



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING NO. 411 – FRIDAY 6 OCTOBER 2023 AT 10:15 AM

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

MEMBERS PRESENT: Suzanne Philip (Chair), Peter Pangquee, and Mark Blackburn

APOLOGIES: Marion Guppy and Mick Palmer

LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Monica Pham and Lingyi Kong (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apology

Meeting opened at 10.15 am and closed at 11:42 am

ITEM 1 **DWELLING-MULTIPLE (6 X 3 BEDROOM AND 6 X 2 BEDROOM) IN A 4 STOREY BUILDING INCLUDING GROUND LEVEL CAR PARKING**
PA2023/0275 **LOT 2023 (5) KING STREET, STUART PARK, TOWN OF DARWIN**

APPLICANT One Planning Consult.

Mr Israel Tshepo Kgosiemang (One Planning Consult) and Savvas Paul Savvas (SPS Savvas Architecture) attended.

Submitters: Peter Waggit (via videolink) and Mike Frank attended.

Mr Kgosiemang tabled plans - site and ground floor plan, southeast elevation - King Street elevation and roof plan.

RESOLVED
39/23

That, the Development Consent Authority vary the requirements of Clause 5.2.4.4 (Layout of Car Parking Areas), Clause 5.2.6.1 (Landscaping in Zones other than Zone CB) and Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 2023 (5) King Street, Stuart Park, Town of Darwin for the purpose of Dwelling-multiple (6 x 3 bedroom and 6 x 2 bedroom) with a reduced setback to the primary street frontage, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) Location of visitor parking on-site.
2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a traffic impact assessment report is to be prepared by a suitably qualified traffic engineer with attention to vehicular, pedestrian, active transport and public transport issues and opportunities. The Traffic Impact Assessment report is to also include swept paths for waste collection vehicles entering and exiting the site. The report should identify any necessary upgrades to the surrounding street network as a result of the implications of the development. The developer will be required to institute all required upgrade measures resulting from the traffic assessment at no cost to City of Darwin, to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principle approval is required for the crossover and

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

4. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin 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. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.
5. 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.
6. Prior to the commencement of works (including site preparation), a waste management plan addressing the City of Darwin's Waste Management Guidelines must be prepared, to the requirements of the City of Darwin, to the satisfaction of the consent authority.
7. 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

8. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
9. 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.
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 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. 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.
13. 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.
14. Before the occupation of the development starts, the area set-aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather-seal coat;
 - (d) drained;
 - (e) line marked to indicate each car space and all access lanes; and
 - (f) clearly marked to show the direction of traffic along access lanes and drivewaysto the satisfaction of the consent authority.
Car parking spaces, access lanes and driveways must be kept available for these purposes at all times.
15. 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.
16. 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.
17. Storage for waste disposal bins is to be provided to the requirements of City of Darwin to the satisfaction of the consent authority.
18. 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.
19. 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.

20. 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.
21. Before the 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.
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.
23. 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.
24. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building.
25. Prior to the issuing of a certificate of compliance, confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitable qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both landdevelopmentnorth@powerwater.com.au and powerconnections@powerwater.com.au
26. 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.
27. All balconies are to be internally drained and discharge is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.

Notes

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works

commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.

2. 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
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. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the *Northern Territory Building Act 1993* before commencing any demolition or construction works. Due to provisions in the National Construction Code (NCC), the subject lots may need to be consolidated before a building permit can be issued.
6. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5346 (surveylandrecords@nt.gov.au).
7. Appropriate erosion and sediment control measures must be effectively implemented throughout the construction phase of the development (including clearing and early works) and all disturbed soil surfaces must be satisfactorily stabilised against erosion at completion of works.
Information resources to assist with preparing an Erosion and Sediment Control Plan (ESCP) are available on the International Erosion Control Association website www.austieca.com.au and on the Northern Territory Government website <https://nt.gov.au/environment/soil-land-vegetation>.
8. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 89364070 to determine if the proposed works are subject to the Act.

9. City of Darwin advised building rubbish or debris must not be placed, or be permitted to be placed, on any adjoining public land, footpath or road, without first obtaining approval from City of Darwin.

REASONS FOR THE RECOMMENDATION

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 dwelling-multiple requires consent under Clause 1.8 (When development consent is required). It is identified as *Merit Assessable* under Clause 4.4 (Medium Density Residential); therefore, Clauses 5.2.1 (General Height Control), 5.2.4 (Car Parking), 5.2.6 (Landscaping), 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 5.4.6 (Private Open Space), 5.4.7 (Communal Open Space), 5.4.8 (Residential Building Design), 5.4.17 (Building Articulation), 5.4.18 (Fencing) and 5.4.19 (Residential Plot Ratio), 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), Clause 5.2.6.1 (Landscaping in Zones other than Zone CB) and Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

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).

Regarding 1.10.5(a), the proposal has been found not to be in accordance with Clauses 5.2.4.4 (Layout of Car Parking Areas), 5.2.6.1 (Landscaping in Zones other than Zone CB) and 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

Clause 5.2.4.4 (Layout of Car Parking Areas)

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

Subclause 6(b) requires the provision of landscaping to the setback area to a minimum depth of 3m immediately adjacent to any lot boundary abutting a road, using species designed to lessen the visual impact of the car parking area when viewed from the road.

The Authority notes the assessment of Development Assessment Services identified that a minimum depth of 3m of landscaping has not been provided adjoining car space 1 and King Street.

Administratively, the consent authority may consent to a car parking area that is not in accordance with sub-clause 6 if it is satisfied that the non-compliance will not unreasonably impact on the amenity of the surrounding locality.

The Authority determined that a variation to this clause is appropriate in this instance because the boundary of the site adjoining car space 1 and King Street incorporates fencing and a bin enclosure, with some landscaping, which will lessen the visual impact of the car parking area when viewed from the street. The Authority notes that the proposed variation is unlikely to have an amenity impact on the locality based on other structures proposed to adjoin the streetscape, including a sliding gate for vehicle access.

Clause 5.2.6.1 (Landscaping in Zones other than Zone CB)

The purpose of the clause is to “Ensure appropriate landscaping that is attractive, water efficient and contributes to a safe environment, is provided to development to enhance the streetscape and overall amenity of the locality”.

Subclause 7 requires: In Zones MR and HR, side and rear setbacks are to include planting to the length of the setback of no less than 2m deep, except for areas that are used for private open space.

A variation has been sought as a minimum of 2m of landscaping has not been provided to the side and rear boundaries.

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

The Authority notes that a Colorbond/ rendered wall fence is proposed to side and rear boundaries with a height of 2.2m, mitigating any potential impact to adjoining properties. The Authority further notes that only sections of the eastern and northern boundaries require a variation. The landscape plan proposes *Polyalthia Longifolia Pendula* (Indian Mast Trees) along all side and rear boundaries that will enhance the overall amenity of the locality. As such, the Authority considers that the landscape design adequately balances the potential impacts of the variation.

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

The purpose of the clause “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”.

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 application proposes a minimum setback of 0.75m for a gatehouse structure to the dwelling-multiple. The Authority notes that the gatehouse acts as an extended feature of the front fence and adds to the streetscape by providing a varied and aesthetic feature to the front fence line. The design of the gatehouse incorporates a recessed entry along the southern boundary, which will minimise the building massing along King Street. Furthermore, the structure is non-habitable and will not result in overlooking adjoining properties. The Authority; therefore, considers it appropriate to vary the requirement of the clause for this structure.

Clause 5.4.18.1 (Fencing in Zones MR and HR)

The purpose of the clause is to “Promote fencing in medium and high density areas that provides a positive interface with the public domain, while allowing necessary privacy for residents and neighboring properties”. Subclause 4(b) requires - all fences adjacent to road boundaries or boundaries adjoining public open space are to be constructed so that the area of materials that is not visually permeable does not exceed an area equivalent to the length of the site boundary (excluding driveways) multiplied by 1.2m. Further subclause 5 requires - fencing within 1.5m of driveways, pedestrian entries, and street corners is to be visually permeable above 0.6m (unless there is truncation provided within these areas to the same distance), and subclause 6 requires where the development abuts land in Zones LR or LMR, development is to provide a solid screen fence to a minimum height of 1.8m to that boundary.

The DAS assessment identifies that the front fencing provides some visual permeability adjoining the communal open space closer to the eastern boundary; however, it is unclear closer to the western boundary. A condition to provide amended plans was recommended in the DAS report to demonstrate compliance with sub-clauses 4(b) and 5 of Clause 5.4.18.1. The Authority notes that a minimum fence height of 2.2m has been proposed for the side and rear boundaries, which complies with sub-clause 6.

Mr Kgosiemang (applicant) tabled an elevation of the fencing proposed, which includes a notation that states, “1.8m high aluminium vertical slats 100x25 powdercoat timber look”. The Authority notes that this notation meets the requirements of DAS’ recommendation and is satisfied with the amended south east elevation – King Street elevation provided.

Clause 5.4.7 (Communal Open Space)

It was noted in the DAS report that sub-clause 6(c) of Clause 5.4.7 (Communal Open Space) requires communal open space to “provide recreational facilities for occupants; address the projected needs of children”. Tables and chairs have been provided, however the development plans do not show any other recreational facilities, including barbecue area or swimming pool and facilities for children.

Mr Kgosiemang tabled a site plan and ground floor plan at the hearing, which shows seating and barbecue facilities within the communal open space areas at the southeast corner of the site. The Authority queried the applicant whether barbecue facilities will be provided to the communal space area to the northeast

in addition to the seating shown on the plans. Mr Kgosiemang advised that this communal space will only have seating as this site area is adjacent to residences. The Authority is satisfied that the amended plans provided demonstrate sufficient detail regarding the communal open space provided on-site.

Regarding 1.10.5(b), because this is a Merit Assessable application, the relevant considerations are those listed under Clause 1.10(3) which provides that the consent authority must take into account all of the following:

- (a) the 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; and
- (c) the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6.

The relevant requirements of Part 5 have been considered above. There are no relevant overlays. The consent authority notes that the subject land is zoned MR (Medium Density Residential), the purpose of which is to *“Provide for a range of mid-rise housing options close to community facilities, commercial uses, public transport or open space, where reticulated services can support medium density residential development”*. The relevant zone outcomes include -

- *“Predominantly medium density residential developments generally not exceeding four storeys”* and
- *“Building design, site layout and landscaping provide a sympathetic interface to the adjoining public spaces and to adjoining lots, and provides privacy and attractive outdoor spaces”*.

The Authority also notes that the terms of Clause 1.10.5(b) limit the relevance of those considerations to any variations to the Part 5 requirements. Those variations have been listed and considered above. The consent authority finds that those variations are compatible with the guidance provided by the relevant zone outcomes.

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

The application was advertised online from 25 August 2023, and exhibition signs were displayed on-site for a period of two weeks. In total, eight (8) objecting submissions were received during the exhibition period under Section 49 of the Act. The main concerns raised by the submitters in their submissions are:

- Out of character;
- Impact on the visual amenity of existing dwelling;
- Impact on property values;
- Development height is not in keeping with the surrounding area;
- Increase in traffic and parking issues;
- Non-compliance with the Darwin Inner Suburb Area Plan (DISAP); and
- Previous objections to rezoning applications at 8 Voyager Street and 7 Duke Street still stand.

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

At the hearing, Mr Peter Waggit reiterated the concerns in his written submission regarding the height of the building, car parking requirements not being enough for this type of development, on-street parking along the street restricting access to rubbish collection vehicles, King Street car parking issues not being regulated by Council, traffic safety issues associated with the service station development and the proposed development, concerns regarding property values and impact on quality of life as a result of the additional 12 units.

The Authority noted that the DAS recommendation includes a pre-condition requiring a traffic impact assessment report to be prepared in accordance with the Council's requirements. Mr Waggit advised that he was pleased with the recommendation; however, he was sceptical of the outcome.

Mr. Waggit also commented about the poor quality of the sound. When the Authority asked if he missed anything, Mr. Waggit clarified that the volume was just a bit difficult to hear.

While the comments regarding the meeting's sound quality are noted, the Authority acknowledges that it endeavours to make the meeting available via remote video conference; however, there are technological limitations in joining over video that are outside of the Authority's control.

Mr Mike Frank also shared the same concerns as Mr Waggit regarding traffic, parking and rubbish collection along Queen Street.

The Authority noted that the site had been rezoned in 2022 from Service Commercial (SC) and noted that no objections had been received. The Authority queried the submitters whether they were aware of the rezoning.

Mr Frank advised that he was unaware as he recently moved back to Darwin and the Mr Waggit commented that as a nearby residents he was also unaware of the rezoning application.

During the hearing, the applicant, Mr. Kgosiemang, acknowledged the raised concerns about car parking. Mr Kgosiemang confirmed that the development would include two additional parking spaces for visitors in excess of the Scheme requirements. Additionally, Mr Kgosiemang accepted the condition to conduct a Traffic Impact Assessment, which the City of Darwin requires.

The Authority queried the applicant whether the visitor car parking would be labelled on-site. Mr. Kgosiemang confirmed that the visitor car parking would be labelled. A condition precedent for amended plans has been included to show the on-site visitor parking location.

The Authority asked the applicant if the car parking spaces would be included as part of the unit entitlement in the event of a unit title subdivision. The applicant replied that if a unit title subdivision were to happen, each unit would likely be allocated space. However, at present, the car parking spaces will remain in common property.

The Authority also queried the applicant whether one storage unit would be allocated to each unit; the applicant confirmed that that a storage unit would be assigned to each unit.

Regarding concerns raised on height of the building being four storeys, Mr Kgosiemang explained that the site is zoned MR (Medium Density Residential) and can be developed to a maximum of four storeys. Mr Kgosiemang noted that the site is compliant with the side and rear building setbacks and that the rear setback is more than the NTPS 2020 requirement.

Mr Kgosiemang also spoke about the rezoning application of the site from Zone SC (Service Commercial) to MR (Medium Density Residential) and that the subject lot is a transition zone from the Stuart Highway and Zone SC to a residential zone adjacent to a collector road.

In regard to rubbish collection, Mr Kgosiemang noted that private rubbish collection on site will be used for the development, not on-street bins and advised this is the standard type of collection for this type of development.

The Authority has considered all comments and carefully considered the deeply held concerns of the submitters. The Authority also considered the response the applicant provided to submitters' concerns at the hearing.

The Authority notes the reasons in the Minister's Decisions for the amendment include the rezoning is *consistent with the strategic framework for the locality; has been exhibited in accordance with the requirements of the Act; promotes the sustainable development of land by allowing for in-fill housing and provides an appropriate transition from Zone SC to Zone LMR within King Street which is consistent with the character of the locality.*

In regard to concerns raised regarding devaluation of property and potential increases in crime rates, the Authority notes that these are not the considerations under Section 51 of the Planning Act.

In regard to the claims made by the submitters in relation to refusal of consent for other applications at (8) Voyager Street and (7) Duke Street, the Authority notes that determination of a development application is particular to the subject site and further, the applications referred to, were not development applications, but rather rezoning applications. An application to rezone Lot 2525 (8) Voyager St, Stuart Park, Town of Darwin from Zone MD (Multiple Dwelling, now Zone LMR under NTPS 2020) to Zone MR was refused in 2013. Similarly, another rezoning application to rezone Lot 2530 (1) Margaret St and Lot 2531 (7) Duke St, Stuart Park, Town of Darwin from MD to MR was refused in 2014. However, in this instance, the site has been rezoned to MR and was determined by the then Minister for Lands and Planning to be appropriate for infill development for dwelling-multiple. The matter before the Authority is an application to develop a MR site and is to be determined according to the NTPS 2020.

The Authority notes the traffic concerns raised by many submitters and that the City of Darwin, which is the controlling agency of the surrounding road network, has recommended a condition to provide a traffic impact assessment report to be

prepared by a suitably qualified traffic engineer with attention to vehicular, pedestrian, active transport and public transport issues and opportunities. That recommendation is incorporated as a condition precedent on the permit. Furthermore, a condition requiring visitors parking in addition to the parking required for the dwellings-multiple is also included on the permit.

The Authority notes that a submission stated that the application was not in accordance with the Darwin Inner Suburbs Area Plan. Under Clause 1.10, Exercise of Discretion by the Consent Authority, sub-clause 3 states the consent authority must take into account “(a) the 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; and (c) the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6”. As Part 2 – Strategic Framework is not listed within what the consent authority can assess and; therefore, has not been considered in the assessment.

The Authority notes that the DAS’ assessment found that development achieves most minimum standards and exceeds them in some respects. 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 has only been supported in cases where this amenity will not unduly be impacted upon.

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 site is serviced with reticulated power, water and sewer. Service authorities comments are noted and upgrades will be required to the site, however no concern was raised in relation to the capability of land. No overlays are identified on site that may constrain the capability of the land. There are no known physical characteristics that would render the site unsuitable for development.

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

City of Darwin requested a traffic impact assessment as a condition precedent as part of the development approval. The condition precedent has been requested to confirm that there will be no queuing or traffic blockage occurring on Duke Street, which could in turn affect the Stuart Highway.

At the hearing, the Authority noted that the Department of Environment, Parks and Water Security requested a condition and note related to erosion and sediment control, which was initially missed in the DAS recommendation. A standard note has been included to satisfy this requirement. Mr Kgosiemang accepted this note to be captured.

6. Pursuant to section 51(1)(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated

Section 3 of the *Planning Act 1999* defines “amenity” for the purpose of the Act as *amenity, in relation to a locality or building, means any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable*

The Authority notes that the subject site is Zone MR (Medium Density Residential), having been rezoned under Planning Instrument 54, from Zone SC (Service Commercial) to Zone MR (Medium Density Residential) August 2022. There were no public submissions for the rezoning. While the proposed development meets the zone purpose and outcomes of Clause 4.4 Zone MR (Medium Density Residential), the Authority must also consider the character and nature of the surrounding locality in determining, for the purposes of s51(1)(n), the potential impact on the existing and future amenity of the area in which the land is situated.

While the subject site has existing two storey dwelling-group developments in Zone LMR (Low Medium Density Residential) to the north, east and south, there is also land in Zone MR (Medium Density Residential) to the north-east corner of the site, an office to the south and west of the subject site is a service station and fast food premise in Zone SC (Service Commercial) accessed via the Stuart Highway and Queen Street. In determining to rezone the site from SC to MR, the Minister stated that such zoning “*provides an appropriate transition from Zone SC to Zone LMR within King Street which is consistent with the character of the locality.*” Given the acknowledged mixed-use nature of the locality, the authority is required to consider the impact of the proposed development on the existing and future amenity of the area. The authority notes the strongly held concerns of the submitters in relation to possible amenity impacts, including that the development is out of character with the area, the impact on the visual amenity of existing dwelling and, particularly, increase in traffic and parking issues.

The authority considers that the proposal meets the purpose of the MR zone , being -

“Predominantly medium density residential developments generally not exceeding four storeys” which has been proposed and *“Building design, site layout and landscaping provide a sympathetic interface to the adjoining public spaces and to adjoining lots, and provides privacy and attractive outdoor spaces.”*

Further, with respect to the impact on the visual amenity and character of the area, the authority considers that, despite the non-compliance assessed under Section 51(1)(a), the scale of the built form is compatible with the streetscape and with any development that may be reasonably anticipated within the mixed use, transitional nature of the locality. The reduced setbacks to the primary street frontage and the roofline to the side/ rear boundaries are unlikely to be immediately apparent from the street and adjoining boundaries due to building articulation, landscaping and a mix of materials and finishes.

Furthermore, the development is well articulated with staggered building façades, use of various building materials and extensive landscaping to enhance visual amenity and interest when viewed from the street. Overall, the building design articulates the façades in a manner that portions of the building are recessed with different materials and colours to give a softer visual look and reduce massing when viewed from the street.

With respect to questions of traffic and parking, the relevant agency is the City of Darwin, which has requested a Traffic Impact Assessment Report which has been included as a condition precedent to the Permit, as has preconditions for a waste management plan and in principle approval for the crossover and driveway to the site from the City of Darwin road reserve.

The Authority considers that the potential impact on the existing and future amenity of the area is consistent with what could reasonably be expected from any development in accordance with the zone provisions and is in keeping with the nature of the locality. Provided the development proceeds in accordance with the conditions included on the permit, the land is considered capable of supporting the proposed development.

FOR: 3

AGAINST: 0

ABSTAIN: 0

ACTION: Notice of Determination

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

SUZANNE PHILIP
Chair

19 October 2023