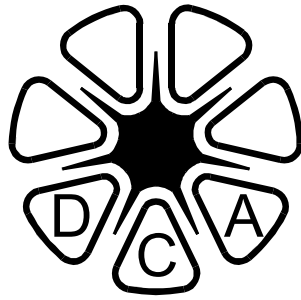




DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 464 – FRIDAY 9 OCTOBER 2026

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

MEMBERS PRESENT: Rod Applegate (Presiding Member), Monica Baumgartner and Mick Palmer

APOLOGIES: Marion Guppy, Peter Panquee

LEAVE OF ABSENCE: Suzanne Philip

OFFICERS PRESENT: Kaleb Thomas and Sam Pallet (Development Assessment Services)

COUNCIL REPRESENTATIVE: None

Meeting opened at 11.20 am and closed at 12.25 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.

ITEM 1 **ALTERATIONS AND ADDITIONS TO AN EXISTING CLUB AND LEISURE AND RECREATION**
PA2026/0263

LOT 9775 (28) TAMBLING TERRACE, LYONS, TOWN OF NIGHTCLIFF

APPLICANT **TATAM PLANNING CO**

Applicant: Catriona Tatam (Tatam Planning Co), Ben McGregor (Byrne Consulting), Anthony DiLembo (D&P Management) & Kosta Boubaris (Hellenic Athletic Club President).

Submitters: George and Trudi Maly.

RESOLVED
59/26

That the Development Consent Authority, pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 9775 (28) Tambling Terrace, Lyons, Town of Nightcliff for the purpose of alterations and additions to a club and leisure and recreation, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works, 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) bicycle racks provided for the outbuilding addition (Hellenic Clubhouse); and
 - b) an annotation confirming the width of the new sections of footpath are a minimum 1m to facilitate disabled access in accordance with AS 1428.1 (Design for access and mobility).
2. Prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground 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 site levels, and Council's stormwater drain connection point/s and connection details.
3. Prior to the commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's Waste Management Guidelines, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.

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4. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.
5. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.

GENERAL CONDITIONS

6. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
7. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to note 1 for more information.
8. 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.
9. 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.
10. Storage for waste disposal bins is to be provided to the requirements of City of Darwin to the satisfaction of the consent authority.
11. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report.
12. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street, in accordance with the requirements of City of Darwin, to the satisfaction of the consent authority.
13. Any gate over an access to a public road shall be placed on the subject site at least 4.5 metres from the face of the kerb line of the adjoining public road.

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14. Gates associated with the development must not open outward onto the City of Darwin road reserve or public land. Any proposed gates are to open inward toward the property boundary.
15. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
16. 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 driveways to the satisfaction of the consent authority.Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.
17. As much existing vegetation as reasonably practical must be retained along the site's western boundary with Henbury Avenue.
18. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
19. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
20. Oval lighting shall be design in-line with AS2560.1 / AS2560.2 series and AS4282 shall be taken into account. All designs shall be provided with a MIES certification the requirements of the City of Darwin, to the satisfaction of the consent authority.
21. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority.
22. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.

Notes

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1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (developer.concierge@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 onsite and/or surrounding infrastructure.
2. Darwin International Airport advises that separate requests for assessment and approval must be submitted to Darwin International Airport for any cranes used during construction that will infringe on either the Obstacle Limitation Surfaces (OLS) or Procedures for Air Navigation Services – Operations (PANS-OPS) surfaces for Darwin Airport.
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. Due to provisions in the National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued.
4. There are statutory obligations under the *Waste Management and Pollution Control Act 1998* (WMPC 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 WMPC Act, including the General Environmental Duty under section 12 of the WMPC Act.

There is also requirement to obtain an authorisation prior to conducting any of the activities listed in Schedule 2 of the WMPC Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority (NT EPA) website <https://ntepa.nt.gov.au/publications-andadvice/environmentalmanagement>.

To help satisfy the General Environmental Duty, the proponent is advised to take notice of the list of environmental considerations below. The list is not exhaustive and the proponent is responsible for ensuring their activities do not result in noncompliance with the WMPC Act. The WMPC Act, administered by the NT EPA, is separate to and not reduced or affected in any way by other legislation administered by other departments or authorities. The NT EPA may take enforcement action or issue statutory instruments should there be non-compliance with the WMPC Act.

The proponent is advised to take notice of the schedule of environmental considerations provided by DLPE. 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.

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5. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into City of Darwin drains or to any watercourse.
6. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the satisfaction and at no cost to City of Darwin.
7. The finish of any Prime Identification sign, if erected, shall be such that, if illuminated, day and night readability is the same and is of constant display (i.e. not flashing or variable message).
The sign shall be positioned:
 - a) as not to create sun or headlight reflection to motorists; and
 - b) be located entirely (including foundations and aerially) within the subject lot.Notwithstanding the approved plans, all signage is subject to City of Darwin approval, at no cost to Council.
8. 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.
9. 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 8936 4070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DETERMINATION

1. The application seeks consent for alterations and additions to an existing club and leisure and recreation at Lot 9775 (28) Tambling Terrace, Lyons, Town of Nightcliff (the site) in Zones OR (Organised Recreation) and LMR (Low-Medium Density Residential) of the NT Planning Scheme 2020 (NTPS 2020). The proposed development is located mostly within Zone OR, with a small extent of the development permit encroaching within Zone LMR land within the south of the site.

The site has an area of approximately 12.89 ha (128,900 m²) and contains the Tracy Village Sports and Social Club (the Social Club) and car parking area and the various fields, outbuildings and infrastructure associated with the Tracy Village Sports Precinct (the Sports Precinct).

The site has five street frontages (Henbury Avenue, Tambling Terrace, Danimila Terrace, Demda Circuit and Gulida Crescent) and is surrounded by Zone LR (Low-Density Residential) and Zone LMR (Low Medium Density Residential) apart for a section of Zone CP (Community Purpose) land containing education and commercial uses to the site's southwest.

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The site includes three vehicle crossovers – a public left-in/left-out crossover from Henbury Avenue, a two-way public access crossover from Tambling Terrace, and a two-way service access off Danimila Terrace. The application proposes to retain the existing shared use of the car parking area between social club and sports precinct for site patrons.

The meeting was attended by Ms Cat Tatam (Tatam Planning Co, the applicant) who provided an overview of the development. Ms Tatam explained to the Development Consent Authority (the Authority), that the proposed development seeks to facilitate Stage 1 of the Tracy Village Sport Precinct Masterplan (the Masterplan), which includes a new outbuilding (Hellenic club house) with change rooms, toilets and canteen and a breezeway function area, two new football fields (Fields 1 and 2) adjacent to Henbury Avenue and Tambling Terrace and a new flexi green space (Field 3).

The works also include 6 new lighting poles to a maximum height of 26m for the new football fields, 4 new lighting poles to a maximum height of 31m for the AFL/cricket field (Field 5) and upgrades to the lighting for the softball and baseball diamond (Field 4) as well as minor works, such as the relocation of a maintenance shed to the other side of the cricket nets, works to the perimeter fencing, landscaping and irrigation upgrades.

2. 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.

As the application is *Impact Assessable* the exercise of discretion by the consent authority that applies is Clause 1.10(4) Exercise of Discretion by the Consent Authority) of the NTPS 2020. This clause states that *In considering an application for a use or development identified as Impact Assessable the consent authority must take into account all of the following:*

- 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, or Schedule 4.1 Specific Use Zones; and
- d) any component of the Strategic Framework relevant to the land as set out in Part 2.

The Authority notes that the NTPS 2020 applies to the land and alterations and additions to a club and leisure and recreation requires consent under Clause 1.8 (when development consent is required). It is identified as *Impact Assessable* under Clause 1.9(c)(ii), therefore, the Strategic Framework (Darwin Regional Land Use Plan 2015), the purpose and outcomes of Zones LMR (Low-Medium Density Residential) and OR (Organised Recreation), and the relevant development requirements under Part 5, including clauses 5.2.4 (Car Parking Spaces), 5.2.5 (Loading Bays), 5.2.6 (Landscaping), 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR), 5.5.3 (General Building and Site Design), 5.8.3 (Club) and 5.8.5 (Leisure and Recreation), need to be considered.

A summary of the relevant parts of NTPS2020 is as follows:

Part 2: Strategic Framework

The Authority notes the Darwin Regional Land Use Plan (DRLUP) 2015 applies to the subject site and identifies the land for Urban / Peri-Urban development. The proposed development is considered to be consistent with purpose of DLUP 2015 as it is for alteration and additions to an existing leisure and recreation use, which will further integrate the sports precinct within an established urban area and improve sports participation and health outcomes among residents.

Part 3: Overlays

The Authority notes that the site is not affected by any overlays.

Part 4: Zoning

Clause 4.3 Zone LMR (Low-Medium Density Residential)

The purpose of Zone LMR is to provide predominantly for low rise urban residential development comprising individual houses and uses compatible with residential amenity, in locations where full reticulated services are available.

The Authority considers that the application is generally consistent with the purpose and relevant zone outcomes of Clause 4.3 Zone LMR (Low-Medium Density Residential) as the alterations and additions are compatible with nearby residential amenity and that the extent of the proposed development within Zone LMR land is minor (relocated maintenance shed) with the remaining works wholly contained within land Zoned OR.

The Authority notes that Zone Outcome 4(a) to (e) anticipates non-residential activities in the zone are acceptable if they a) support the needs of the community, b) are of a scale and intensity compatible with residential character and amenity of the area, c) wherever possible co-located with other non-residential activities in the locality, d) avoid adverse impacts on the local road network and e) are managed to minimise unreasonable impacts to the amenity of surrounding residents.

The Authority notes that the application proposes to relocate a maintenance shed to the other side of the cricket nets within Zone LMR land. The Authority considers that the relocation of the maintenance shed form part of the upgrades to a leisure and recreation co-located on the site with a club that supports the needs of the community, is of a small scale (9m x 7m), and compatible with the residential character and amenity of the area and will not create any traffic impacts on the local road network.

Ms Monica Baumgartner, a member of the Authority, asked Ms Tatam if there were any plans to normalise the zoning of the site by rezoning the small area of Zone LMR to Zone OR. Ms Tatam advised that there are no plans to

seek this, as the planning scheme allows for ancillary leisure and recreation uses in Zone LMR.

Clause 4.18 Zone OR (Organised Recreation)

The Authority notes that the purpose of Zone OR is to *provide for the development of community and commercial facilities for organised recreation activities*.

The Authority considers the proposed development aligns with the purpose of Zone OR as it will facilitate a staged masterplan development of an existing sports precinct, including new football fields, improved lighting infrastructure, an outbuilding addition (Hellenic club house) and associated earthworks, fencing and paving.

The Authority considers that the application supports Zone Outcome 1 as it will provide for the communities organised recreation needs and includes an outbuilding addition (Hellenic club house) with spectator seating and new and upgraded lighting infrastructure.

The Authority considers that the outbuilding addition (Hellenic club house) supports Zone Outcome 4b as it includes a large central breezeway/function area that leads to covered spectator seating.

The Authority notes that Zone Outcome 4c requires all development to *minimise unreasonable impacts to the amenity of surrounding premises and any residential land*.

Mr Rod Applegate, the presiding member of the Authority, asked Ms Tatam if the decision to locate the new football fields close to the site's boundary with Henbury Avenue and Tambling Terrace would result in a loss of landscaping and if additional planting had been considered in these areas to maintain visual amenity for surrounding properties.

Ms Tatam acknowledged the desire of residents for the new football fields to be screened from public view as much as possible, and that the intention is to retain as much landscaping as practicable adjacent to the new football fields.

The Authority notes the application is not required to provide perimeter landscaping under the NTPS 2020. However, in the interests of visual amenity, the Authority has included a general condition requiring that as much existing landscaping at the site's interface with Henbury Avenue is retained as practical.

Mr Applegate noted that 6m high fencing is proposed along part of sites boundary with Henbury Avenue (the central sections the new football fields) and Tambling Terrace (behind the goal) with only 3.7m fencing proposed along the remaining frontages including at the intersection of these streets.

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Ms Tatam advised that the areas with lower fencing were not assessed as requiring full height fencing whereas the 6m fencing between the new football fields and Henbury Avenue and behind the goal facing Tambling Terrace are provided to minimise stray balls impacting the street.

Zone Outcome 4(c) requires development to *mitigate the potential for land use conflict with existing and intended surrounding development*. The Authority notes the site is bounded by residential zoned land except for Zone CP (Community Purpose) land beyond the southeast boundary.

Ms Tatam confirmed that the lighting system for the new football fields comply with AS4282:2023 (Control of the effect of outdoor lighting) and that the development will not alter the intensity of the established use.

Ms Tatam advised that significant growth in demand for organised sports and further advised that discussions have taken place between the Sports Precinct and AFL NT, who confirmed that the new lighting would increase operational and scheduling flexibility.

However, Ms Tatam stressed that any increase in total patron numbers will be offset by a flattening of patronage across the precinct due to the ability to train and play during the evenings, and as some of the codes are played at different times of the year. Ms Tatam noted that any increase in patronage is capable of being accommodated by the substantial existing car parking surplus on the site of 53 spaces.

Zone Outcome 4(d) requires development to *avoid adverse impacts on the local road network*.

At the meeting Ms Tatam stated that the proposed upgrades are unlikely to significantly increase the maximum number of patrons visiting the site and highlighted the surplus of formal car parking spaces. Ms Tatam emphasised that the City of Darwin, who manage the local road network, did not raise any concerns regarding traffic impacts as result of this application.

Ms Tatam further requested the removal of the traffic impact assessment condition precedent recommended in the development assessment report, together with the associated condition requiring the implementation of any works identified by that assessment, on the basis that the matter was not raised in the submitter's written submission, there is no evidence of traffic concerns, and the City of Darwin, as the road authority for the surrounding road network, did not request a traffic impact assessment in its referral response.

The Authority notes the comments raised by both Mr Maly and Ms Tatam, regarding a traffic impact assessment, and considers that, as the City of Darwin are the controlling agency for the local road network, and did not raise any concerns regarding traffic, a condition requiring the preparation of a traffic impact assessment is not warranted in this instance.

Part 5 – Development Requirements

The Authority notes that the application was found to comply with the relevant part 5 development requirements of the NTPS2020, except for Clause 5.2.1 (General Height Control).

3. 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:*
- (a) The purpose and administration clauses of the requirement; and*
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).*

In response to Clause 1.10(5)(a) of Part 1 of the NTPS 2020, a variation to this clause outlined is considered appropriate as discussed below.

Clauses 5.2.1 (General Height Control)

The Authority notes that the purpose of the clause is to *ensure that the heights of buildings and structures are appropriate to the strategic and local context of the location and meet community expectations for development in the zone.*

Subclause 6(b) requires *building heights ... not listed in Table B to be a maximum height of 8.5m*, where the proposed lighting poles exceed 8.5m as described below.

- 2 x new football fields – six (6) new lighting poles with maximum pole height of 26m, plus a lightning rod (Fields 1 and 2).
- 4 x new lighting to the AFL/Cricket field with maximum pole heights of 31m, plus a lightning rod (Field 5).
- Upgraded lights for combined softball/baseball fields (Field 4).

It is noted that administration subclause 1(a)(ii) exempts lighting rods from the 8.5m requirement.

Administratively, subclause 4 states *Except as set out in sub-clause 3, the consent authority may consent to a development that is not in accordance with sub-clause 6 if it is satisfied the building height is consistent with the intended character and amenity of the area, having regard to:*

- (a) the heights of other buildings in the immediate vicinity; and*
- (b) measures taken to mitigate potential impacts (such as unreasonable overshadowing, or overlooking of dwellings and private open space) on abutting properties.*

The Authority considers a variation to the clause is acceptable in this instance for the following reasons:

- In response to subclause (a), the proposed new lighting poles for the existing AFL/cricket field are reasonably considered to be consistent with

the intended character and amenity of the area as they are located towards the centre of the sports precinct where similar infrastructure is found and away from residential dwellings.

- The additional document submitted during the re-exhibition period titled *Tracy Village Sports Lighting Design*, includes a notation stating compliance with AS2560.2 (Sports lighting, Part 2: Specific applications) is provisional on confirmation of all design dimensions and pole locations and heights and that analysis of the site's topography should be taken into consideration when determining the actual required heights of each pole.
- The applicant's response to submissions, and service authority comments confirmed the proposed lighting has been designed in accordance with AS2560.2 (Sports lighting, Part 2: Specific applications), and noting that the topography of the site has been taken into account.
- In response to subclause (b), the applicant's response to submissions and service authority comments confirmed the proposed lighting complies with AS4282 (Control of Obtrusive effects of outdoor lighting).

Ms Tatam reiterated that the proposed lighting complies with relevant Australian Standards and noted that a general condition was requested by City of Darwin relating to lighting.

Notwithstanding, while the application was considered to be compliant with the other identified relevant development requirements, it is considered that further discussion of Clauses 5.2.4.4 (Layout of car parking areas) and 5.5.3 (General Building and Site Design), and 5.8.5 (Leisure and Recreation) is warranted. A discussion of these clauses is provided below.

Clause 5.2.4.4 (Layout of car parking areas)

The Authority notes that the layout of the car parking area shown on the Masterplan adjacent to the existing AFL/cricket field is in accordance with subclauses 8(a) to (d) and 9(a) and (b).

Ms Tatam advised that the car parking area shown on the Masterplan adjacent to the AFL and cricket field comprising 13 spaces is an informal parking area that is not proposed to be formalised as part of the application.

The Authority considers that as the informal car parking area adjacent to the AFL/cricket field do not form part of the application and that they have not been included in the car parking requirement for the proposed development.

Clause 5.5.3 (General Building and Site Design)

The Authority notes that compliance with subclauses 11 and 16, which respectively require the provision of *convenient pedestrian links (incorporating access for the disabled) to other buildings and public spaces* and *bicycle access, storage facilities and shower facilities*, was not demonstrated within the application.

Ms Tatam confirmed her support for a corresponding condition precedent for amended plans showing the provision of bicycle parking racks to the outbuilding addition and an annotation confirming the width of the new sections of footpath between the car parking area and outbuilding addition in accordance with AS 1428.1 (Design for access and mobility).

The Authority has addressed this through a condition precedent requiring amended plans.

Clause 5.8.5 (Leisure and Recreation)

The Authority notes that compliance was not clearly demonstrated in relation to subclause 6(a) to (c), which states *the operation of the use or development must take into account the amenity of the surrounding locality having regard to: (a) hours of operation; (b) maximum capacity of patrons; and (c) any other relevant aspects of the day-to-day operations of the use or development.*

The Authority considers that the applicant's response to submissions and service authority comments and the further comments provided during the hearing regarding how the operation of the use takes into consideration the amenity of the surrounding locality, are sufficient to demonstrate the application complies with Clause 5.8.5.

The Authority considers that while the operating hours and capacity of the sports precinct will likely increase, the applicant's confirmation that the lighting infrastructure complies with the relevant Australian Standards and the absence of comments from the City of Darwin regarding traffic impacts, are sufficient to allay any concerns regarding potential operational impacts on the amenity of the surrounding locality as a result of the proposed development.

4. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority, must take into consideration any submission made under Section 4, and any evidence or information received under Section 50, in relation to the development application.

Eleven (11) public submissions in total were received during the exhibition period under Section 49 of the *Planning Act 1999* with one (1) submission in opposition to the proposal and ten (10) in support.

The Authority notes the concerns raised by the submitter summarised below:

- The application was not correctly exhibited. A request for signage on Tambling Terrace and a 1 week extension to the exhibition period.
- A history of poor site management, uncontrolled development and lack of consultation on the development of the Masterplan.
- The existing light impacts on residents were not acknowledged in the application or design proposal.

- The location of the new football fields and lighting adjacent to Henbury Avenue and Tambling Terrace, result in decreased landscaping and separation distances.
- There is adequate space available for the new fields and lighting away from the boundary, busy roads and residential area.
- The risk of stray balls to traffic on Tambling Terrace or Henbury Avenue, which are major emergency routes for ambulances heading to Darwin Hospital.

In addition to the written submission, the Authority heard from a submitter present at the hearing.

Mr Maly advised that he and his partner moved to the immediate locality prior to Tracy Village being developed at the site, and the development of the suburb of Lyons. Mr Maly advised that he and his partner support the sporting use of the site and recognise the importance of recreational facilities but raised concerns regarding several aspects of the application.

Mr Maly stated that even though the application was re-exhibited for a period of 28 days, the location of the public notification sign at the site's frontage to Henbury Avenue and Tambling Terrace was difficult for residents most affected by the development to adequately see.

The Authority notes the submitters concern regarding the initial public exhibition of the application and that the application was subsequently re-exhibited for 28 days from 26 August to 23 September 2026 with signs placed on each of the five (5) road frontages adjacent to the site including Tambling Terrace. The Authority considers the application's re-exhibition was in accordance with Planning Regulations 2000.

Mr Maly raised concerns that the application did not adequately address the impact of the existing lighting infrastructure and leisure and recreation use of the site on the amenity on surrounding residential land.

Mr Maly expressed concerns regarding stormwater as the submitted plans show a flat site whereas the land falls 8m from the Tambling Terrace frontage to the rear boundary with significant site levelling required to fit the proposed new football fields.

Mr Maly also raised concerns regarding the suitability of placing the new football fields so close to the site's boundary with Henbury Avenue and Tambling Terrace due to an existing drainage corridor in this location.

Ms Tatam invited Mr Ben McGregor (Byrne Consulting) as the engineering consultant for the development to respond to the submitter's concerns regarding site topography, stormwater and the drainage corridor.

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Mr McGregor confirmed the site falls from Tambling Terrace towards the north and that the sloping site has been addressed with step downs between the proposed new football fields. Mr McGregor advised that although the drainage corridor is located within the site, the location of the new football fields have been assessed as having a minimal impact on the existing open drain.

Ms Tatam further notes that no concerns were raised by service authorities regarding stormwater infrastructure.

Mr Mick Palmer, a member of the Authority, asked the applicant if the floodlights were LED and if there is sufficient power supply on the site to service the upgraded lighting.

Ms Tatam advised the lighting engineer has discussed the design and power demand of the proposed lighting with PWC (Power) and support additional substations if required at the detailed design stage.

Mr Maly raised concerns regarding the relocation of a maintenance shed on land zoned LMR. Mr Maly stated that both the existing structure over the cricket nets and the proposed maintenance shed are not sufficiently setback from Tambling Terrace with the former structure unapproved. Mr Maly advised that setbacks apply to the residential zoned land on the other side of Tambling Terrace and requested the Authority consider applying the same setback requirements to the proposed maintenance shed on Zone LMR land.

Mr Maly further submitted that the existing structure covering the cricket nets was erected without proper assessment or approval and regarded as a sports and recreation use, notwithstanding that the structure is fenced and locked such that there is no public access. Mr Maly submitted that a club or indoor recreational establishment is a prohibited use in Zone LMR, and that the proposed works to the cricket pitch, including further cricket nets, extend alongside the existing structure up to the boundary of the Zone LMR land.

In response, Ms Tatam advised that the existing structure over the cricket nets is outside the scope of the application, as the only works proposed within Zone LMR land are the relocation of the existing maintenance shed, which is ancillary to the established leisure and recreation use of the site and permissible within the zone. Ms Tatam further advised that the relocated maintenance shed is proposed at the same setback as the existing cricket equipment shed, and that should the Authority be of a mind to require the existing structure to be included as part of the application, the applicant would be amenable to its inclusion.

Mr Maly requested the Authority consider under Clause 1.10(6) (Exercise of Discretion of the Consent Authority), imposing a condition requiring a higher standard and require the application provide a landscaped setback for the proposed maintenance shed to Tambling Terrace.

The Authority notes that Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the NTPS2020 does not apply to the

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proposed maintenance shed as it is ancillary to an existing leisure and recreation use and not to a residential building.

The Authority notes the 12.89ha site contains a small (4%) parcel of vacant Zone LMR land and a much larger (96%) Zone OR parcel and that the proposed maintenance shed straddles both Zone OR and LMR land within the same site.

The Authority further notes the purpose of Clause 5.2.7 (Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR) is to *protect the visual and acoustic amenity of residential buildings where they are adjacent to non-residential development*. The Authority considers this clause does not apply to the proposed maintenance shed as although it is non-residential development and is partly located on non-residential zoned land, it does not share a lot boundary with residential zoned land containing residential buildings.

The Authority notes that the existing structure over the cricket nets does not form part of the application before it, and its status is not a matter for determination as part of this application

Regarding the submitters request to require a landscaped setback to Tambling Terrace for the proposed maintenance shed under Clause 1.10(6), the Authority notes the consent authority may apply a higher standard if it *considers it necessary to the achievement of the Strategic Framework, the purpose of the overlay or the zone, or it considers it is otherwise necessary to do so*.

The Authority considers that the application is consistent with the strategic framework as it will further integrate the sports precinct within an established urban area and improve sports participation and health outcomes among residents. The Authority also considers that the application is consistent with the purpose of Zone OR as it will facilitate a staged masterplan development of an existing sports precinct and is generally consistent with the propose of Zone LMR as the proposed alterations and additions to an existing leisure and recreation use are overall compatible with residential amenity.

The Authority notes that the application proposes to relocate a maintenance shed to the other side of the cricket nets within Zone LMR land. The Authority considers that as the maintenance shed forms part of the upgrades to an existing leisure and recreation use, the proposed development within Zone LMR supports the needs of the community for organised recreation, is of a scale (9m x 7m) compatible with the residential character and amenity of the area and will not create any traffic impacts on the local road network.

The Authority notes that there are no specific setbacks requirements under the NTPS2020 for an ancillary structure to an existing leisure and recreation use in Zone LMR and considers that the structures small scale is compatible with use of land for leisure and recreation and the amenity of the area.

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Mr Maly questioned if the proposed development will not intensify the land use. Mr Maly cited the prevalence of morning and evening cricket and soccer matches which result in traffic congestion and informal parking throughout the week as examples of exiting traffic impacts and justification for a condition precedent regarding the preparation of a traffic impact assessment report.

The Authority notes there is a significant car parking surplus on the site of 53 spaces and that the City of Darwin did not raise any traffic related concerns.

Mr Maly further requested that amended plans demonstrate sealed internal driveways and car parking areas, clearly delineating sealed areas from areas to be landscaped, as vehicles parking informally along the Tambling Terrace frontage compact the ground, generate dust and prevent the establishment of landscaping and native vegetation.

Ms Tatam responded that the sealing and delineation of internal driveways and car parking areas is outside the scope of this stage of the works, and may be considered as part of future stages of the masterplan.

The Authority notes that the conditions of the permit require the areas set aside for the parking of vehicles and access lanes shown on the endorsed plans to be constructed, surfaced with an all-weather-seal coat and line marked, and does not consider that a further condition in relation to the delineation of informal parking areas is warranted as part of this application.

Mr Maly raised concerns regarding the management of the sports precinct as it comprises a collection of clubs and lacks a local representative to advocate for issues affecting surrounding residents.

The Authority notes that submitter's concern regarding the management of the sports precinct, however, considers that there are no specific requirements within the *Planning Act 1999* or NTPS 2020 that need to be considered in relation this concern.

Mr Maly raised concerns regarding the absence of landscaping along the site frontages to Henbury Avenue and Tambling Terrace and requested additional planting, such as Indian mast trees, along these frontages to reduce visual and light impacts from the new football fields for residents and the likelihood of stray's balls impacting the local road network.

Mr Maly cited Casuarina shopping centre and the nearby 'Harry's Place' within Zone CP (Community Purpose) as good examples of how landscaping can be used to mitigate adverse impact on local residential amenity by reducing the visual bulk of a development.

The Authority considers that conditions relating to the lighting infrastructure being compliant with the relevant Australian Standards, and the inclusion of a general condition requiring the retention of as much existing landscaping as possible along the western boundary, is an appropriate balance at mitigating any adverse impacts on the amenity of surrounding residential properties.

Mr Maly also raised concerns regarding the lack of public consultation on the sports precinct Masterplan. The Authority notes that the development of a masterplan for the purpose of upgrading an existing leisure and recreation use is not a planning matter.

The Authority notes the ten (10) submissions received in favour of the application, which support the proposed development as it will provide a range of social and health benefits to the community through the provision of improved sporting infrastructure within the sports precinct.

Notwithstanding, the Authority has carefully considered all submissions received in relation to this application, and those spoken to at the meeting. For the reasons as discussed above, the Authority considers that planning matters raised in the submissions are either acceptable in nature, or are addressed by the inclusion of permit conditions.

5. 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 site is flat, is not identified as being subject to primary or secondary storm surge or flooding and is not affected by the Australian Noise Exposure Forecast (ANEF) 2043 contour. The proposed facilities upgrades are entirely contained within the existing sports precinct.

The Development Coordination Branch, Land Resources Division of the Department of Lands, Planning and Environment (DLPE) did not identify any issues concerning the physical capability of the land to support the proposed development.

Accordingly, the land is considered capable of supporting the proposed alterations and additions without adversely affecting surrounding land.

6. 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 application for alterations and additions to an existing leisure and recreation use (Tracy Village Sports Precinct) is an expected form of development in Zone OR (Organised Recreation) and is not expected to adversely affect the existing or future amenity of the locality.

The proposed upgrades will improve the functionality and capacity of the sports precinct for participants and visitors and will contribute to community amenity through enhanced sporting and recreational opportunities. Given the site's long-standing sports recreation use, the scale and nature of the

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proposed works are considered compatible with surrounding residential development subject to the recommended conditions on the permit.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of consent and development permit

ITEM 2
PA2026/0305

DWELLING-GROUP (6 x 3 BEDROOM) IN A 2 STOREY BUILDING

LOT 2017 (6) QUEEN STREET, STUART PARK, TOWN OF DARWIN

APPLICANT

THINKDA PLANNING – DIRECTOR AMIT MAGOTRA

Applicant: Mr. Amit Magotra (ThinkDA Planning) and Mr. Rob Watt (Rob Watt Designs)

RESOLVED
60/26

That, the Development Consent Authority vary the requirements of Clauses 5.2.4.4 (Layout of car parking area), 5.2.6.1 (Landscaping in Zones other than Zone CB), 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 5.4.6.1 (Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group), and 5.4.17 (Building Articulation) 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 2017 (6) Queen Street, Stuart Park for the purpose of dwelling-group (6 x 3 bedroom) in a 2-storey building, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve.
2. Prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground 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 site levels, and Council's stormwater drain connection point/s and connection details.
3. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.
4. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to

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Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.

5. Prior to the commencement of works (including site preparation), City of Darwin requests that the Authority require the applicant to submit a Waste Management Plan outlining the ongoing waste disposal, storage, and removal arrangements for the site following the completion of construction. The plan must be prepared in accordance with City of Darwin's Waste Management Guidelines, which are available on City of Darwin's website or can be obtained by contacting City of Darwin.
6. Prior to the commencement of works (including site preparation), a Stage 3 Road Safety Audit (RSA) for the proposal to be prepared by a suitably qualified road safety auditor to the requirements of the City of Darwin, to the satisfaction of the consent authority. The audit should also identify any risks associated with the proposal and recommend appropriate mitigation measures.
7. Prior to the commencement of works (including site preparation), in-principle approval is required for the encroachment of the car parking area over the existing sewerage easement to the requirement of the Power and Water Corporation, to the satisfaction of the consent authority.

GENERAL CONDITIONS

8. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity and telecommunication networks to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time. Please refer to note 2 for further information.
10. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority or the local government council to the satisfaction of the consent authority.
11. 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.
12. Any proposed stormwater connections to City of Darwin stormwater system or 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.
13. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved

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works shall be constructed at the applicant's expense, to the requirements of City of Darwin.

14. The location, design and specifications for proposed and affected crossovers shall be provided at the applicant's expense, to the satisfaction of City of Darwin.
15. Kerb crossovers and driveways to the site shall be provided and disused crossovers removed, public footpath and shared paths shall be provided, stormwater shall be collected and discharged into City of Darwin's drainage network, all of which is to be provided at the applicant's expense, to the requirements and satisfaction of City of Darwin.
16. Waste bin enclosures, storage and pick-up shall be provided in accordance with City of Darwin's Waste Management Guidelines.
17. The developer will be required to implement all recommended safety improvements and mitigation measures to the surrounding street network as identified in the RSA, at no cost to the City of Darwin.
18. All works recommended by the Stage 3 Road Safety Audit are to be completed to the requirements of the City of Darwin.
19. Before the use/occupation of the development starts, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
20. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
21. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
22. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.

Notes

1. The developer is encouraged to visit Power Water's website on "allowable planting on water and sewer easements" found at <https://www.powerwater.com.au/customers/moving-and-building/easements-on-your-property/allowable-planting-on-water-and-sewer-easements> and review PWC's easement guidelines found at https://www.powerwater.com.au/_data/assets/pdf_file/0014/14216/NP021-Easement-Guidelines.pdf
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section (developer.concierge@powerwater.com.au)

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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.

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. Due to provisions in the National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued
4. 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) 8936 4070 to determine if the proposed works are subject to the Act.
5. 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 proponent is advised to take notice of the Noise Management Framework Guideline.
6. Any damaged or removed infrastructure located in, on or over the road reserve (inclusive of preexisting street trees), is to be repaired or replaced at either the developers or landowners' cost, to the satisfaction of the City of Darwin.
7. Sight lines shall be provided at crossovers to public streets, to the satisfaction of, City of Darwin. No fence or tree exceeding 0.6 metres in height shall be planted in front of the sight line.
8. All 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.
9. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the satisfaction and at no cost to City of Darwin.

REASONS FOR DETERMINATION

4. The application seeks consent for a dwelling-group (6 x 3 bedroom) in 2 storey building at Lot 2017 (6) Queen Street, Stuart Park, Town of Darwin (the site).

The site is located in Zone MR (Medium Density Residential) of the Northern Territory Planning Scheme 2020 (NTPS2020) and is located in an established residential area of Stuart Park characterised predominantly by LMR and MR zoned land. The site has an area of 1112m², is rectangular in shape and generally flat.

The Authority notes that the application seeks a number of variations to the NTPS 2020, including reduced side setbacks, reduced private open space provisions, particularly for Units 2 and 5, reduced landscaping outcomes among other minor variations. The Authority has considered whether the proposal achieves the underlying purpose and intent of the relevant clauses having regard to the site's location, surrounding development, scale and the resulting level of amenity.

The meeting was attended by Mr Amit Magotra (ThinkDA Planning, the applicant), who provided an overview of the application. Mr Magotra noted that the site was previously approved for a more intensive four-storey, 12-dwelling development and that while the permit remained current when the site was acquired, the applicant elected to pursue a lower-scale two-storey development that responds more closely to the character of the surrounding locality. Mr Magotra highlighted that the surrounding locality is characterised predominantly by two-storey residential development and that the proposed built form was deliberately designed to reflect the development pattern of neighbouring development rather with similar scale and setback, than pursue the more intensive development outcome previously approved for the site.

5. 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 Authority notes that the Northern Territory Planning Scheme 2020 (NTPS2020) applies to the land. The proposed dwelling-group is identified as Impact Assessable under clause 1.8(1)(c)(i), as the use is shown as Impact Assessable on the relevant assessment table of Zone MR (Medium Density Residential) in Part 4 of the NTPS2020 and therefore, requires planning consent. The use 'Dwelling-group' is shown as Impact Assessable on the relevant assessment table of Zone MR (Medium Density Residential) in Part 4 of the NTPS 2020 and requires planning consent.

Clause 1.10(4) requires the Consent Authority to exercise its discretion in considering application for a use or development identified as Impact Assessable and that it must take into account all of the following: (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, or Schedule 4.1 Specific Use Zones; and (d) any component of the Strategic Framework relevant to the land as set out in Part 2.

The Authority notes the assessment completed by DAS which found that the proposed development complies with clauses 5.2.1 (General Height Control), 5.2.4.1 (Car Parking Spaces), 5.4.1 (Residential Density), 5.4.8 (Residential Building Design), 5.4.18 (Fencing), but does not comply with clauses 5.2.4.4 (Layout of car parking area), 5.2.6.1 (Landscaping in Zones other than Zone CB), 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 5.4.6.1 (Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group), and 5.4.17 (Building Articulation).

The Authority has, in accordance with clause 1.10(4) of the NTPS2020, noted the assessment done against the relevant development requirements including the Strategic Framework (Part 2), applicable overlays (Part 3), the purpose and outcomes of Zone MR (Part 4), and the relevant development requirements (Part 5) of the Scheme to determine the application's consistency to the Scheme and is discussed below.

Part 2 – Strategic Framework

The application has been assessed against the Darwin Regional Land Use Plan (DRLUP) and the Darwin Inner Suburbs Area Plan 2016 (DISAP). The subject site is identified for urban residential purposes and is located within an established residential area supported by existing physical and social infrastructure. The application facilitates the redevelopment of an underutilised residential lot and contributes additional housing supply within a locality intended to accommodate increased residential densities and within the broader housing mix available in the locality. The Authority notes that the application is considered to satisfy the relevant strategic planning objectives and policy directions applicable to the site.

Part 3 – Overlays

The Authority notes that there are no overlays that affect the site, and no issues have been identified under Part 3 of the NTPS2020.

Part 4 – Zone MR (Medium Density Residential)

The Authority notes the purpose of Zone MR is to *provide for a range of medium-density housing options in locations serviced by community facilities, public transport, open space and reticulated infrastructure.*

The Authority notes the application comprises six three-bedroom dwellings in a two-storey building on a 1112m² site. The development achieves a residential density of approximately 54 dwellings per hectare, which is generally consistent with the Compact Urban Growth Policy benchmark of approximately 60 dwellings per hectare for medium-density residential development. The site is located within an established residential suburb

supported by reticulated services, public transport, access to arterial roads, and nearby community facilities.

The Authority considers that the proposed development is compatible with the use and development pattern of the surrounding locality, which contains a mix of detached dwellings, dwelling-groups and multiple dwelling developments within LMR and MR zoned land.

In considering Zone Outcome 5, which seeks a sympathetic interface with adjoining public spaces and neighbouring properties, the Authority had regard to the proposed variations to the side setback, landscaping and private open space requirements. The Authority notes that the application incorporates landscaping, boundary fencing, building articulation and private outdoor areas that assist in maintaining residential amenity to reasonable satisfaction and the overall design remains generally compatible with the scale and character of surrounding development.

The Authority was satisfied that while the application does not fully comply with all applicable development requirements in Part 5, the proposed development is considered largely consistent with the purpose and outcomes of Zone MR and therefore satisfies the intent of Part 4 of the NTPS2020.

Part 5 – Development Requirements

As noted earlier, the proposed development was found to comply with the relevant part 5 development requirements of the NTPS 2020, except for Clauses 5.2.4.4 (Layout of car parking area), 5.2.6.1 (Landscaping in Zones other than Zone CB), 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 5.4.6.1 (Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group), and 5.4.17 (Building Articulation).

Pursuant to clause 1.10(5) of the NTPS 2020, the Consent Authority may consent to a proposed development that is not in accordance with a requirement in Part 5 where 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(4).

In considering the variations discussed below, the Authority had regard to the Strategic Framework, the purpose and outcomes of Zone MR, the absence of overlays affecting the land, and the location of the site within an established residential area characterised predominantly by LMR and MR zoned land.

Clause 5.2.4.4 (Layout of car parking area)

The Authority notes that the purpose of this clause is to *Ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose.*

clause 5.2.4.4(8)(c) requires that *The layout of a car parking area is to: ... (c) be in accordance with the dimensions set out in the diagram to this clause* [where the diagram shows each car parking space as being 2.5m wide by 5.5m long; the spaces serving Units 1, 3, 4 and 6 are affected by a 200mm-wide structural column, which reduces the effective width of these spaces to approximately 2.4m wide.

Administratively, subclause 4 states the consent authority may consent to a car parking area that is not in accordance with sub-clauses 7 and 8 if it is satisfied that the design and construction is safe and functional with regard to the location of the development.

In response to subclause 4, the building support columns are located towards the rear of the car parking space and project 10cm into the affected car parking space on one side only. The placement of these columns is outside of the zone in which vehicle doors will be opened, and is of a limited impact, therefore, it is not considered that these intrusions will unreasonably affect the future operation of the affected car parking spaces.

Based on the above discussion a variation to clause 5.2.4.4 (Layout of car parking area) is acceptable, as the car parking area will be functional for its intended purpose.

Clause 5.2.6.1 (Landscaping in Zones other than Zone CB)

The Authority notes that the purpose of this clause is to *Encourage landscaping that enhances local amenity by:*

- (a) contributing to safe and attractive public spaces and places;*
- (b) responding to the local climate and soil characteristics;*
- (c) supporting cooler internal and outdoor areas; and*
- (d) recognising the value of retaining existing plants and trees.*

clause 5.2.6.1(5) requires that *... not less than 30% (which may include communal open space) [333.6m² for this site] of a site that is used for ... dwellings-group ... is to be landscaped*, where only 28.7% of the site (318.8m²) is proposed to be landscaped.

Administratively, subclause 2 states *The consent authority may consent to landscaping that is not in accordance with sub-clauses 5, 6 and 7 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and is appropriate to the site having regard to the amenity of the streetscape, and the potential impact on the amenity of the locality and adjoining property.*

The Authority considers that a variation to this clause is acceptable in this instance as the proposed landscaping achieves the intent of the clause despite the reduced landscaping dimensions. Landscaping and screening are provided along the frontage and side boundaries, utilising species generally suitable to the site and local conditions. The landscaping will assist in softening the built form, improving visual amenity, providing screening and contributing to passive cooling of the buildings and outdoor living areas.

Clause 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures

The Authority notes that the purpose of this clause is to *Ensure that residential buildings and ancillary structures are located in a manner that:*

- (a) is compatible with the streetscape and surrounding development including residential buildings on the same site;*
- (b) minimises adverse effects of building massing when viewed from adjoining land and the street;*
- (c) avoids undue overlooking of adjoining properties; and*
- (d) facilitates breeze penetration through and between buildings.*

clause 5.4.3(6) requires that *residential buildings and ancillary structures are to be set back from lot boundaries in accordance with Table B to this clause*, where the proposal provides a primary street setback of 5.5m where 6m is required; side setbacks of 1.5m where 3m is required; and side roofline setbacks of 0.64m and 0.65m where 2.1m is required. The rear setbacks exceed the minimum requirement, being 4.2m at ground floor and 3.38m at first floor against the required 3m.

Administratively, clause 5.4.3(3) states *the consent authority may consent to a development that is not in accordance with sub-clauses 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.*

(a) Compatible with the streetscape and surrounding development

The site is located within an established residential area containing a mix of residential developments within LMR and MR zones. A two-storey dwelling-group is consistent with the scale and character of development anticipated within the locality and is significantly lower in intensity than the four-storey development previously approved for the site.

The variation to the primary street setback is minor, with a setback of 5.5m provided where 6m is required. Frontage landscaping and fencing assist in maintaining an appropriate presentation to Queen Street. The side setbacks of 1.5m represent a significant variation when compared against the 3m requirement of Zone MR. However, similar setback outcomes are capable of occurring for comparable two-storey residential development elsewhere under the Scheme. In this context, the proposed setbacks are not considered out of character with the surrounding residential environment.

At the meeting, Mr Magotra highlighted to the Authority that the proposed built form was deliberately designed to reflect the scale and setback pattern of neighbouring development. Mr Magotra noted that many of the surrounding two-storey residential developments within the locality achieve side setbacks comparable to those proposed and submitted that in this context, the proposed setbacks are not considered out of character with the surrounding residential built-form.

(b) Minimises adverse effects of building massing when viewed from adjoining land and the street

The application incorporates articulation through recessed balconies, variable façade treatments, material changes and upper-level modulation that assist in reducing the perception of bulk. The front setback variation is unlikely to materially alter the streetscape or result in excessive building massing when viewed from Queen Street.

Notwithstanding these design treatments, the reduced side setbacks of 1.5m and roofline setbacks of approximately 0.65m result in a noticeably compressed interface along both side boundaries. The Authority considers that the combination of architectural articulation, boundary fencing and landscaping will soften the appearance of the development and reduce its visual impact on adjoining properties.

(c) Avoids undue overlooking of adjoining properties

Ground-level privacy is generally maintained through fencing and landscaping treatments. However, first-floor living areas and alfresco spaces are located adjacent to the reduced side setbacks. Although landscaping and building design elements assist in mitigating overlooking opportunities, the reduced setback distances increase the potential for overlooking when compared with a compliant outcome. The proposal therefore achieves this aspect of the purpose only in part. It can be argued however that the impacts are manageable and generally acceptable for a medium-density residential development, subject to the proposed screening and landscaping being retained.

Mr Magotra advised that the adjoining property to the east benefits from a wide driveway along the common boundary, while the adjoining building to the west presents a blank wall setback from the boundary, circumstances that assist in reducing potential overlooking and privacy impacts.

(d) Facilitates breeze penetration through and between buildings

The Authority noted that the site layout, central driveway and separation from adjoining development provide opportunities for airflow through the development. While the reduced side setbacks may modestly reduce opportunities for breeze penetration compared with a compliant outcome, sufficient separation remains between surrounding built forms to facilitate airflow through the site.

Based on the above discussion, the proposed variation to clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) is supported. The proposed development achieves the streetscape, built-form and residential density outcomes sought for Zone MR. The Authority considers that the resulting built-form is not unreasonable when viewed in the context of similar two-storey residential development anticipated within the surrounding locality.

Mr Magotra further submitted that while the proposed development departs numerically from the prescribed setback requirements, the resulting built-form outcome remains consistent with the surrounding two-storey residential context and achieves the practical intent of the clause in relation to building separation, privacy and breeze penetration.

Clause 5.4.6.1 Private Open Space for Dwellings-Single, Dwellings-Independent and Dwellings-Group

The Authority notes that the purpose of clause 5.4.6.1 is to *extend the function of a dwelling and enhance the residential environment by ensuring that each dwelling has private open space that is:*

- a) of an adequate size to provide for domestic purposes;*
- b) appropriately sited to provide outlook for the dwelling;*
- c) open to the sky and sufficiently permeable to allow stormwater infiltration and lessen runoff from the site; and*
- d) inclusive of areas for landscaping and tree planting.*

Administratively, clause 5.4.6.1(1) states *the consent authority may consent to private open space that is not in accordance with sub-clauses 2 and 3 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.*

(a) of an adequate size to extend the function of the dwelling

Each dwelling is provided with outdoor areas at ground and first floor levels, including courtyards, balconies and alfresco areas directly connected to living spaces. However, the application does not achieve the numerical private open space requirements prescribed by the clause. None of the six dwellings provides the required Area A dimension of 45m². Area A shortfalls range from approximately 47% for Units 1 and 6 to 100% for Units 2 and 5. In addition, only Units 2 and 5 provide a compliant Area B dimension of 25m². Units 1, 3, 4 and 6 do not provide a qualifying Area B as the alfresco and balcony areas do not achieve the minimum 4m dimension requirement.

Notwithstanding these deficiencies, the Authority considers that the open spaces for each dwelling provide opportunities for outdoor recreation, dining and domestic activities.

Mr Magotra noted that the private open space has been distributed between the ground and first floors to improve functionality, with ground-level courtyards serving domestic activities associated with bedrooms and laundry areas, and upper-level balconies and alfresco spaces directly connected to the primary living areas.

In considering the variation, the Authority considers that the cumulative provision of private open space across the development demonstrates that outdoor areas form an integral component of the design at both ground and first floor level extending the function of the dwelling and is satisfactory.

Mr Magotra further submitted that the design seeks to provide multiple usable outdoor areas for each dwelling rather than a single consolidated open space area, thereby increasing flexibility and functionality for future occupants.

(b) appropriately sited to provide outlook for the dwelling

The Authority notes that Units 1 and 6 benefit from outlook towards Queen Street. The remaining dwellings obtain outlook over their first-floor open space areas.

(c) open to the sky and sufficiently permeable to allow stormwater infiltration and lessen runoff from the site; and

The principal concern relates to the significant deficiency in Area A (open to the sky). The proposal provides approximately 118.6m² of Area A where 270m² is required, representing an overall shortfall of approximately 56%. Units 2 and 5 do not provide any open-to-sky private open space; however, all dwellings are provided with a combination of ground-floor courtyards, balconies and alfresco areas that contribute to the overall provision of outdoor living space.

The Authority considers that while the proposal does not achieve the extent of open-to-sky area required by the clause, the ground-floor courtyards remain permeable and can facilitate stormwater infiltration and reduce surface runoff. Accordingly, the application achieves this aspect of the clause.

(d) inclusive of areas for landscaping and tree planting.

The ground-floor private open space areas are generally screened through fencing and landscaping. However, the effectiveness of landscaping associated with Units 1, 3, 4 and 6 is constrained by the reduced landscaping widths and proximity of first-floor alfresco areas to adjoining properties.

As discussed above, the application provides usable and functional outdoor areas and generally supports a reasonable level of residential amenity for future occupants. While the numerical deficiencies associated with Area A are significant and affect all six dwellings, each dwelling is provided with private outdoor areas in the form of courtyards, balconies and alfresco spaces that extend the function of the dwelling and contribute to residential amenity.

The Authority notes that the proposed development in its character uniquely sits between a dwelling-single and a dwelling-multiple development, both of which are permissible within Zone MR. The proposed development sits opposite of established dwelling-multiple and within convenient walking distance of public open space.

The Authority noted the submission of Mr Magotra that no public submissions were received during the exhibition period and submitted that

this indicates the proposed built form is generally compatible with the expectations and character of the surrounding locality.

Having regard to the location of the site, the surrounding development and the level of private open space provided, the Authority is satisfied that the variation will not result in unreasonable amenity impacts or be inconsistent with the purpose of clause 5.4.6.1.

Clause 5.4.17 Building Articulation

The Authority notes the purpose of this 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.*

Clause 5.4.17(4) requires that *a step or recess to the building line of no less than 1m by 1m is required for every 15m of building length, or part thereof*, where the combined ground-floor building lines of Units 2 and 3, and Units 4 and 5, measure approximately 15.39m without incorporating the required 1m by 1m step or recess. The first-floor building lines comply with the articulation requirements of the clause.

Administratively, clause 5.4.17(2) states the *consent authority may consent to a development that is not in accordance with sub-clause 4 only if it is satisfied it is consistent with the purpose of this clause.*

In response to clause 5.4.17(2), The Authority considers that the variation is minor in extent, with the affected ground-floor building lines exceeding the threshold by approximately 0.39m only. The first-floor building lines comply with the articulation requirements and incorporate balcony recesses, projections, material variation and façade modulation. The overall building design also includes a central driveway separating the two building rows, upper-level articulation, recessed balconies and varied façade treatments that assist in reducing the appearance of continuous wall lengths and building bulk when viewed from adjoining properties and the street.

Based on the above discussion, the Authority supports a variation to clause 5.4.17 (Building Articulation), as the non-compliance is minor and the overall building design is considered to achieve the purpose of the clause.

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 Authority considers that the site currently accommodates a dwelling-single, indicating its suitability for residential development. No site constraints or limiting factors have been identified, and no adverse comments or concerns were raised by Land Resources of the Department of Lands, Planning and Environment or other service authorities in relation to the

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application. The area is serviced through reticulated power, water and sewerage and considered to support the development.

3. 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.

In considering the public utilities and infrastructure available to service the site, comments were received from the City of Darwin, Land Resources, DLPE, and the Power and Water Corporation.

The Authority considers that the matters raised by the relevant authorities have been addressed through recommended permit conditions requiring the provision and upgrading of infrastructure and services, stormwater management, access arrangements, construction and waste management measures, and compliance with the requirements of the relevant service authorities. The Authority has addressed these through conditions regarding the sewer easement encroachment, landscaping within the easement. Advisory notes are included to address building approval requirements and other matters raised through the referral process.

4. 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 Authority notes that the proposed development is a dwelling-group comprising 6 dwellings is located on a site zoned to accommodate medium-density housing outcomes. The proposed land use, scale and intensity of development are generally consistent with the planning intent for the area and is expected to not result in unreasonable impact on the existing predominantly residential character of the locality that has dwelling-groups and higher-density residential development.

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



ROD APPEGATE
Presiding Member
21 October 2026