



# DEVELOPMENT CONSENT AUTHORITY

## DARWIN DIVISION

### MINUTES

**MEETING NO. 414-FRIDAY 2 FEBRUARY 2024**

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

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

**APOLOGIES:** Mick Palmer

**LEAVE OF ABSENCE:** Nil

**OFFICERS PRESENT:** Margaret Macintyre (Secretary), Sally Graetz, Monica Pham, David Burrow and Lingyi Kong (present for session 1 only) (Development Assessment Services)

**COUNCIL REPRESENTATIVE:** Apology

**Meeting opened at 10.30 am and closed at 2.15 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 SHOPPING CENTRE**  
**PA2023/0335**            **(CASUARINA SQUARE)**  
**LOT 9329 (13) SCATURCHIO STREET & LOT 9576 (247) TROWER ROAD,**  
**CASUARINA, TOWN OF NIGHTCLIFF**  
**APPLICANT**            **Cunnington Rosse Town Planning and Consulting**

Applicant: Brad Cunnington (Cunnington Rosse Town Planning and Consulting) and Greg Campbell (Development Director – Sentinel Regional Office Pty Ltd – landowners) attended.

Andrea Caddy and Josh Larder (Cunnington Rosse Town Planning and Consulting) also attended.

DAS tabled an email from Water Services division of Power and Water Corporation confirming there are no sewerage easements within Lot 9576 that will be affected by the application.

**RESOLVED**  
**05/24**

That, the Development Consent Authority vary the requirements of Clause 5.2.5 (Loading Bays) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 9329 (13) Scaturchio St and Lot 9576 (247) Trower Rd, Casuarina, Town of Nightcliff for the purpose of alterations and additions to an existing shopping centre (Casuarina Square), subject to the following conditions:

**CONDITIONS PRECEDENT**

1. Prior to the commencement of works, a traffic impact assessment report is to be prepared by a suitably qualified traffic engineer with attention to the development's traffic generation from the additional car parking capacity, trip distribution, traffic operation impact, the nature and timing of impacts, and recommended measures required to accommodate and/or mitigate the traffic impacts of the development, including construction traffic. All NTG controlled road sections and intersections where traffic generated by the development increases the existing traffic, existing proportion of heavy vehicle traffic or equivalent standard axles (ESAs) by 5% or more must be assessed. The impacts of the development on public transport facilities, pedestrian and cycle facilities shall also be assessed to the requirements of Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
2. Prior to the commencement of works, the applicant is to prepare a Construction Traffic Management Plan to the requirements of the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority. The Construction Traffic Management Plan should specifically address all appropriate site management measures, including construction access, proposed haulage

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routes, vehicle types, protection of existing assets, protection of public access and a risk assessment.

3. Prior to the commencement of works, in principle approval is required for the crossover to the loading bay (via Lot 9329) from the City of Darwin road reserve, to the satisfaction of the consent authority.
4. Prior to the commencement of works, 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.
5. Prior to the commencement of works, 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.
6. Prior to the commencement of works, 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

7. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notation 1 for further information.

9. 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.
10. 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.
11. 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.
12. 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;

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- (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.

13. The owner shall:
  - (a) remove disused vehicle and/ or pedestrian crossovers;
  - (b) provide footpaths/cycleways;
  - (c) collect stormwater and discharge it to the drainage network; and
  - (d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
14. 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 to the requirements of the City of Darwin, to the satisfaction of the consent authority.
15. All works recommended by the traffic impact assessment are to be completed to the requirements of the Transport and Civil Services Division of the Department of Infrastructure, Planning and Logistics, to the satisfaction of the consent authority.
16. 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.
17. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
18. 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.
19. 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.
20. The loading and unloading of goods from vehicles must only be carried out on the land and within the designated loading bays, to the satisfaction of the consent authority.
21. 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.

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22. 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.

### NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto:powerdevelopment@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
3. 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 works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
4. Notwithstanding the approved plans, any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin's Policy 6310.100.E.R – Outdoor Advertising Signs Code.
5. Transport and Civil Services Division, Department of Infrastructure, Planning and Logistics has advised that access (permanent or temporary) shall not be permitted to the subject lot from NTG controlled roads.
6. The development and use hereby permitted must be in accordance with Northern Territory legislation including (but not limited to) the *Building Act 1993*, the *Public and Environmental Health Act 2011* and the *Food Act 2004*.
7. 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](mailto:info@ntbuild.com.au)) or by phone on 08 8936 4070 to determine if the proposed works are subject to the Act.
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.

### 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.

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The NT Planning Scheme 2020 applies to the land and alterations and additions to an existing shopping centre (Casuarina Square) requires consent under Clause 1.8 (When development consent is required). It is identified as *Impact Assessable* under Clause 1.8(1)(c)(i), therefore the strategic framework (Part 2 of the Scheme, including Darwin Regional Land Use Plan 2015), zone purpose and outcomes of Clause 4.11 (Zone C – Commercial), and Clauses 5.2.1 (General Height Control) 5.2.4.1 (Car Parking Spaces), 5.2.4.4 (Layout of car parking areas), 5.2.5 (Loading Bays), 5.2.6.1 (Landscaping in Zones other than Zone CB), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.5.2 (Commercial Plot Ratio), 5.5.12 (Shopping Centre), 5.5.15 (Design in Commercial and Mixed Use Areas) and 5.5.17 (Building Frontage in Commercial and Mixed Use Areas), need to be considered.

Under Clause 1.10(4) (Exercise of Discretion by the Consent Authority), *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.*

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.2.5 (Loading Bays).

### Part 2 – Strategic Framework

The Darwin Regional Land Use Plan 2015 (DRLUP) applies to the subject site. The purpose of the DRLUP is to identify the essential characteristics and needs that will shape future development in the region and establish an overarching framework for that development. The location of the proposed development is in an area identified for Urban/Peri-Urban land use. The proposed development is for the alterations and additions to an existing shopping centre (Casuarina Square), which will continue to provide retail and commercial uses for the area and is consistent with the purpose of the DRLUP. The scale of the development is considered appropriate to the service function of Casuarina as a regional centre.

### Part 3 – Overlays

There are no overlays that apply to the subject sites.

### Part 4 – 4.11 Zone C – Commercial

The proposal is for the alterations and additions to an existing shopping centre (Casuarina Square). The application involves making changes and additions to the northern section of the current shopping centre. This will include creating more retail space and extending the existing car parking areas with a three-level car park connecting to the shopping centre's eastern side. New construction works will result in 312 new basement car parking spaces, 243 ground level and 278 upper level car parks, for a total of 833

new car parking spaces and 6 click and collect bays. The additional 483m<sup>2</sup> retail space will include the new Woolworths loading dock, a new kiosk, and five new tenancies. The scale of the development is considered appropriate to the service function of Casuarina as a regional centre and is sufficiently separated from sensitive land uses including residential uses to the east of Trower Road.

5.5.12 (Shopping Centre)

The purpose of Clause 5.5.12 (Shopping Centre) is to *ensure a shopping centre is an attractive, safe and accessible focal point of economic activity that: (a) integrated with the surrounding neighbourhood; (b) incorporates appropriate building and landscape design to ensure that there is no unreasonable loss of amenity for adjoining or nearby residential areas; (c) is developed in a location that provides convenient access that does not interfere with the safe or efficient operation of the local road and footpath network; and (d) is connected to public transport and local active transport networks.* The proposal meets the requirements of Clause 5.5.12 as pedestrian paths are shown through dashed lines in the car parking areas connecting visitors to the shopping centre entry. The proposal provides 8 bicycle parking spaces at the upper basement level. The development of the new car parking area within the central portion of the northern part of the site provides the less active requirements for future development adjacent Trower Road, maximising opportunity for active frontage to the public realm. The loading areas are separate to public spaces. The design of the car parking area allows vehicles to enter and exit in a forward gear. Trolley bays are integrated with the car parking area, suitably located to ensure convenience for customers and access for staff. Shade structures are provided to the majority of car parking spaces at level 1. Vertical landscaping is proposed through vines in statvaul cell. Vertical gardens to building face are proposed at ground level. The landscape plans propose new trees, retaining existing trees and the removal of trees. The existing garden beds are to be refurbished. The proposed 5 tenancies vary in size allowing for different uses and activities, where four of the five new tenancies are likely to comprise shops (although occupants have not yet been confirmed), with the tenancy at the main entrance, as well as the kiosk, likely to be food premises – café / take away or restaurant.

5.2.4.1 (Car Parking Spaces)

The purpose of Clause 5.2.4.1 (Car Parking Spaces) is to *ensure that sufficient off-street car parking, constructed to a standard and conveniently located, are provided to service the proposed use of a site.*

The minimum number of car parking spaces required for a shopping centre is *6 for every 100m<sup>2</sup> of net floor area.* Therefore the proposed changes would require an additional 29 spaces (calculated as  $467.3/100*6 = 28.038$ ).

The application submits that the demolition work will result in the removal of 487 car parking spaces with the basement and ground level areas. New construction works will result in 312 new basement car parking spaces, 243 ground level and 278 upper level car parks, for a total of 833 new car parking spaces and 6 click and collect bays. Therefore 346 additional car parking spaces and 6 click and collect bays will be provided through the proposal.



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This would result in an additional 317 car parking spaces ( $346 - 29 = 317$ ), beyond what the development requires.

### Gross Lettable Area - Retail (GLAR) Calculation

While the NT Planning Scheme 2020 (NTPS 2020) provides the car parking assessment as per NFA, the Development Consent Authority at the time of previous development approvals considered Gross Lettable Area – Retail (GLAR) and Gross Lettable Area (GLA) for car parking assessment. The most recent approval (DP19/0288) applied a parking rate of 4.48/100m<sup>2</sup> GLAR (equivalent to 4.52/100m<sup>2</sup> of GLA).

The Authority notes the Notice of Consent for DP19/0288 provides the following discussion: *The application states that according to the previous approvals GLA “includes floor space that is not assessable for parking under this clause, including lunchrooms, loading docks, toilets and showers that form part of the tenancy areas of the larger tenancies.” However, the Property Council of Australia’s method for calculating floor space is GLAR which includes “the total floor space measuring from the internal finished surface of external walls or from the centre line of inter-tenancy walls, whichever is deemed appropriate. Shopfronts outside, on, or inside the mall line are measured from the mall line or from the external finished surface, whichever is deemed appropriate, and the area calculation is the aggregate of floor space contained within a tenancy at each floor level”. As this is broadly accepted as the appropriate method of measurement to calculate retail tenancy areas in shopping centres, commercial buildings, stripshops, free standing shops and semi-detached or terrace-type shops in suburban streets the existing and proposed area provided in the proposed development is based on the GLAR definition. DP19/0288 applied a parking rate of 4.48/100m<sup>2</sup>.*

The net increase in gross lettable area – retail (GLAR) for the proposed changes is 467.3m<sup>2</sup>. Therefore, applying the previously accepted approach to maintain the car parking rates would result in a car parking requirement for the proposed changes of 21 car parking spaces (calculated as  $467.3/100 \times 4.48$ ). The Authority notes this would result in an additional 325 car parking spaces ( $346 - 21 = 325$ ), beyond what the development requires. This approach has been applied in calculating the number of car parking spaces generated by the development as it is consistent with previous approvals.

At the hearing the applicant provided an overview of the development and its primary functions which are to improve car parking amenity and accessibility for vehicles and pedestrians, improvements to the pedestrian entry, and additional tenancies at the northern part of the shopping centre adjacent to the existing supermarket. The broader purpose is to increase the car parking to provide for future changes in the shopping centre that will be subject to future applications. There are peripheral development and planning proposals and applications around pedestrian access and interaction, and taxi access to the site that are ongoing. The applicant clarified that these are not part of this application and that they will continue to work with Transport and Safety Services, Department of Infrastructure



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Planning and Logistics to resolve any issues raised and the changes will be addressed in a separate development application.

The Authority queried whether the development will form part of the cyclone shelter function that Casuarina shopping centre currently provides. The applicant advised the cyclone shelter forms part of the basement and any extension to the basement would form part of the cyclone shelter as well.

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
  - (a) The purpose and administration clauses of the requirement; and
  - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

(a) 5.2.5 Loading Bays

The proposal has been found not to be in accordance with Clause 5.2.5 (Loading Bays), because the proposal will result in the removal of 1 loading bay.

The purpose of Clause 5.2.5 is to *provide for the loading and unloading of vehicles associated with the use of land.*

Sub-clause 3 of Clause 5.2.5 requires that a shopping centre is to provide *1 loading bay for every 2000m<sup>2</sup> of the total net floor area, or part thereof.*

The proposed development removes four existing small vehicle loading bays adjacent the southern side of the existing supermarket and pedestrian mall entrance, replacing the existing small bays with a single large bay intended to accommodate a 19.0 metre semi-trailer. The existing Woolworths loading dock, which currently includes two covered loading bays, will be demolished and replaced with a new loading dock with a single semi-trailer bay and three loading / unloading bays. The Authority notes the overall net result is a reduction of 1 loading bay.

The relevant administration for Clause 5.2.5 is provided below:

1. *The consent authority may consent to a use or development that is not in accordance with sub-clauses 3 and 4 only if it is satisfied sufficient, safe and functional loading areas are available to meet the needs of the use with regard to:*
  - (a) *the scale of the use and development on the site;*
  - (b) *any potential adverse impacts on the local road network; and*
  - (c) *any agreements for off-site loading and unloading of vehicles, such as shared loading areas or approval to carry out loading activities in a laneway or secondary street.*
2. *For the purposes of this clause, where an exhibition centre, food premises (fast food outlet and restaurant), office, place of assembly, shop or shopping centre are part of an integrated development, the minimum number of*

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*loading bays is to be calculated based on the combined net floor area of the integrated uses.*

At the hearing the applicant explained the changes to the loading bay are an overall upgrade to the loading docks, while it results in a net reduction it increases the ability and accessibility for larger vehicles and provides an additional semi-trailer loading bay near the existing supermarket. Turn paths are provided in traffic impact assessment and access and egress for the loading bays trucks is through the Linton Street and through the access easement over Lot 9329, the reason behind amalgamating the access points is for increased safety.

A variation to Clause 5.2.5 is supported in this instance as the majority of NFA proposed in the new development comprise of five new tenancies, where four of the five tenancies are likely to require loading facilities. The shortfall of 1 loading bay could be accommodated through shared use of other existing loading bays provided in the development. Conditions are included on the development permit to ensure that all loading and unloading must occur within dedicated loading bays. It is noted that the removal of the existing smaller loading bays with a larger bay provides access for a greater range of vehicles to service a development of this scale.

(b) The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clause 5.2.5 (Loading Bays), as identified above.

3. 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. Comments from service authorities have been sought in relation to the capability of the land. The requirements of service authorities are addressed through conditions and notes on the permit.

4. Pursuant to section 51(1)(m) of the *Planning Act 1999*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

The application was circulated to service authorities and the requirements of the service authorities have been addressed through conditions and notes on the permit where applicable. At the hearing, the applicant requested the removal of condition precedent 1 which requires written confirmation from the Water Services division of the Power and Water Corporation that any intrusion over the sewer easement has been approved or removed. The Authority notes the email correspondence provided by Water Services confirms there are no sewerage easements within Lot 9576 that will be

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affected by the application and that the condition precedent is no longer required.

- 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 proposal is anticipated to provide improved amenity to the surrounding area as a result of improvements to and an increase in the number of car parking spaces available at the site. Additionally, improved pedestrian connections, lighting of the car parking areas, travelators at the entrance to the shopping centre and shade structures over the car parking spaces at level 1, are also likely to have a positive impact.

At the hearing the Authority commended the inclusion of larger car parking spaces with a width slightly larger (at 2.6m by 5.5m) than NTPS 2020 requirements (2.5m by 5.5m), noting that this will cater for larger vehicles which are common in the Northern Territory. While this feature is unlikely to impact the amenity of the surrounding area directly, it may improve the functionality of the site as a whole and encourage its use, thereby having positive impacts on the amenity of the surrounding area as a result.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

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

**ITEM 2**  
**PA2023/0414**

**DWELLING-SINGLE WITH ANCILLARY DWELLING-INDEPENDENT (WITH FLOOR AREA IN EXCESS OF 75M<sup>2</sup>) WITH A REDUCED BUILDING SETBACK TO THE PRIMARY STREET AND SIDE BOUNDARY**

**APPLICANT**

**LOT 1891 (42) CHARLES STREET, STUART PARK, TOWN OF DARWIN**  
Cunnington Rosse Town Planning and Consulting

Applicant: Brad Cunnington (Cunnington Rosse Town Planning and Consulting) and Jess Brittain (Conception Designs) attended.  
Andrea Caddy and Josh Larder (Cunnington Rosse Town Planning and Consulting) also attended.

**RESOLVED**  
**06/24**

That, the Development Consent Authority vary the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and Clause 5.4.13 (Dwelling-Independent) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 1891 (42) Charles St, Stuart Park, Town of Darwin for the purpose of dwelling-single with ancillary dwelling-independent (with a floor area in excess of 75m<sup>2</sup>) with a reduced building setback to the primary street and side boundary, subject to the following conditions:

### **CONDITIONS PRECEDENT**

- Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossover

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and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.

2. Prior to the commencement of works, a schematic plan demonstrating the on-site collection of stormwater and its discharge into City of Darwin stormwater drainage system shall be submitted to and approved by 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. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.
3. Prior to the endorsement of plans and 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.
4. 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**

5. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage, electricity to the development 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.

7. 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.
8. 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.
9. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin, to the satisfaction of the consent authority.

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10. 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.
11. 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.
12. The owner shall:
  - (a) remove disused vehicle and/ or pedestrian crossovers;
  - (b) provide footpaths/ cycleways;
  - (c) collect stormwater and discharge it to the drainage network; and
  - (d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
13. 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.

### NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto:powerdevelopment@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
3. 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 works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
4. 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.

### 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 Northern Territory Planning Scheme 2020 applies to the land and dwelling-single with ancillary dwelling-independent with a reduced building setback to the primary street and side boundary requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(ii)(2); therefore, zone purpose and outcomes of Clause 4.2 (Zone LR – Low Density Residential), and Clauses 5.2.1 (General Height Control), 5.2.4 (Car Parking), 5.2.6 (Landscaping), 5.4.1 (Residential Density), 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 5.4.6 (Private Open Space) and 5.4.13 (Dwelling-Independent), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and Clause 5.4.13 (Dwelling-Independent).

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
  - (a) The purpose and administration clauses of the requirement; and
  - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

The proposal has been found not to be in accordance with Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), because the proposal will result in:

- A 0m setback for the gatehouse, where the NTPS 2020 requires 4.5m setback to the primary street frontage (Charles Street).
- A 3.47m setback for the feature breezeblock screening, where the NTPS 2020 requires 4.5m setback from the primary street frontage.
- A 0m setback for the western side boundary of the dwelling-independent, games room and BBQ area, where the NTPS 2020 requires 1.5m.

Administratively, the consent authority may consent to a development that is not in accordance with sub-clause 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.

The purpose of Clause 5.4.3 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.

It is considered that a variation to this clause is appropriate in this instance because:

- The proposed side boundary setback non-compliance only applies to 16.4m of the 49.38m boundary length, 33.2% of the boundary. No windows or openings are proposed along the side boundary of the dwelling-independent and games room, which avoids overlooking of neighbouring property. Render & paint finish is proposed to the blockwork wall along the non-compliant side boundary to enhance overall appearance.
- The proposed games room/dwelling-independent structure utilises the existing blockwork shed building on site and will be added to directly south of the existing building. The proposal is constrained with the existing positioning of the building on site.
- The barbecue area is also considered to be in keeping with surrounding development, with barbecues and associated structures common within residential development and in zone LR (Low Density Residential). The building massing has been reduced through the overall height not exceeding 2.2 metres. The BBQ roof structure has an open design which will facilitate breeze penetration to the site and adjoining property.
- The gatehouse is considered in keeping with the streetscape and surrounding development. The gatehouse incorporates a recessed entry which will minimise the building massing along Charles Street. The structure is non-habitable and will not result in overlooking into adjoining properties and is small scale measuring 2.55m in height.
- The feature breezeblock screening & columns is 2.7m in height and does not impact breeze penetration through and between the proposed dwellings. This design feature adds visual interest for the dwelling-single when viewed from the street. The setback non-compliance is considered minor at 3.649m, where 4.5m is required.

The proposal has been found not to be in accordance with Clause 5.4.13 (Dwelling-Independent), because the proposal will result in an 84.5m<sup>2</sup> floor area for the proposed dwelling-independent, where the NTPS 2020 requires the maximum floor area of dwelling-independent in Zone LR not to exceed 75m<sup>2</sup>.

Administratively, the consent authority may consent to a dwelling-independent that is not in accordance with sub-clause 5 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 surrounding amenity.

The purpose of Clause 5.4.13 is to:

*Ensure a dwelling-independent provides for increased housing choice while remaining ancillary to the dwelling-single on a site, and is developed in a manner that:*

- (a) avoids significant impact on the amenity of adjoining and nearby property;*
- (b) does not detrimentally impact on the natural environment; and*
- (c) does not adversely impact the local road network;*

It is considered that a variation to this clause is appropriate in this instance because:



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- The design of the dwelling-independent respects the privacy of residents by placing no windows on the western boundary to avoid direct sightlines into the neighbouring property.
  - The 9.5m<sup>2</sup> floor area variation is a fairly minor departure from the standard, noting also the information presented at the meeting, that the space was intended to be used primarily as a games room/kids play area. The scale of development is considered suitable for the site and its setting.
  - The proposed games room/dwelling independent structure utilises the existing blockwork shed building on site and will be added to directly south of the existing building. Retention of existing building elements minimises the impact on the natural environment.
  - The proposed dwelling-independent is situated adjacent to the neighbouring property along the side boundary of the site and does not affect the local road network.
3. Pursuant to section 51(e) of the Planning Act 1999, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

One public submission was received during the exhibition period under Section 49 of the Planning Act 1999 with respect to the proposal. The issues raised in the submission relate to concerns regarding the setback of the proposed development to the eastern side boundary where the eaves are 0.76m and wall of dwelling is 1.5m, lack of privacy due to direct views into their yard and pool areas of 19 Mary Street and stormwater runoff flowing onto their property.

The NT Planning Scheme 2020 in Table A to Clause 5.4.3 (Minimum building setbacks for residential buildings and ancillary structures in zones other than RR, RL, R, H and A), lists the setback requirement for side lot boundaries is 1.5m for residential buildings and ancillary structures.

Under sub-clause 8 of 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), Unless detailed in a table to this clause or within a building setback plan in Schedule 9, no part of the roof structure, including gutters and eaves, is to encroach more than 0.9m into the minimum building setbacks (subject to the Building Code of Australia) from the lot boundaries. As the minimum building side setback requirement is 1.5m, the minimum setback from the lot boundary to the eave would be 0.6m (calculated as 1.5m-0.9m = 0.6m).

Schedule 2 definitions provided the following definition for building setback means the distance from any lot boundary to a building or structure and shall be measured from all boundaries to:

- the wall of a building or structure;
- the outer surface of the railings of a balcony or verandah;
- the outer surface of any support column of a ground level verandah; and
- the outer surface of any support column for structures without external walls except that the setback of a shade sail is measured to the outer extremity of the fabric.

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The setback non-compliances for the application relate to the primary street frontage for the gatehouse and feature breezeblock screening, and western side boundary of the dwelling-independent, games room and BBQ area. The eastern side boundary that the public submission refers to includes a 1.66m side setback and is greater than the minimum setback requirement of 1.5m, the proposed eave is shown as having a setback of 0.76m and is also greater than the minimum requirements of 0.6m for the eastern side boundary adjoining 19 Mary Street.

4. Pursuant to section 51(1)(j) of the Planning Act 1999, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The land is capable of supporting the proposed development. A dwelling-single and dwelling-independent are an expected form of development within Zone LR. The land is not impacted by any flood overlays. Service authorities did not identify any issues of concern in relation to land capability that would not ordinarily be addressed via standard conditions on a permit. Additionally, the Department of Environment, Parks and Water Security did not identify or raise any issues of concern in relation to land capability.

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.

There is unlikely to be an adverse impact on the existing and future amenity of the area as a result of the proposed development. The proposed development complies with the purpose and outcomes of the zone. It is compatible with the existing character of the locality in Stuart Park. Where the development does not comply with the relevant clauses of the NTPS 2020, the impact on existing and future amenity has been considered and a variation granted on the basis that amenity will not be unduly impacted.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

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

**ITEM 3** The application was withdrawn from this meeting

**ITEM 4**  
**PA2023/0279** **SUBDIVISION TO CREATE TWO LOTS**

**APPLICANT** **LOT 3064 (78) ROSS SMITH AVENUE, FANNIE BAY, TOWN OF DARWIN**  
Paul Toohey

Applicant: Paul Toohey attended.

Submitter: Helena Jackson attended.

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**RESOLVED  
07/24**

That, pursuant to section 53(a) of the *Planning Act 1999*, the Development Consent Authority consent to the application to develop Lot 3064 (78) Ross Smith Ave, Fannie Bay, Town of Darwin for the purpose of subdivision to create two lots, subject to the following conditions:

### CONDITIONS PRECEDENT

1. 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 City of Darwin, to the satisfaction of the consent authority.

### GENERAL CONDITIONS

2. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity to each 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.

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.
5. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
6. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Darwin, to the satisfaction of the consent authority.
7. The owner shall:
  - (a) remove disused vehicle and/ or pedestrian crossovers;
  - (b) provide footpaths/ cycleways;
  - (c) collect stormwater and discharge it to the drainage network; and
  - (d) undertake reinstatement works;

all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.

8. 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.

**NOTES**

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section([powerdevelopment@powerwater.com.au](mailto:powerdevelopment@powerwater.com.au)) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
3. 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 works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
4. 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](mailto: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.
5. The development must comply with the technical standards of the Northern Territory Subdivision Development Guidelines for the construction of public infrastructure as part of subdivision works to the requirements of the relevant local and service authorities. Prior to any works commencing, it is encouraged that you engage early with the relevant authorities to confirm their requirements, and any variations that may be sought to the Subdivision Development Guidelines, to ensure the works are completed to the relevant authorities' requirements. The Northern Territory Subdivision Development Guidelines can be found at: <https://www.ntlis.nt.gov.au/sdg-online/>
6. A "Permit to Work Within a Road Reserve" may be required from the City of Darwin before commencement of any work within the road reserve.
7. 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](mailto:info@ntbuild.com.au)) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

## **REASONS FOR THE DECISION**

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and subdivision to create two lots requires consent under Clause 1.8 (When development consent is required). It is identified as Impact Assessable under Clause 1.8(c)(ii), therefore the strategic framework (Part 2) of the Scheme, including the Darwin Inner Suburbs Area Plan 2016, Overlays (Part 3), zone purpose and outcomes (Part 4) of clauses 4.3 (Zone LMR – Low-Medium Density Residential), and subdivision and consolidation requirements (Part 6) clauses 6.2.1 (Lot Size and Configuration for Subdivision in Zones LR, LMR, MR and HR), 6.2.2 (Lots Less Than 600m<sup>2</sup> for Dwellings-Single), 6.2.3 (Site Characteristics for Subdivision in Zones LR, LMR, MR and HR), 6.2.4 (Infrastructure and Community Facilities for Subdivision in Zones LR, LMR, MR and HR), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme.

### Part 2 – Strategic Framework

The Darwin Inner Suburbs Area Plan 2016 (DISAP) provides a framework to guide progressive growth and development within the Inner Suburbs of Darwin. The Area Plan provides the opportunity to accommodate the new dwellings forecast for the Inner Suburbs of Darwin in the Darwin Regional Land Use Plan (2015) of 800 dwellings in the short term and 4 490 in the far term.

A goal of the DISAP is to protect and recognise the aesthetics and associated lifestyle of established residential areas while facilitating new housing opportunities that reflect the diverse needs of Darwin's regional population. The site is identified for small lot/multiple dwelling residential. Key objectives include:

- Development of multiple dwellings on one site and single dwellings on small lots.
- Provide a buffer between suburban residential areas and adjoining density localities
- A built form and landscape response that respects the qualities of the adjoining suburban residential area.

The proposal is consistent with the DISAP as the subdivision will facilitate single dwelling's on small lots providing a buffer between suburban residential areas. The subdivision will facilitate a built form and landscape that conforms to the surrounding residential area.

### Part 3 – Overlays and Part 4 – Zones

There are no relevant overlays applicable to this site. The purpose of Zone LMR (Low-Medium Density Residential) is to provide a range of low rise

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housing options that contribute to the streetscape and residential amenity in locations supported by community services and facilities.

The subdivision proposal is consistent with the purpose of Zone LMR as the subdivision predominantly provides for low rise urban residential development comprising individual houses and uses compatible with residential amenity.

The subdivision is consistent with the outcomes allowing for a blend of dwellings types on a range of lot sizes allowing for a building design, site layout and landscaping to be sympathetic to adjoining public spaces and between neighbours. And, provides an efficient pattern of land use, integrated with existing transport networks and with reasonable access to open space and community facilities.

### Part 6 – Subdivision Requirements

Both proposed lots are greater than the minimum lot size requirements in Zone LMR (Low-Medium Density Residential) of 300m<sup>2</sup>. The lot sizes and configuration allow for a building envelope of a size capable of ensuring future dwellings can be sited adequately on the land. The proposed lots are able to be connected to reticulated services, with lots having a boundary length to a public road greater than the minimum 13m requirement to provide adequate access. The site does not have any land constraints from excessive slopes, soils, waterlogging or drainage, and is unaffected by storm surge and flooding. As the site is located in an established area, there are existing pedestrian networks, nearby schools, commercial shops and access to public open spaces and public transport services.

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

One public submission was received during the exhibition period. The submission raised concerns with the subdivision due to densification and its potential to adversely impact on traffic, site access, pedestrian movement, noise, vehicle parking, building design capability on the lots, impacts on residential amenity, flooding, character of the area, lack of public open space and community services/facilities.

At the hearing the submitter spoke to their written submission and concerns regarding the traffic created on Dick Ward and Ross Smith Avenue, stormwater drainage and preference for the two applications/processes (i.e. subdivision and rezoning) to be exhibited together.

The Authority has taken all comments into account and carefully considered the submitter's concerns to the matters raised.

Matters raised within the submission were considered and the consent authority determined that densification, intended future development, and impacts on public infrastructure of the area were addressed through the

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implementation of the Darwin Inner Suburbs Area Plan 2016 and subsequent approval of rezoning the site to Zone LMR.

The site is not within an area subject to flooding, there is no registered stormwater easement on the site and there were no issues of concern raised by the City of Darwin or relevant service authorities in relation to infrastructure.

Given the site area of 1050m<sup>2</sup> and density parameters allow for a maximum dwelling density in Zone LMR of 1 dwelling per 300m<sup>2</sup>, the site could have facilitated a development of up to three dwellings. However, the proposal of subdividing into two lots less than 600m<sup>2</sup> only allows for one extra dwelling to be built.

Any future development on the site does not form part of this proposal. A dwelling-single is a permitted use in Zone LMR and is anticipated within the area. Should future owners wish to vary the requirements of the NT Planning Scheme 2020, such as boundary setbacks, private open space or vehicle parking, a development application is required to be lodged and an assessment of the impacts on amenity is undertaken.

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 assessment has found that the configuration of proposed lots is suitable to accommodate a compliant future dwelling-single on the proposed lots, the potential impact on the existing and future amenity of the area will be consistent with Zone LMR in which the site is located. Other impacts such as traffic, noise and pedestrian movements, as a result of the addition of 1 residential lot are considered to be negligible on the locality.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

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

**ITEM 5  
PA2023/0396**

**PART CHANGE OF USE FROM HOTEL/MOTEL (14 X 2 BEDROOM SUITES)  
TO DWELLING-MULTIPLE (14 X 1 BEDROOM SERVICED APARTMENTS)  
LOT 1382 (13) SHEPHERD STREET, DARWIN CITY, TOWN OF DARWIN**

**APPLICANT**

Atelier Mark Bell Pty Ltd

Applicant Mark Bell (Atelier Mark Bell Pty Ltd) attended.

**RESOLVED  
08/24**

That, pursuant to section 53(c) of the *Planning Act 1999*, the Development Consent Authority refuse to consent to the application to develop Lot 1382 (13) Shepherd St, Darwin City, Town of Darwin for the purpose of a part change of use from hotel/motel (14 x 2 bedroom suites) to dwelling-multiple (14 x 1 bedroom serviced apartments), for the following reasons:



**REASONS FOR THE DECISION**

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The application proposed to convert the 14 2-bed suites into 1-bed suites and convert the existing 'mini-bar' into a small 'kitchenette' allowing guests the option to prepare their own meals within each suite, and accommodate stays for longer than 2 weeks.

The application was lodged as a "part change of use from hotel/motel (14 x 2 bedroom suites) to dwelling-multiple (14 x 1 bedroom serviced apartments)." The Authority notes the assessment report prepared by Development Assessment Services (DAS) including the assessment of the proposal against the requirements for dwelling-multiple (serviced apartments). The consent authority does not consider the proposed internal conversions, or allowance of stays exceeding 2 weeks to constitute a change in the use of the land and instead takes the view that the use continues to satisfy the definition as a hotel/motel.

Despite this, consideration was given to the proposal as multiple-dwelling (serviced apartments) including the required variation to Clause 5.4.6.2 (Private Open Space). The Authority was of the view that insufficient private open space was provided for each of the proposed dwelling-multiple (serviced apartments) with each dwelling providing only 2.8m<sup>2</sup> of the required 12m<sup>2</sup> of private open space. Additionally, none of the proposed dwellings satisfied the minimum dimensional requirements of the clause, with private open space areas achieving a dimension of 1.4m, where a minimum of 2.8m is required. On this basis, the proposal is considered inconsistent with the purpose of Clause 5.4.6.2 (Private Open Space for Dwelling-multiple) as the private open space included is, in the Authority's opinion, incapable of adequately enhancing the function of a dwelling, of an inadequate size to provide for outdoor living; and inappropriately sited to provide outlook for the dwelling.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

**ACTION:** Notice of Refusal

**ITEM 6  
PA2023/0385**

**HOTEL/MOTEL (120 GUEST SUITES) IN A NINE STOREY BUILDING WITH  
THREE LEVELS OF BASEMENT CARPARKING  
LOT 2442 (2) PEARY STREET, DARWIN CITY, TOWN OF DARWIN**

**APPLICANT**

Atelier Mark Bell Pty Ltd

Applicant Mark Bell (Atelier Mark Bell Pty Ltd) attended.

**RESOLVED  
09/24**

That, the Development Consent Authority reduce the car parking requirements pursuant to Clause 5.9.2.12 (Reduction in car parking spaces in Darwin City Centre) and vary the requirements of Clauses 5.2.4.4 (Layout of car parking

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areas), 5.5.16 (Active Street Frontage) and 5.9.2.2 (Volumetric Control) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 2442 (2) Peary St, Darwin City, Town of Darwin for the purpose of hotel/motel (120 guest suites) in a nine storey building, with three levels of basement car parking, subject to the following conditions:

### CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works, approval is required for the awnings to the Peary Street frontage to the requirements of the City of Darwin and Power and Water Corporation, to the satisfaction of the consent authority.
2. Prior to the endorsement of plans and prior to the commencement of works, approval is required for the secondary "Floating Parapet" sunshade structure which protrudes over the front boundary into the Peary Street road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.
3. Prior to the commencement of works, in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, to the satisfaction of the consent authority.
4. Prior to the commencement of works, 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.
5. Prior to the commencement of works, a traffic impact assessment report is to be prepared by a suitably qualified traffic engineer in accordance with the Austroads Document Guide to Traffic Management Part 12: Traffic Impacts of Developments, to the requirements of the City of Darwin, to the satisfaction of the consent authority.
6. Prior to the commencement of works, 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.
7. Prior to the commencement of works, 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.
8. Prior to the commencement of works, the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the

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requirements of the City of Darwin, to the satisfaction of the consent authority.

### GENERAL CONDITIONS

9. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
10. 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/each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

Please refer to notations 1, 2 and 3 for further information.

11. 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.
12. If Council approval is obtained in association with Conditions 2 and 3 and other encroachments into the City of Darwin Road Reserve, the land owner will be required to enter into appropriate agreements with the City of Darwin and the design specifications are to be to the satisfaction of City of Darwin.
13. 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.
14. 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.
15. 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.
16. The owner shall:
  - (a) remove disused vehicle and/ or pedestrian crossovers;
  - (b) provide footpaths/cycleways;
  - (c) collect stormwater and discharge it to the drainage network; and
  - (d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.

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17. 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 to the requirements of the City of Darwin, to the satisfaction of the consent authority.
18. All works recommended by the traffic impact assessment are to be completed to the requirements of the City of Darwin, to the satisfaction of the consent authority.
19. 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.
20. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
21. Before the use commences the owner must, in accordance with Part 6 of the *Planning Act 1999*, pay a monetary contribution to the City of Darwin for the upgrade of local infrastructure, in accordance with its Development Contribution Plan for Stormwater Drainage Works – Contributions Area Zone D.
22. 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 and from view of neighbouring or nearby developments (or developments reasonably anticipated), 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. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.
23. All roof top plant equipment, equipment relating to the operation of the lift and any other equipment (such as any vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).
24. 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.
25. All substation, fire booster and water meter arrangements are to be appropriately screened to soften the visual impact of such infrastructure on the streetscape, to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority in consultation with the Power and Water Corporation, and NT Fire and Emergency Services.
26. The loading and unloading of goods from vehicles must only be carried out on the land and within the designated loading bays, to the satisfaction of the consent authority.

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27. 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.
28. 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.
29. Written confirmation from a qualified traffic engineer that the parking layout associated with the development complies with the relevant Australian Standards for car parking must be provided in instances where the car parking does not comply with the minimum requirements of Clause 5.2.4.4 (Layout of car parking areas) of the Northern Territory Planning Scheme 2020, to the satisfaction of the consent authority.

### NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section ([waterdevelopment@powerwater.com.au](mailto:waterdevelopment@powerwater.com.au)) and Power Network Engineering Section ([powerdevelopment@powerwater.com.au](mailto: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. All developers, including owner-builders, are required to comply with Commonwealth telecommunications requirements. Under Commonwealth law, developers are generally required to provide fibre-ready pit and pipe in their developments at their expense. Developers may be able to access an exemption from these arrangements in some circumstances. For more information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind)
3. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>
4. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
5. 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 works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
6. Designs and specifications for the awning and shade structure within the City of Darwin road reserve shall be submitted for approval and receive appropriate licenses, agreements from City of Darwin. All approved works

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

7. Notwithstanding the approved plans, any proposed signage for the site shall be subject to a separate assessment in accordance with City of Darwin's Policy 6310.100.E.R – Outdoor Advertising Signs Code.
8. The developer must contact Power and Water regarding temporary installation of cranes in the road reserve prior to building construction. The developer must propose structural protection of existing PWC assets affected by cranes and crane foundations, then obtain approval from PWC (and other service providers) prior to tower installation of the cranes.
9. The Department of Defence advises that the subject site is located in an area mapped by Defence as "Birdstrike Group B". In this area certain land uses that have the potential to attract wildlife should be avoided through the management of organic waste (such as maximum storage onsite and the use of covered/enclosed bins), as they will potentially increase the risk for bird strike for aircraft operation from RAAF Base Darwin.
10. The development and use hereby permitted must be in accordance with Northern Territory legislation including (but not limited to) the *Building Act 1993*, the *Public and Environmental Health Act 2011* and the *Food Act 2004*.
11. A Compliance Certificate under the *Swimming Pool Safety Act 2004* issued by the Swimming Pool Safety Authority is required for the swimming pool/s prior to the commencement of the use/development.
12. 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.
13. 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.

### REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and hotel/motel requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(i), therefore zone purpose and outcomes of Clause 4.10 (Zone CB – Central Business) and Clauses 5.2.4.4 (Layout of car parking areas), 5.2.5 (Loading Bays), 5.2.6.2 (Landscaping in Zone CB), 5.3.7 (End of Trip Facilities in Zones HR, CB, C, SC and TC), 5.9.2 (Darwin City Centre), 5.5.15 (Design in Commercial and Mixed



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Use Areas) and 5.5.17 (Building Frontage in Commercial and Mixed Use Areas), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.2.4.4 (Layout of car parking areas), 5.5.16 (Active Street Frontage), 5.9.2.2 (Volumetric Control) and 5.9.2.11 (Car parking spaces in Darwin City Centre).

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
  - (a) The purpose and administration clauses of the requirement; and
  - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

(a) 5.2.4.4 (Layout of car parking areas)

The purpose of Clause 5.2.4.4 (Layout of car parking areas) is to *ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose.*

Sub-clause 8(d) of Clause 5.2.4.4 requires *the layout of a car parking area is to ensure parking spaces at the end of and perpendicular to a driveway are 3.5m wide or so that the driveway projects 1m beyond the last parking space.*

The proposal has been found not to be in accordance with Clause 5.2.4.4, as the driveway does not project 1m beyond the last car parking space.

Administratively, under sub-clause 4 of Clause 5.2.4.4, *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.*

The Authority notes the information provided by the applicant at the hearing regarding interpretation of Clause 5.2.4.4, specifically where driveways must extend 1m beyond the end of a driveway. The Authority understands that this requirements is to allow for cars to have adequate space to exit and manoeuvre and, in this instance, the length of the driveway parallel to the last car parking space provides additional space for vehicles to enter and exit the car parking area. For certainty, the Authority considers that further written advice from a suitably qualified person confirming that the parking layout complies with the Australian Standards for off-street parking is necessary, to ensure that the car parking area is appropriately designed and constructed for its intended purpose as required by the clause.

The traffic impact assessment prepared by i3 consultants WA states, *on-site car parking has been designed in accordance with the relevant clauses of AS/NZS 2890.1 and 2890.2.* A variation is considered appropriate as the proposal is unlikely to result in adverse impacts on the local road network, internal functionality of the car parking area or unreasonably impact on the



amenity of the surrounding locality as the car parking layout will comply with the relevant Australian Standard.

5.5.16 (Active Street Frontage)

The purpose of Clause 5.5.16 (Active Street Frontage) is to *provide a site-responsive interface between commercial buildings and the public domain that: (a) is attractive, safe and functional for pedestrians; (b) encourages activity within the streetscape; and (c) encourages passive surveillance of the public domain.*

Sub-clauses 5(a) and 6 of Clause 5.5.16 requires (5a) *Services on street level frontages are to be limited to a single vehicle entry and exit point to and from the building (except on larger sites where additional access points are supported by a Traffic Study for the site and (6) Buildings are to provide a minimum of 60% of the length of each site boundary that fronts a primary or secondary street, or public open space, as active street frontage, made up of any combination of the following components, where the distance between individual components is no more than 1.5m: (a) windows that maintain clear views to and from the street, with openings that have dimensions not less than 0.9m wide and 1.2m high; (b) operational and legible entrances (excluding fire egress) that are directly accessible from the public domain; (c) areas within the site that are used for alfresco dining that provide visual interaction with the street/public open space; or (d) well-designed spaces that allow for pedestrian movement and/or seating.*

The proposal has been found not to be in accordance with Clause 5.5.16, as the porte-cochere provides two access points where sub-clause 5(a) limits street level frontages to a single vehicle entry and exit point. As the building is setback to allow for the porte-cochere design along the front of the site, this results in less than 60% active frontage along the street frontage.

Administratively, under sub-clauses 2 of Clause 5.5.16 *the consent authority may consent to a development that is not in accordance with sub-clauses 5, 6 and 7 if: (a) an alternative solution effectively meets the purpose of this clause; (b) the site design reflects the established character of the area; or (c) it is satisfied that compliance would be impractical considering servicing requirements and any advice provided under sub-clause 4.*

At the hearing, the Authority queried whether the porte cochère design will allow for a minibus to enter and exit the site. The applicant advised a minibus or smaller bus can enter and exit the site through the porte cochère but not a coach bus. The applicant also clarified the design for waste management has been done to ensure correct size of waste truck can be accommodated on site, rather than on street rubbish collection.

A variation is considered appropriate in this instance as the:

- The design of the porte cochère is not likely to result in any implications of the established character of the area. Currently along Peary Street most residential buildings are also setback from the street.
- The porte cochère includes a continuous pedestrian path connecting each side of the building at the street frontage and allows for pedestrian movement to and from the site.

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- The design of the landscaping at the front allows for passive surveillance of the street.
- The entrance to the building is shown as clear glass (on the perspectives) and outdoor seating area provide some activation to the entrance of the building as well as passive surveillance.
- The porte cochère design is practical for a hotel/motel use and will facilitate loading and unloading of guests.

### 5.9.2.2 (Volumetric Control)

The purpose of Clause 5.9.2.2 (Volumetric Control) is to *ensure the siting and mass of buildings within the Darwin city centre promotes urban form that is of a scale appropriate to the locality, and provides adequate separation to allow: (a) potential for view corridors to Darwin Harbour; (b) breeze circulation between buildings; (c) penetration of daylight into habitable rooms; and (d) reasonable privacy for residents.*

Sub-clauses 5(b) and 6(c)(i) of Clause 5.9.2.2 requires 5(b) the podium of a development is to provide a minimum setback of 6m from any site boundary, for any verandah, balcony or room designed for accommodation with a window other than to a street or public open space and 6(c)(i) provide minimum setbacks of 6m from any site boundary.

The podium is measured from the ground floor to level 8. The tower level applies to level 9 and above.

The following setbacks are proposed, where the NTPS 2020 requires 6m:

- Level 2 to 8 rear balconies (south-eastern boundary) – 0m and 2.415m
- Level 2 to 8 side balconies (north-eastern and south-western boundaries) – 0m, 2.215m, 2.225m, 2.240m, 5.815m, 5.830m, 5.905m and 5.920m
- Level 9 side, primary and rear boundaries (north-eastern and south-western boundaries) – 0m (roof structure of level 8), 5.815m (measured to wall), 5.830m (measured to wall) and less than 6m from floating parapet shade structure and top of building roof

The relevant administration is provided in sub-clause 3 of Clause 5.9.2.2, *the consent authority may consent to a development, excluding development located within the Smith Street Character Area, that is not in accordance with sub-clauses 5 and 6 if it is satisfied the development: (a) is appropriate to the location considering the scale of the development and surrounding built form; and (b) will not unreasonably restrict the future development of adjoining sites.*

It can be reasonably anticipated that other CBD lots can be developed according to the volumetric controls. The front and side balconies are oriented with openings facing Peary Street and the rear of the site. For the balconies closest to the rear of the site the opening is to the side boundaries, where the balcony setbacks don't comply there is a solid wall along the non-compliant setback side which reduces potential for overlooking to the adjacent sites.

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The setback non-compliance for the level 9 side walls to the north-eastern and south-western boundaries is minor as the proposal is setback 5.815m and 5.830m, where 6m is required. The eaves, floating parapet shade structure, roof of level 8 and top of building roof also intrude on the 6m setback requirement, and are not anticipated to result in impacts on adjoining built form or future development as the setback intrusion is minor and the proposed structures provide building articulation.

### 5.9.2.11 (Car parking spaces in Darwin City Centre)

The purpose of Clause 5.9.2.11 (Car parking spaces in Darwin City Centre) is to ensure that sufficient off-street car parking spaces, constructed to a standard and conveniently located, are provided to service the proposed use of a site.

The minimum number of car parking spaces (listed in Table to Clause 5.9.2.11) for a hotel/motel is 0.4 for every guest suite or bedroom plus 2 for every 100m<sup>2</sup> of net floor area of all other areas.

The proposal is for 120 rooms and includes an *all other areas* NFA of 454.9m<sup>2</sup>, therefore the proposal requires 58 car parking spaces. (Calculated as  $120 \times 0.4 + 454.9/100 \times 2 = 57.1$ ). The proposal provides 55 car parking spaces and has a car parking shortfall of 3 spaces. The proposal seeks a car parking reduction for the 3 space shortfall generated. Please refer to assessment of the car parking reduction below.

### 5.9.2.12 (Reduction in car parking spaces in Darwin City Centre)

The purpose of Clause 5.9.2.12 (Reduction in car parking spaces in Darwin City Centre) is to provide for a use or development with fewer car parking spaces than required by clause 5.9.2.11 (Car parking spaces in Darwin City Centre).

The relevant Administration is provided in sub-clause 2 and 3 of Clause 5.9.2.12, (2) *the consent authority may also consent to a use or development with fewer car parking spaces than required by Clause 5.9.2.11 (Car parking spaces in Darwin City Centre), in accordance with the table to this clause* and (3) *In using the table to this clause to calculate a reduction, only one reduction percentage is permitted per category.*

The application would meet the following reduction categories listed in Table to Clause 5.9.2.12: *Reduction in car parking spaces in Darwin City Centre*:

- Category 1(b) - The site is within 400m walking distance of bus stop ID: 177, which services 9 bus routes. (10% reduction) or Category 1(c) - There is a cycle path along Smith Street, which is less than 20mm from the site. (5% reduction).
- Category 4(a) - All car parking spaces are provided underground. (20% reduction)

The proposal requires 58 car parking spaces. If a 30% reduction were applied based on the reduction categories 1(b) and 4(a) this would result in a reduction of 18 car parking spaces ( $58 \times 0.3 = 17.4$ ). 55 car parking spaces are provided on site, therefore if a 30% reduction of 18 spaces were applied the development would have a surplus of 15 car parking spaces.

Future change of use

On page 21 of the Statement of Effect the application submits, *the proposal seeks a reduction in on-site car parking primarily as a future credit on the Development Permit. The intention is to build all the allocated car parking spaces as shown on the accompanying drawings. However, should the cost of construction increase to a point where the project becomes unviable and a reduced number of basement levels can be applied through an approved parking reduction, then the reduction will be applied in whole or part to lower development costs allowing the project to proceed. Where the cost of development meets the current budget / finance approval, then the future credit will provide flexibility to the Hotel, through a future development application, allowing the potential for some possible change of use in line with future changes in market demand within the tourism sector. An example of this could be strong ongoing demand for longer-stay visits and/or high use of the dining area within a small time slot each day resulting in not enough spaces available during these peak times. The solution could be to convert some rooms to include kitchenettes and operate them as a longer-stay room where guests can prepare their own snacks and meals in lieu of using the dining area at L1(GL). This change of use would require additional on-site parking which could be met through the credit received from the parking reduction.*

The current proposal is for a hotel/motel (120 guest suites) in a nine storey building, with three levels of basement car parking. The application has been assessed based on the plans and information submitted for a hotel/motel use, not serviced apartments. If it is the intention of the application to be for serviced apartments it is noted that the proposal is likely to result in design changes to address non-compliances such as car parking, private open space, etc. As such, a future credit cannot be considered.

- (b) The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clauses 5.2.4.4 (Layout of car parking areas), 5.5.16 (Active Street Frontage), 5.9.2.2 (Volumetric Control) and 5.9.2.11 (Car parking spaces in Darwin City Centre), as identified above.
3. 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 overall scale of the development is consistent with that anticipated in the Darwin CBD with respect to the land's capability and the effect on surrounding properties. Comments from the City of Darwin, Power and Water Corporation, Department of Defence and Darwin International Airport have been sought in relation to the capability of the land, including the proposed access arrangements, easements, and building heights. The requirements of service authorities are addressed through conditions and notes on the permit.

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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 impact on amenity should be considered in the context of the site and its surroundings. The development is consistent with the broader intent of Zone CB (Central Business) and applicable clauses, including the overall height and scale of the building. The building presents the Peary Street frontage with increased pedestrian amenity and activation.

**FOR: 5**

**AGAINST: 0**

**ABSTAIN: 0**

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

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

**SUZANNE PHILIP**  
Chair

12 February 2024