open space does not comply with the requirements, however, notes that each care unit is provided with a balcony even though the planning requirements do not require this. The Chair confirmed that a balcony to each unit is not required to be provided a residential care facility however noted that the provision of balconies makes it easier to convert the development to a Dwelling-Multiple. Conversely, the Chair of the Authority noted that the future occupants/residents of the facility may enjoy the use of the balconies and the amenity these provide.

5.4.17 (Building Articulation)

The Authority notes the purpose of the clause is to *'ensure that residential buildings mitigate the perception of building mass and bulking when viewed from adjoining properties and the street, and provide opportunities for cross-ventilation within building design'*.

With reference to sub-clause 4, the proposed north-eastern and south-western walls extent for a length greater than 15 metres without a step or recess.

The Chair asked the applicant to speak to the non-compliant south-western wall. Mr Winter explained that the south-western wall will be provided articulation through the addition of cladding and advised that further architectural embellishment to the wall can be provided. The Authority required the applicant to provide amended plans incorporating architectural cladding and embellishments to the south-western wall, to reduce the visual massing of the blank façade as viewed from the adjoining property (deferral point 5).

Clause 5.4.18.1 Fencing in Zones MR and HR

The purpose of the clause is to *'promote fencing in medium and high density areas that provides a positive interface with the public domain, while allowing necessary privacy for residents and neighboring properties'*.

With reference to sub-clause 4(b), the proposed fencing along the boundary abutting Smith Street, has a height of 2.3 metres and does not comply as the height is greater than 2 metres.

Mr Winter explained that the height of the fencing provides privacy for the proposed communal open space from the road reserve and that the fence is permeable.

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.

Five public submissions, including one petition signed by 10 people, were received during the exhibition period under Section 49 of the *Planning Act 1999* with respect to the proposal.

The amended plans and applicant's response to the deferral request was circulated to all submitters and further comments were received from Holly Supple-Gurruwiwi on behalf

Darwin DCA Meeting No 441 – Friday 23 May 2025

of The Residents of Mangola Court, Larrkeyah, Georgina and Pat O'Connell and William and Kelly Hunter, these comments were tabled at the DCA meeting.

The main concerns raised by the submitters in their submissions are:

- Incompatibility with HR Zoning.
- Increased traffic and parking congestion.
- Noise and disturbance to adjoining residents.
- Loss of privacy for adjoining properties and overlooking impacts.
- Increased demand on local infrastructure.
- Safety and emergency access concerns.
- Property values.
- Destruction of habitat to orange – footed scrub fowl.
- Incorrect designation of primary street frontage, Smith Street should be the designated as the primary street frontage.
- Concerns regarding the streetscape setback and visual disruption to the streetscape.
- Impacts on views of the green space along Smith Street.
- Impacts on natural breezeway and natural ventilation.
- Concerns regarding visual bulk and scale and out of character of the area.
- Overshadowing impacts.

In addition to the written submissions, the Authority heard from submitters present at the meeting.

At the meeting, Ms Holly Supple-Gurruwiwi raised concerns that the native wildlife has not been considered or protected. Ms Supple-Gurruwiwi raised that the proposed plan is very fluid and leaves a large area of uncertainty for the residents. Ms Supple-Gurruwiwi advised that the main concern is related to traffic, particularly given that Mangola Court is not fit for purpose and there are already cars parking in the street overnight, which are occupied by local residents who do not have parking in their units.

Ms Supple-Gurruwiwi highlighted that the street has lots of families and a strong community feel and is concerned there will be traffic and access issues as there are cars parked on either side of the street. Ms Supple-Gurruwiwi raised concerns that the proposed communal open space is non-compliant and impacts the privacy of 6 Mangola Court.

Ms Kelly Hunter highlighted that the design of the support rooms was changed from an overnight carer accommodation to support rooms, demonstrating that the use is easily interchangeable. Ms Hunter raised that an initial internet search of Skyring/Skychest predominantly shows them as a developer of residential care facilities rather than an operator. Ms Hunter highlighted that there is no requirement for the residents to be a certain type of NDIS participant and that lower needs residents would likely have cars. Ms Hunter reflected that as we are in the Northern Territory it is only reasonable to assume that there may be a number of First Nations residents, who could be from communities or regional locations, that have family that they want with them or visiting, and that the proposed development does not provide adequate car parking or communal open space to accommodate this. Ms Hunter queried if an ambulance would actually be able to fit under the car park entry. Ms Monica Baumgartner agreed with Ms Hunter that the proposed development did not appear to have adequate height for an ambulance to fit.

Ms Hunter raised that their primary concern is that Smith Street has not been considered as the primary frontage. Ms Hunter highlighted that the DAS report to the DCA considers Mangola Court as the primary frontage as access has been restricted by the City of Darwin, however, Ms Hunter raised concerns that the only evidence of this 'restriction' is email correspondence from the City of Darwin stating that '*City of Darwin does not support the use of Smith Street for vehicle access to this site*'. Ms Hunter expressed to the Authority that this email correspondence does not constitute a formal restriction and does not reflect a prohibition or directive. Ms Hunter further highlighted that there is no condition on an existing development permit restricting access, no engineering determination or policy directive, no traffic management plan, no council resolution or legal impediment denying access. Ms Hunter advised that there is an existing crossover on Smith Street adjacent to the property and that other developments along Smith Street gain access from Smith Street.

Ms Hunter was concerned that Smith Street is not being considered as the primary frontage, as the proposed developments setback from Smith Street does not align existing setback of the adjoining building at 135 Smith Street.

Ms Hunter highlighted that they have no objections to the proposed use of a residential care facility and that their concerns relate entirely to residential amenity, planning transparency and procedural fairness.

Ms Hunter raised concerns that the City of Darwin email correspondence regarding Smith Street access was obtained specifically for the applicant to utilise the administration requirements of sub-clause 2(b) of Clause 5.4.3 in order to reduce building setbacks following public objections rather than actual access restraint. Ms Hunter highlights that the Planning Scheme does not require vehicle access and primary frontage to align.

Mr Winter explained that DAS advised the applicant that the application did not comply with the setback requirements and that if the applicant wanted to nominate Mangola Court as the primary frontage the City of Darwin would need to provide a definitive answer regarding access from Smith Street. The Chair explained that it is up to the applicant to approach and provide a response from the Council and that, in this instance, the response from the City of Darwin has been provided to the Authority. The Chair highlighted to Ms Hunter that concerns regarding transparency are not relevant, as a clear statement from the City of Darwin has been provided.

Ms Hunter further raised the point that the plans do not show the adjoining buildings or habitable room windows and balconies, which limits the DCA's ability to assess overshadowing, visual bulk, privacy impacts, and streetscape continuity. Ms Hunter stated that these gaps make it difficult to assess the true impact on residential properties and put the onus on neighbours to assess complex plans without technical assistance.

Mr William Hunter expressed that their biggest concern is the setback, and the setback rules and guidelines are established by the DCA, not the Council. The Chair clarifies that the DCA has the discretion to determine the setbacks for any building based on the guidance provided in the NTPS2020. The Chair highlights that in making its assessment, it cannot do it on an ad hoc or anecdotal basis and that any assessment is informed by material provided by service authorities to help inform the DCA's discretion.

Darwin DCA Meeting No 441 – Friday 23 May 2025

The Chair further clarified that the road and verge of Smith Street belong to the City of Darwin, and the City of Darwin is the controlling agency. The City of Darwin has the power to determine the point of entry to any block, where it is the controlling agency. Mr Hunter argues that the City of Darwin have not stated that they prohibit access to Smith Street.

Mr Hunter also raised concerns that if there is not enough car parking in the street, visitors and residents will park on the green space, given that there is an existing crossover on Smith Street. Mr Applegate and the Chair clarified that the green space is the Smith Street road reserve and is under the control of the City of Darwin. Mr Pangquee advised that if people park in the green space, they may be fined by the City of Darwin, and neighbours can also report them to the City of Darwin.

The Chair asked submitters to advise on what the key issues they would like addressed are. Ms Hunter advised that they would like the setback to Smith Street to align with the adjoining property at 135 Smith Street and to provide adequate car parking spaces. Ms Supple-Gurruwiwi advised she would like adequate provision of car parking spaces and consideration of the traffic impacts on Mangola Court.

The Authority provided an opportunity for the applicant to respond to matters raised by submitters.

Mr Winter noted the concerns raised by submitters and understands the issue of car parking. Mr Winter emphasises that there are car parking issues in all streets, not just Mangola Court, particularly in land-zoned MR and HR areas, as people build apartments expecting 2 cars per dwelling, but there are 6 cars. Mr Winter highlights that the site is located in Zone HR and could, therefore, be built to a maximum of 8 storeys. A dwelling-multiple could have a much greater impact on car parking than the proposed residential care facility.

Mr Winter emphasised that the proposed development is intended to be used as a residential care facility and that they are happy to make changes to the design to further demonstrate this use.

In respect of the traffic concerns raised by submitters, the Authority notes that, if an approval is granted, the City of Darwin has requested a condition precedent requiring a comprehensive Traffic Impact Statement (TIS), to be prepared by a qualified traffic engineer in accordance with the Austroads Document Guide to Traffic Management, with particular attention to vehicular, pedestrian, cyclist and public transport issues, intersection/road network performance and opportunities and including swept path analysis for waste collection vehicles entering and exiting the site, as well as an assessment of sightlines for the proposed driveway access and adjacent block wall fence to ensure the safety of pedestrians and cyclists using the footpath adjacent to the subject site. The Authority further notes that, in this case, if a permit is issued, the TIS should also pay specific attention to ambulances and patient transport vehicles which would be specific to this type of development.

The Authority has taken all comments into account and carefully considered the concerns of the submitters and interested parties who lodged late submissions. The Authority has also taken into account the response provided by the applicant regarding the submitters' concerns expressed at the meeting.

Darwin DCA Meeting No 441 – Friday 23 May 2025

The matters raised in the submissions have contributed to the Authority's decision to defer the application in order to obtain further information addressing the relevant considerations identified by submitters, as well as, the concerns of the DCA in relation to the requirements of the NTPS 2020 and the *Planning Act 1999*.

The Chair noted that at the time of lodgement of the development application, third party appeal rights were available to submitters to lodge an appeal to the Northern Territory Civil and Administrative Tribunal (NTCAT). Since then, the *Planning Act 1999* and *Planning Regulations 2000* have been amended to remove all third party appeal rights and therefore any decision issued does not have third party appeal rights to NTCAT.

FOR: 4

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Deferral

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

SUZANNE PHILIP
Chair

30 May 2025