



CUNNINGTON ROSSE
Town Planning & Consulting

Statement of Effect

SERVICED APARTMENTS AND DWELLINGS-MULTIPLE

LOTS 01287, 01288, 01295 AND 01296 TOWN OF DARWIN

August 2023

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Table of Contents

Contact	0
Important Note	1
Document Control.....	1
1.0 Introduction	4
1.1 Section 46(3)(aa) – Interested Parties	5
2.0 Site and Locality	6
2.1 Site.....	6
2.2 Locality.....	9
3.0 Planning History	10
4.0 Proposed Development	10
5.0 Section 46(3)(a) - NT Planning Scheme	12
5.1 Nature of Development	12
5.2 Part 2 - Strategic Framework	13
5.3 Part 3 - Overlays.....	18
5.4 Part 4 – Zone TC.....	18
5.5 Part 5 – General Development Requirements.....	21
5.6 Specific Development Requirements	33
6.0 Section 46(3)(b) – Interim Development Control Order	45
7.0 Section 46(3)(c) – Referral to the NT EPA	45
8.0 Section 46(3)(d) – Merits of Proposed Development	45
9.0 Section 46(3)(e) – Physical Characteristics and Suitability of the Land.....	45
10.0 Section 46(3)(f) – Public Facilities and Open Space	45

11.0	Section 46(3)(g) – Public Utilities and Infrastructure	46
12.0	Section 46(3)(h) – Impact on Amenity	46
13.0	Section 46(3)(j) – Benefit/Detriment to Public Interest.....	46
14.0	Section 46(3)(k) – Compliance with the Building Act.....	46
15.0	Section 46(3)(l) – Development of Scheme Land.....	46
16.0	Conclusion.....	46

1.0 Introduction

Cunnington Rosse Town Planning and Consulting have been engaged by Joondanna Investments Pty Ltd to prepare, lodge and manage an application for development permit for serviced apartments and dwellings-multiple at 1-2 Montoro Court and 7-8 Packard Place, Larrakeyah, on the site of the old Asti Motel. The proposal comprises an evolution of the development proposals approved through a number of previous development permits for redevelopment of the site, the most recent being DP15/0400 issued in July 2015 for the purpose of 110 multiple dwellings and serviced apartments in 6, 8 and 13 storey buildings. DP15/0400 was a variation to DP14/0362 and primarily sought the replacement (rather than retention and upgrade) of the existing motel building adjacent Smith Street). DP14/0362 in turn was effectively a variation to DP13/0895 to increase the height of building 1 and provide additional dwellings. The Motel and all existing buildings within the subject land have subsequently been demolished. In 2019 the proponent lodged a development application (PA2019/0120) for the purpose of 70 serviced apartments and 70 multiple dwellings (comprising 55x1 bedroom dwellings, 73x2 bedroom dwellings and 12x3 bedroom dwellings) in 1x8 storey building, 1x12 storey building and 1x7 storey building, plus ground level restaurant, tenancy and 3 levels of basement car parking.

This application seeks a development permit for the purpose of 119 dwellings-multiple, consisting of 56 residential dwellings and 63 serviced apartments. Development is proposed in one 11-storey and one 10-storey building, with large communal open space and landscaping areas interspersed across the site. In addition to the communal gardens, the ground level includes an administration / reception area, communal gymnasium and swimming pool, bicycle parking, plant and service areas and vehicle access (from both Packard Place and Montoro Courts) to the basement car parking levels. Three basement car parking levels are proposed, with a total of 249 car parking spaces. In addition to the accessible parking spaces within the basement levels, 2 small car parking spaces are provided at ground level. The site is located within Zone TC (Tourist Commercial), wherein dwellings-multiple and serviced apartments require a development permit at the level of impact assessable. This report details the nature of the subject land and locality, the proposed development, considers the proposal against the relevant provisions of the Northern Territory Planning Scheme, and the relevant components of Section 46(3) of the Planning Act. This report (and application) is to be read in conjunction with the following attachments:

Attachment A: Architectural Plans, Elevations, Perspectives and Landscaping

Attachment B: Development Permit DP15/0400, Notice of Consent and Endorsed Plans

Attachment C: Development Permit DP14/0362, Notice of Consent and Endorsed Plans

Attachment D: Development Permit DP13/0895

Attachment E: Traffic Assessment

Attachment F: Title Documents

1.1 Section 46(3)(aa) – Interested Parties

<i>Applicant / Town Planning</i>	Brad Cunnington, Cunnington Rosse Town Planning and Consulting Pty Ltd (on behalf of the proponent) / brad@crtpc.com.au / 0427 796 140
<i>Proponent</i>	Peter Lapira, Joondanna Investments Pty Ltd, 20 Bishop Street, Woolner NT 0820 / plp@joon.net.au
<i>Architecture</i>	Jo Best, Troppo Architecture, 15 Quarry Crescent, Stuart Park / 0405 141 428 / jo.best@troppo.com.au

2.0 Site and Locality

2.1 Site

The site is identified and described in **Figure 1** and **Table 1** below.



Figure 1: Site and Zoning Plan

Site Details	
Location	<p>Lot 01287 Town of Darwin (1 Montoro Court, Larrakeyah)</p> <p>Lot 01288 Town of Darwin (2 Montoro Court, Larrakeyah)</p> <p>Lot 01295 Town of Darwin (8 Packard Place, Larrakeyah)</p> <p>Lot 01296 Town of Darwin (7 Packard Court, Larrakeyah)</p>
Title Reference and Land Tenure	<p>CUFT 790 981 (Montoro Court and 8 Packard Place) – Estate in Fee Simple</p> <p>CUFT 793 460 (7 Packard Place) – Estate in Fee Simple</p>
Area	3,985m ² (combined)
Easements	Lot 01296 – Sewerage and Electricity Supply easements to the Power and Water Corporation (written confirmation received from PWC that works to extinguish easement have been completed)

Landowner	Joondanna Investments Pty Ltd
Planning Considerations	
Planning Scheme	Northern Territory Planning Scheme 2020
Zone	TC (Tourist Commercial)
Assessment Category	Impact Assessable
Strategic Framework	<ul style="list-style-type: none"> • Darwin Regional Land Use Plan • Central Darwin Area Plan
Overlays	None Applicable
General Development Requirements	<ul style="list-style-type: none"> • Clause 5.2.1 – General Height Control • Clause 5.2.4 (Car Parking) • Clause 5.2.5 (Loading Bays) • Clause 5.2.6 (Landscaping) • Clause 5.2.7 (Setbacks for Development Adjacent Land in Zones LR, LMR, MR or HR) • Clause 5.3.7 (End of Trip Facilities)
Location Specific Development Requirements	None Applicable
Land Use Specific Development Requirements (Residential)	<ul style="list-style-type: none"> • Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) • Clause 5.4.4 (Extensions and Ancillary Structures to Dwelling-Group or Dwelling-Multiple) • Clause 5.4.6 (Private Open Space) • Clause 5.4.7 (Communal Open Space)

	<ul style="list-style-type: none"> • Clause 5.4.8 (Residential Building Design) • Clause 5.4.17 (Building Articulation)
Land Use Specific Development Requirements (Commercial)	<ul style="list-style-type: none"> • Clause 5.5.2 (Commercial Plot Ratios) • Clause 5.5.3 (General Building and Site Design) • Clause 5.5.4 (Expansion of Existing Development)

The subject land comprises 4 adjoining allotments on the south-western side of Smith Street, with a total site area of 3,985m². The site previously contained the Asti Motel, with a number of motel rooms and accommodation units in three buildings. Works on the previous development approvals (identified above) commenced some time ago through the demolition of the previous accommodation units and the motel, and the excavation of basement car park levels. With the exception of the construction fence, the site is void of built form and contains a large excavation towards the Smith Street and Montoro Court frontage. The subject land is identified in **images 1** and **2** below.



Image 1: Subject land from the Smith Street car parking area. Existing excavation is evident



Image 2: Subject land from the Smith Street car parking area towards Montoro Court.

2.2 Locality

Figure 1 in section 2 of this report demonstrates the zoning layout in immediate proximity of the site. The CB (Central Business) Zone is evident diagonally opposite on the north-eastern side of Smith Street. The site itself is surrounded on all sides by land in Zone HR (High Density Residential), with the exception of land to the south-east, which continues the TC Zone across the opposite side of Packard Place. Residential densities reduce further south, with land on the southern side of Mitchell Street (in the adjacent locality) zoned MD (Multiple Dwelling) and SD (Single Dwelling).

Further north of the site are OR (Organised Recreation) and PS (Public Open Space) Zones, with the OR Zone accommodating the Gardens Park Golf Links. The Darwin Central Business District commences at Daly Street, approximately 300 metres south-east of the site.

The Smith Street road reserve adjacent the front boundary of the subject land includes a large verge on the southern side, approximately 19 metres wide, which extends from Peary Street to Lambell Terrace, and consists of a combination of walking and cycle paths, lineal open space and car parking. The portion adjacent the subject land includes a public 19-bay car park. The public bus services runs along Mitchell Street, with routes 4, 6, 14 and 15 and bus stop 240 approximately 215 metres walking distance from the subject land.

Built form within the surrounding locality comprises a mix of predominantly residential development at varying heights and densities. Newer residential development, including the eight storey building directly opposite the site in Packard place, a nine storey building diagonally opposite the site and seven storey building directly opposite the site in Smith Street, align with the height provisions in both the HR and CB Zones.

A number of other residential flat buildings within the immediate locality are constructed at heights, below the maximum height provisions within the Northern Territory Planning Scheme, and generally comprise building stock more than 10 years old.

3.0 Planning History

The following planning history is relevant to the proposed development:

- **DP13/0895** – (*Development Permit*) Refurbishment of existing motel plus 24 x 2 and 12 x 1 bedroom serviced apartments in a 7 storey building, 8 x 3, 36 x 2 and 4 x 1 bedroom multiple dwellings in a 13 storey building, ground level car parking plus 2 basement car park levels.
- **DP14/0362** – (*Development Permit*) To Use and develop the land for the purpose of changes to DP13/0895 to allow changes to the number of dwellings and an increased building height (building 1) resulting in refurbishment of existing motel plus 28 x 2 and 14 x 1 bedroom serviced apartments in an 8 storey building plus 8 x 3, 36 x 2 and 4 x 1 bedroom multiple dwellings in a 13 storey building, plus ground level and 3 basement levels of parking.
- **DP15/0400** – (*Development Permit*) To use and develop the land for the purpose of changes to DP14/0362 to replace an existing motel with 20 x 2 bedroom (dual key) serviced apartments in a 6 storey building, resulting in the development of 28 x 2 and 14 x 1 bedroom serviced apartments in an 8 storey building, 20 x 2 bedroom serviced apartments in a 6 storey building, plus 48 x 2 bedroom multiple dwellings in a 13 storey building, plus ground level and 3 basement levels of car parking.
- **PA2019/0120** – (*Application*) 70 serviced apartments and 70 multiple dwellings (comprising 55x1 bedroom dwellings, 73x2 bedroom dwellings and 12x3 bedroom dwellings) in 1x8 storey building, 1x12 storey building and 1x7 storey building, plus ground level restaurant, tenancy and 3 levels of basement car parking.

The previous development permits are provided in **Attachments B, C and D**.

4.0 Proposed Development

Full plans and details prepared by Troppo Architects are contained within **Attachment A**. The proposal differs from development approvals previously issued in that two buildings (of 10 and 11 storeys) are proposed, rather than three buildings between six and 13 storeys as previously approved. In addition to the built form changes, the proposal alters the intended land use outcomes and no longer includes motel accommodation, instead limited to serviced apartments and dwellings-multiple.

Development details comprise:

- Construction of a mixed serviced apartment and dwelling-multiple development with two buildings of 10 and 11 storeys. Building 1 (10 storeys) is located nearest the Smith Street boundary, and includes:
 - 56 residential apartments consisting of:
 - 18 x 1-bedroom residential apartments; and
 - 36 x 2-bedroom residential apartments.

Building 2 (11 storeys) situated to the south-east of building 1 and includes:

- 63 serviced apartments consisting of:
 - 10 x 1- bedroom serviced apartments;
 - 43 x 2-bedroom serviced apartments; and
 - 10 x 3-bedroom serviced apartments.
- Ground level comprising combined administration and reception area, gymnasium, end-of-trip facilities, five two-bedroom apartment, communal open space including swimming pool, BBQ and children’s play area, pedestrian access, car parking, bicycle storage, mechanical plant, bin storage area and driveway site and basement access. The driveway connection between Montoro Court and Packard Place is provided in order to negate the requirement for vehicle access from Smith Street, and provides access to 2 car parking spaces, bin storage, plant and service areas;
- Three basement car parking levels with 81, 81 and 79 car parking spaces, 2 motorcycle parking spaces, lift and stairwell access, vehicle ramps, plant areas / services risers and storage space. Including the 2 parking spaces at ground level, 248 car parking and 2 motorcycle parking spaces are provided within the proposed development;
- Each dwelling type (ie 1, 2 and 3-bedroom) has an identical floor layout, with each containing an entry porch / screening area, open plan living, dining and kitchen areas, bedroom/s and balconies. A number of apartments have been designed as accessible units, along with a high number of accessible car parking spaces in both the basement and ground levels; and
- Built form design is typical of that from Troppo Architects, with extensive openings and use of tropical building methods including raw cladding and timber / timber-look screening materials, natural colours, shading and feature panel projections.

Ground and upper-level landscaping emphasises screening and shading, and includes decking areas, lawn and groundcover, with Palms, Eucalypts and tropical feature and screen plants.

Key components of the building design and site layout approach include:

- The large (1,700m²) communal gardens around and between the two building elements;
- Apartment buildings being limited in width equivalent to the length of one apartment only, ensuring all apartments have open air access from both ends (ensuring access to prevailing breezes and the provision of through-flow ventilation); and
- The use of shading projections, natural materials, colours and finishes.

Landscaping is concentrated in the communal gardens and within the setback areas, including locally suitable landscape species (including Banyans, Eucalypts and Palms).

The proponent has advised that a portion of the residential component of previous iterations was intended for occupation as public, affordable and/or social housing in response to an Expression of Interest released by the (now) Northern Territory Department of Families, Housing and Communities. The ability to include such housing within the proposed development no longer exists, and the proponent has confirmed that there is no longer any intention to include public, affordable and/or social housing within the proposal.

Architectural design details including site and floor plans, apartment plans, elevations, sections, perspectives and landscaping details are provided in **Attachment A**.

5.0 Section 46(3)(a) - NT Planning Scheme

The relevant provisions within the Northern Territory Planning Scheme 2020 (the Planning Scheme) are referred to below.

5.1 Nature of Development

The proposed development consists of *dwelling-multiple* and *serviced apartments* (a form of *dwelling-multiple*) with ancillary *office* (comprising the reception and administration area applicable to the serviced apartment accommodation component) in accordance with the definitions in **Schedule 2** of the Planning Scheme:

serviced apartments means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and which is regularly serviced or cleaned;

dwelling-multiple means a ***dwelling*** or ***serviced apartment*** that is wholly or partially vertically over or under another ***dwelling*** on a ***site*** and includes any ***dwellings*** above the ground floor in a mixed use development, and includes a ***dwelling*** on a unit title with common property;

The ground level reception and administration area, associated with and entirely auxiliary and subordinate to the primary use (and thus entirely ancillary) is consistent with the definition of *office*:

*office means a building or part of a building used for the conduct of administrative, secretarial or management services or the practice of a profession, where no goods or materials are made, repaired, sold or hired but does not include a **home based business**;*

The *dwelling-multiple* and *serviced apartments*, are encapsulated within two *residential buildings* in accordance with the definition.

*residential building means a building or part of a building used or developed or proposed to be developed for a **dwelling-community residence, dwelling-caretakers, dwelling-grouped, dwelling-independent, dwelling-multiple, dwelling-single, hotel/motel, residential care facility, or rooming accommodation**;*

The above uses are located entirely within Zone TC, and are *impact assessable*.

5.2 Part 2 - Strategic Framework

5.2.1 Darwin Regional Land Use Plan

The *Darwin Regional Land Use Plan* was prepared by the NT Planning Commission and incorporated into the Planning Scheme in 2015. The plan provides a vision, goals and intended outcomes for development of the Darwin Region, identifies regional opportunities and the intention for development into the medium and long term. The Land Use Structure on Page 13 of the Plan identifies the subject land as *Urban / Peri-Urban*.

Page 16 of the Plan provides the *Key Urban and Peri-Urban Residential Objectives*:

- *Identify sufficient suitable opportunities for residential development to ensure an ongoing supply of lots to meet market demand.*
- *Encourage a diverse range of dwelling types and residential localities to cater for changing demographics (including single person households and an ageing population), to meet increasingly diverse community aspirations and minimise the impacts of development on established localities.*
- *Focus urban and peri-urban development close to established areas or collocated in localities suitable for such uses to enhance the economic viability of required infrastructure.*
- *Encourage detailed design that:*
 - *recognises the contribution natural and cultural sites make to urban character*
 - *provides for appropriate protection and maintenance of natural and conservation areas*
 - *is climatically appropriate and avoids the creation of heat islands.*

In response to the key objectives, the proposed development contributes residential development for both long and short-term occupation to ensure an ongoing supply of housing, provides a range of dwelling types on an unutilised site close to the major regional centre and accessible by public transport, maximising population within close proximity to services and infrastructure. Dwellings provide for a range of occupant types (including single person households) with a distinctive and climatically appropriate built form.

Through the innovative design relationship between built form and open space within the proposal area, and cognisant of the statutory requirements of the Planning Scheme considered later in this section, the development achieves an appropriate balance between maximising development opportunities within the site and minimising impacts on established localities. In relation to Infill Development, the plan goes further to state:

The land use plan supports ongoing infill residential development, particularly on underutilised land close to existing transport networks and community or commercial facilities, and where there is potential for mixed-use activity centres. The plan is predicated on the opportunities increased residential densities close to such centres create for improved public transport and for local employment and the associated reduced need for commuter travel. Infill development in areas readily accessible to public transport and local facilities and services will help minimise the impacts of increasing population growth in the region on the majority of existing residential areas.

Page 16 of the Plan identifies *Urban / Peri-Urban* to include:

- A variety of housing types;
- Retail and commercial;
- Community facilities and services;
- Sport, recreation and urban open space; and
- Natural and conservation areas.

Given the key objectives for Urban and Peri-Urban areas, commentary regarding infill development and the intended land use outcomes, the proposal is consistent with the range of uses anticipated within the Darwin Regional Land Use Plan, and will not compromise the outcomes of the Land Use Plan objectives.

5.2.2 Central Darwin Area Plan

The *Central Darwin Area Plan* was finalised by the Northern Territory Planning Commission and incorporated as a policy document in the Planning Scheme in late 2019. The Plan provides a framework for land use and development outcomes within the Central Darwin Area (i.e. Cullen Bay to the Darwin Waterfront). The subject land is identified as *Tourist Commercial* (reflective of the existing zoning) per the land use vision map on page 13, and is not located within a focus area per the index map on page 14.

No specific theme is provided for tourist commercial areas / tourism development, however given the nature of surrounding land and the proposed development, the residential theme on page 17 is considered the most applicable. The residential theme provides four objectives with corresponding acceptable responses.

1. Encourage appropriate housing options, neighbourhood and residential amenity to support the lifestyle of a diverse demographic	
Objectives	Acceptable Responses
1.1 Encourage residential buildings that provide for a broad spectrum of demographic groups.	i. A variety of dwelling types are provided.
1.2 Encourage development that contributes to the amenity of the public realm and reflects the character of the area.	i. Building design responds to adjacent buildings and environments or adjacent buildings and environments reasonably anticipated. ii. Development fronting existing and future public spaces responds to the role and function of the individual space and provides opportunities for passive surveillance. iii. Bulk and scale of wide buildings is addressed through architectural design including, but not limited to, the presentation of multiple frontage types to the streetscape, modulation of the facade, or changes in material. iv. Buildings provide interest and active frontages at street level. Large expanses of blank walls or inactive frontages are to be avoided.
1.3 Encourage sustainable development.	i. Buildings and the urban environment demonstrate innovative responses to support cooling, heat mitigation, greening, water and energy efficiency, and waste reduction.
1.4 Maintain residential areas in Larrakeyah and Cullen Bay.	i. Residential development accords with current zoning unless specifically identified as a Potential Area for Change on the Residential and Mixed Use Map.

Consistent with the objectives and acceptable responses, the development provides a range of dwelling sizes to accommodate a range of demographic groups, adopts a building design responding to adjacent buildings and environments by ensuring compatible building heights, a high ratio of void space to built form and narrow building width. Bulk and scale is addressed through prolific use of projections, visual relief, material variations, setbacks and landscaping, with a varied, interesting and active ground level frontage. Building design ensures tropical design principles of passive cooling and airflow are achieved, and is consistent with the current zoning.

In addition to the Residential Theme, the Movement and Transport Theme, commencing with the Movement and Transport Network Map on Page 28 of the Area Plan, identifies the portion of Smith Street directly adjacent the subject land as:

- Sub Arterial and Primary Transport Corridor;

- High Amenity Boulevard – Road Reserve Upgrade including Tree Planting and Pavement Enhancements; and
- City Recreation Loop.

The commentary around the Movement and Transport Theme notes the function of Smith Street as an important link between Cullen Bay and the Darwin Waterfront, and provides five objectives with corresponding acceptable responses.

6. Provide an interconnected movement network that is safe and efficient for all users, balances the needs for vehicles with movement needs of pedestrians and cyclists, and does not impinge upon the aesthetics of the streetscape

Objectives	Acceptable Responses
6.1 Maintain a highly permeable grid street network within the city centre.	<ul style="list-style-type: none"> i. A fine-grained grid of local streets are retained or expanded upon which support a highly permeable, pedestrian and cycle friendly city centre. ii. A grid configuration of city streets and blocks are provided consistent with the existing street and block layout across Central Darwin. Blocks measure between 60m x 120m width and 120m x 240m length. Blocks incorporate mid-block laneways where possible. iii. Large developments of 3500sqm or larger within the city centre provide connections through the site and to the existing grid.
6.2 Provide appropriate primary vehicle and service access that maintains high levels of pedestrian amenity and minimises disruptions to pedestrian movements.	<ul style="list-style-type: none"> i. Existing and proposed lots are serviced by laneways where possible.

<p>6.3 Enhance pedestrian and cyclist amenity, safety and movement.</p>	<ul style="list-style-type: none"> i. Pedestrian and cyclist links are direct, connected, have clear sightlines, and are well lit. ii. Laneway pedestrian crossings connect arcades and are safe attractive and distinct. iii. Where there is reasonable capacity to do so, street and movement network enhancements include provision for pedestrians and cyclists. This may include, but is not limited to: <ul style="list-style-type: none"> a) Separated Cycleways b) Prioritised street crossings c) Bike Parking d) Map signs e) Directories f) signage identifying pedestrian and/or cyclist networks i.e. City Recreation Loop; and g) interpretive signage. iv. Street verges are landscaped to provide shading for pedestrians and cyclists, while also softening the appearance of hard surfaces and buildings.
<p>6.4 Areas identified as 'Green Links' are leafy, high amenity shared movement corridors.</p>	<ul style="list-style-type: none"> i. Areas identified as 'Green Links' make use of wide road reserve to accommodate multiple modes of transportation, bus stops, public art, and landscaping. ii. Streetscape and landscape enhancements are prioritised within 'Green Link' road reserves and provided in a coordinated manner. iii. In accordance with any relevant policies of road authorities, examine opportunities for improving the amenity of streets identified as 'Green Links'. This may include, but is not limited to: provision of landscaping, street trees, shared footpaths, separated cycleways, street furniture and/or drinking water stations.
<p>6.5 Facilitate transport network upgrades.</p>	<ul style="list-style-type: none"> i. Possible future additions to the transport network indicated on the Movement and Transport Maps, and including a potential rapid transit corridor, are not compromised. ii. Where the City of Darwin or the Northern Territory Government has established an infrastructure contribution plan to fund the construction of strategic transport connections, contributions are to be made in accordance with the contribution plan; OR The proponent demonstrates how a proposed development will be serviced to a standard that satisfies the requirements of the responsible service authority and how the required infrastructure will be paid for. iii. Land identified as part of the City Recreation Loop on the City Recreation Loop Map is developed as high amenity pedestrian and cyclist space, and integrates with neighbouring parts of the network.

Consistent with the Movement and Transport Theme, the proposal relies on the existing street network with a high level of accessibility and permeability. Vehicle access relies on the secondary street frontages, ensuring the High Amenity Boulevard (Road Reserve Upgrade including Tree Planting and Pavement Enhancements) and City

Recreation Loop along Smith Street are not compromised, and the high proportion of open, landscaped and highly visible pedestrian connection to the Smith Street road reserve ensures a high amenity frontage to the public realm.

5.3 Part 3 - Overlays

No overlays are applicable to the proposed development within the subject land.

5.4 Part 4 – Zone TC

The subject land is located within Zone TC (Tourist Commercial) per **Clause 4.13** of the Northern Territory Planning Scheme. **Clause 4.13** provides the following in relation to development in Zone TC:

Zone Purpose

Facilitate commercial and residential development that caters for the needs of visitors, supports tourism activities, and is of a scale and character compatible with surrounding development.

Zone Outcomes

1. *A mix of uses focused on providing services to tourism comprising:*
 - a) **bar-small, bar-public, food premises, hotel/motel, serviced apartments, shop, rooming accommodation, caravan park, resort complexes and short-term accommodation;**
 - b) *entertainment and personal services for guests, residents and visitors, including **leisure and recreation** facilities; and*
 - c) *a mix of other business activities including **club, passenger terminal, exhibition centre and leisure and recreation.***
2. *Limited residential, commercial and community uses, such as **dwelling-multiple, child care centre and community centre**, where the nature of the activity does not compromise the **primary use** of the locality for tourist commercial activities.*

The proposal includes 63 *serviced apartments* and 56 *dwelling-multiple*, with the provision of short-term (apartment) exceeding long-term (dwelling) uses. The proposal adheres to the above objective, in that the *primary* purpose is for uses servicing tourism. The extent of residential use (per **subclause 2**), whilst well beyond *ancillary*, is compatible with the *serviced apartments* (per **subclause 1**), with the overall provision appropriate given the predominantly residential character of the surrounding locality.

3. *The design, operation and layout of development:*
 - a) *makes a positive contribution to the locality by incorporating a high quality of built form and landscape design;*

b) *minimises unreasonable impacts to the **amenity** of surrounding premises;*

The site and built form design differs from previous approvals in two key aspects – firstly the provision of two buildings only (rather than the retention of the previous motel building and two new buildings, or three new buildings), and the proposed development of 10 and 11 storey buildings (rather than various iterations of 3, 7 and 13 storeys; 3, 8 and 13 and 6, 8 and 13). Whilst the Planning Scheme allows scant, if any, reliance on previous approvals, comparison to developments approved in 2013, 2014 and 2015 highlights the altered design intent. Reducing the maximum height of residential development in a manner more compatible with existing development; relocating built form more centrally within the site (thus increasing boundary setbacks to adjoining land and side streets) and reducing the extent of built form relative to open and void space seeks to increase the distance and reduce the impact of built form on the locality.

The context of the site’s proximity to the CB (Central Business) Zone and the existence of several mid to high rise buildings (six to nine storeys) within close proximity of the land, along with the building design being “fairly open in nature and the articulation and interest provided by this design, through its varied heights and ‘tropical’ features, are seen as positive aspects”¹ support the height and extent of development proposed.

The aforementioned reasoning equally applies to the development, if not more so given the greater proportion of open space. The site’s context has not measurably changed and the site remains heavily influenced by its proximity to the Darwin CBD and surrounding high-rise development. The building designs are consistent with those approved in DP15/0400 and the identified ‘tropical’ design features, visual building separations and narrow building form have all been retained. It is important to note that the wording of **Subclause 3(a)** clearly requires the *design, operation and layout of development* make a *positive* contribution to the locality through landscape and built form design. The extent of landscaping, quality of landscaping and built form design, including the locally unique elements, ensure the proposal will be a positive character addition to the surrounding area.

Both **Section 3** of the Northern Territory Planning Act and **Schedule 2.2** of the Planning Scheme define *amenity* 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

There are a number of elements of the locality that either make or contribute to the locality being *harmonious, pleasant or enjoyable*, including:

- The ability for higher level apartments to obtain ocean views;

¹ Refer Development Consent Authority DP14/0362 Notice of Consent, 15 May 2014

- The established and visually prominent nature of landscaping and vegetation within the locality, including landscaping in both the public and private realms;
- The number of modern, attractive (subjective) and relatively well-kept buildings; and
- The nature of land uses in the immediate locality being predominantly residential, reflecting the residential / CB fringe zoning of the surrounding area.

Whilst the development seeks to minimise amenity impacts to surrounding premises, any impact must be taken in the context of development *reasonably anticipated*, and in this context must not be *unreasonable*. It is acknowledged that the development of 10 and 11-storey buildings on a currently vacant site will alter the nature of the locality, and in some respects may impact on amenity (for example restricting views to existing mid-rise development). However, given the design approach towards the site layout, the building and landscape design, and development that could be reasonably anticipated under the relevant policy, the proposed development suitably *minimises* any unreasonable amenity impacts.

c) mitigates the potential for land use conflict with existing and intended surrounding development;

The predominance of accommodation and residential land uses reflects the residential nature of the surrounding locality, and minimises the potential for land use conflict.

d) avoids adverse impacts on the local road network;

The proponent has undertaken a number of traffic studies relating to previous iterations. The nature of vehicle movements within the surrounding road network since 2015 does not alter the outcome of those studies, which confirm the surrounding road network can accommodate an increase in traffic as a result of the (previously approved) development. The revised traffic assessment undertaken by MFY Traffic Engineers in August 2023 (**Attachment E**) confirms the proposal will generate a lower volume of traffic than previously assessed, and that the current conditions are similar to those in 2019. The assessment concludes that traffic generated by the proposed development will be readily accommodated on the road network.

e) provides safe and convenient pedestrian and bicycle access within the development and strong connections to external transport networks; and

The development provides clear and legible shared pedestrian and bicycle access, with a raised walkway leading to the lift and stair wells for each of the buildings. Secure bicycle storage and end of trip facilities are provided on the ground floor, and the existing pedestrian network provides direct access to bus routes along Mitchell Street, with the nearest bus stop approximately 215 metres walking distance from the subject land.

f) allows passive surveillance of public spaces.

The location of site and building entry points, apartments at ground level (including private open space), and communal open space to all street frontages will provide ample opportunity for passive surveillance of adjacent public space.

4. *Development avoids or minimises adverse impacts on ecologically important areas through location, design, operation and management.*

The subject land and development thereof are unlikely to impact on ecologically important areas given the urban nature of the site and locality.

5. *Development does not impose unsustainable demands on surface water and groundwater.*

Development is compatible with surrounding land use and development, and will rely on reticulated services in accordance with the requirements of the Power and Water Corporation.

6. *Subdivision primarily provides for lot sizes capable of accommodating the uses expected in the zone.*

No subdivision is proposed.

7. *Subdivision and development is integrated as far as possible with reticulated electricity, water and sewerage (where available), stormwater drainage, and telecommunication infrastructure. If lots are unsewered, provision for the disposal of effluent must be made on-site so that the effluent does not pollute ground or surface waters.*

The proposed development will be connected to reticulated power, water, sewerage, drainage and telecommunications infrastructure in accordance with the requirements of relevant service authorities.

8. *Development that is not defined in Schedule 2 (Definitions) may occur only when assessment has determined that the development is appropriate in the zone, having regard to the purpose and outcomes of this zone and such matters as the location, nature, scale and intensity of the development.*

The development and proposed land uses therein are defined in **Schedule 2** of the Scheme.

5.5 Part 5 – General Development Requirements

5.5.1 Clause 5.2.1 – General Height Control

Purpose

Ensure that the heights of buildings and structures are appropriate to the strategic and local context of the location and meet community expectations for development in the zone.

Administration

1. *This clause does not apply if:*
 - a) *The development is for the purpose of:*
 - i. *a telecommunications facility;*

- ii. a chimney, flag pole, aerial, antenna or lightning rod; or
 - iii. the housing of equipment relating to the operation of a lift; or
- b) an alternative height control is specified in clause 5.9 (Location specific development requirements).
2. The consent authority must not **consent** to a development in Alice Springs that is not in accordance with sub-clause 5.
3. The consent authority must not **consent** to a development on land in Zone MR abutting land in Zone LR that is not in accordance with sub-clause 6.
4. Except as set out in sub-clause 3, the consent authority may **consent** to a development that is not in accordance with sub-clause 6 if it is satisfied the **building height** is consistent with the intended character and **amenity** of the area, having regard to:
- a) the heights of other buildings in the immediate vicinity; and
 - b) measures taken to mitigate potential impacts (such as unreasonable overshadowing, or overlooking of dwellings and private open space) on abutting properties.

Requirements

5. The **building height** of a development in the Municipality of Alice Springs is not to exceed:
- a) the maximum **building height** for the zone and use as specified in table A to this clause; or
 - b) two **storeys** to a maximum of 8.5m if the zone and use is not included in table A to this clause.
6. The **building height** in all other areas is not to exceed:
- a) the maximum **building height** for the zone and use as specified in table B to this clause; or
 - b) two **storeys** to a maximum of 8.5m if the zone and use is not included in table B to this clause.

Table B to clause 5.2.1: Height control outside Alice Springs

Zone	Use	Maximum building height above ground level
CB, SC, TC and DV	All uses	No height limit

Table B to **Clause 5.2.1** indicates there is no building height limit in Zone TC.

5.5.2 Clause 5.2.4.1 – Parking Requirements

Purpose

*Ensure that sufficient off-street car parking, constructed to a standard and conveniently located, are provided to service the proposed use of a **site**.*

Administration

1. *This clause does not apply where alternative car parking space requirements are established under clause 5.9 (Location specific development requirements).*
2. *The consent authority may **consent** to a use or development that is not in accordance with sub-clause 4 if it is satisfied a reduction of the number of **car parking spaces** is appropriate with regard to:*
 - a) *the zoning of the land, the use or development or proposed use or development of the land, and the possible future use or development of the land;*
 - b) *the provision of **car parking spaces** in the vicinity of the land; and*
 - c) *the availability of public transport in the vicinity of the land;*
 - d) *the potential impact on the surrounding road network and the **amenity** of the locality and adjoining property;*

*or if the use or development relates to a **heritage place** and the Minister responsible for the administration of the Heritage Act 2011 supports the reduced provision of **car parking spaces** in the interest of preserving the significance of the **heritage place**.*

3. *The consent authority may require the provision of **car parking spaces** for any **ancillary** use or development in addition to that specified for the **primary use** or development in the table to this clause.*

Requirements

4. *Use and development is to include the minimum number of **car parking spaces** specified in the table to this clause (rounded up to the next whole number).*

In accordance with the table to **Clause 5.2.4.1**, the proposed development requires and provides car parking in per the following table.

Component	Number / Area	Parking Rate	Required Parking	Parking Provided
Dwellings – Multiple	56 dwellings	2 per dwelling	112	248 Car Parking Spaces
Serviced Apartments	63 Apartments	1 per apartment	63	
Non-apartment floor area	330m ²	3/100m ²	9.9	
Total			185	

The proposed development provides a surplus of car parking relative to the requirements of **Clause 5.2.4.1**.

5.5.3 Clause 5.2.4.4 – Parking Layout

Purpose

Ensure that a car parking area is appropriately designed, constructed and maintained for its intended purpose.

Administration

1. *This clause does not apply to a **car parking area** where the car parking is required in association with a **dwelling-single, dwelling-independent** or a **home based business**.*
2. *A **car parking area** may be used for the purpose of a **market** if:*
 - a) *a market is Permitted in the zone; and*
 - b) *the market operates outside of the operating hours of the use for which the car parking area is established.*
3. *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.*

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.
5. The consent authority may **consent** to a **car parking area** that is not in accordance with sub-clause 9 if it is satisfied that the non-compliance will not result in adverse impacts on the local road network or internal functionality of the car parking area.

Requirements

6. A **car parking area** is to:
 - a) be not less than 3m from any lot boundary abutting a road; and
 - b) provide 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.

With the exception of the basement car parking areas, all car parking is situated more than 3 metres from the site boundaries. No car parking is visible from the public realm, and landscaping is included to all setbacks.

7. A **car parking area** is to be constructed and maintained to be:
 - a) of a suitable gradient for safe and convenient parking; and
 - b) sealed and well drained in urban areas, or dust suppressed in non-urban areas.

With the exception of vehicle ramps and minor falls required for drainage, the car parking areas are flat to ensure safe and convenient parking. Ramps and gradients will comply with Australian Standards. All car parking areas will be fully sealed and drained.

8. The layout of a **car parking area** is to:
 - a) be functional and provide separate access to every car parking space;

Car parking spaces are easily identifiable, accessible and logically located accessible to building entry / access points. Separate access is provided to each car parking space.

- b) allow a vehicle to enter from and exit to a road in a forward gear;

The internal through driveway at ground level and access and turning areas within the basement levels ensure vehicles can enter and exit in a forward gear.

- c) *be in accordance with the dimensions set out in the diagram to this clause; and*

With the exception of small-car parking bays 1-2 at ground level, 82-84 in 3F, 82-84 in 2F and 76-79 in 1F, all car parking spaces meet or exceed the minimum dimension requirements of 2.5 by 5.5 metres. Small-car bays have a length of 5.1-5.5 metres and a width of 2.425-2.625 metres.

Given the number of parking spaces provided, it is reasonable to assume a proportion of vehicles accommodated within the basement levels will be small cars and able to utilise the aforementioned bays. The provision of 11 small-car bays is well below the surplus of 64 bays, and thus the car parking layout will remain functional for the required range of vehicles. Accordingly the proposed variation is appropriate.

- d) *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.*

End-of-row driveways provide additional reversing space.

9. *The number of **access** points to the road is to be limited, and **access** points to **car parking areas** are to:*

- a) *have driveways with a minimum width of 6m for two-way traffic flow or 3.5m for one-way traffic flow; and*
- b) *maximise sight lines for drivers entering or exiting the car parking area.*

Two vehicle access points are provided, avoiding the need for direct access to Smith Street, distributing vehicle traffic between two intersections, and providing easy access and avoiding the need for turning areas to accommodate service vehicles. In this case, the provision of two access points is appropriate. All driveways meet or exceed the minimum dimension requirements, and Building setbacks and the low-speed nature of Packard Place and Montoro Court ensure site lines achieve the minimum requirements.

5.5.4 Clause 5.2.5 – Loading Bays

Purpose

Provide for the loading and unloading of vehicles associated with the use of land.

Administration

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**;*

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.

Requirements

3. Where landscaping is required by this Scheme it should be designed so that:

- a) *planting is focused on the area within the street frontage setbacks side setbacks, communal open space areas and uncovered **car parking areas**;*

Landscaping is provided in the building setback areas and communal open space.

- b) *it maximises efficient use of water and is appropriate to the local climate;*

Landscaping includes planting and built form landscape components, with an appropriate selection of species ensuring suitability to local climate conditions.

- c) *it takes into account the existing streetscape, or any landscape strategy in relation to the area;*

The landscape design seeks to improve the interaction of the site with the public realm, with the majority of the Smith Street boundary being landscaped and open, providing improved continuity of landscaping and open space together with surrounding land also fronting Smith Street.

- d) *significant trees and vegetation that contribute to the character and **amenity** of the **site** and the streetscape are retained;*

The site has previously been cleared of significant vegetation, however the planting schedule includes the retention of existing street vegetation and the provision of new feature trees.

- e) *energy conservation of a building is assisted having regard to the need for shade and sunlight at varying times of the year;*

New shade trees strategically located ensure an appropriate balance of shading and access to sunlight.

- f) *the layout and choice of plants permits surveillance of public and communal areas; and*

Planting along the Smith Street and Packard Place frontages largely consists of shade and feature trees, ensuring an attractive site presentation whilst enabling passive surveillance.

- g) *it facilitates on-site infiltration of stormwater run-off.*

The relatively low extent of site coverage and high proportion of landscaped areas facilitate on-site infiltration.

4. *The quality and extent of the landscaping consented to must be maintained for the life of the development.*

It is anticipated that conditions on any resultant development permit will ensure landscaping prior to completion, and that landscaping must be maintained at all times.

5. *Other than in Zones CB, C and TC, not less than 30% (which may include communal open space) of a **site** that is used for **rooming accommodation, dwellings-group, dwellings-multiple and residential care facility** is to be landscaped.*

Total landscaped area (1,700m²) is equivalent to 42.66% of the site area.

6. *In Zones LI, GI and DV all street frontages, except **access** driveways or footpaths, are to be landscaped to a minimum depth of 3m.*

Not applicable.

7. *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.*

Whilst this clause is not directly applicable to the proposed development, the Montoro Court and Packard Place side setbacks, and the southern portion of the rear setback, provide landscaping to a width well above 2 metres.

5.5.6 Clause 5.2.7 – Setbacks for Development Adjacent to Land in Zones LR, LMR, MR or HR

Purpose

Protect the visual and acoustic amenity of residential buildings where they are adjacent to non-residential development.

Administration

1. *The consent authority must not consent to a development that is not in accordance with sub-clause 3, except where:*
 - a) *the development is covered by an area plan listed in Part 2 (Major Remote Towns) of the Planning Scheme, in which case the consent authority may consent to a development that is not in accordance with sub-clause 3 if the service authority responsible for distribution of electricity, water and sewerage services points to compliance being impractical or prohibited; or*
 - b) *the development is for the purpose of a child care centre.*

Requirements

2. A use or development or a proposed use or development that is:

- a) not a residential building;
- b) on land that is in a zone other than Zones LR, LMR, MR or HR; and
- c) abuts land in any of those zones;

must provide a setback to the boundary that abuts any of those zones of not less than 5m.

- 3. The setback described in sub-clause 2 is to be landscaped to provide a visual screen to the adjacent land Zoned LR, LMR, MR or HR for a minimum depth of 3m.
- 4. The development should provide a solid screen fence of a minimum height of 1.8m at the boundary with land in Zones LR, LMR, MR or HR.

The subject land directly abuts land in Zone HR to the south-west, however the proposed development consists of two residential buildings. Accordingly **Clause 5.2.7** is not applicable.

5.5.7 Clause 5.3.7 – End of Trip Facilities

Purpose

Ensure that new commercial and high density residential buildings provide sufficient safe, quality and convenient end of trip facilities to enable active travel choices by residents, visitors, workers and customers for the proposed use of the site.

Administration

- 1. The consent authority may consent to a use or development with fewer bicycle parking spaces, lockers and/or showers and changing facilities than required by sub-clauses 2-6 if satisfied that either:
 - a) there are alternative end of trip facilities (on or off the site), where:
 - i. the same function is provided which can accommodate the same number of bicycles and/or users required by the clause;
 - ii. access to the alternative end of trip facilities is safe and convenient for users;
 - iii. the alternative end of trip facilities are sheltered and secure; and

- iv. *the size and layout of alternative storage areas allows for safe and comfortable storage and access to bicycles and/or personal items; or*
- b) *it would be unreasonable to provide the end of trip facilities as required by this clause with regard to, but not limited to, the location of the development and likely commute distances; or*
- c) *it would be unreasonable to provide shower and changing facilities for a small development, where the development becomes unfeasible should such facilities be required.*

Requirements

- 2. *All new buildings in Zones HR, CB, C, SC and TC should provide bicycle parking facilities with a number of bicycle parking spaces calculated at the rate specified in the table to this clause (rounded up to the nearest whole number).*

The table to **Clause 5.3.7** requires bicycle parking and end of trip facilities in accordance with the following table.

Use	Area / Number	Bicycle Parking Required	Staff	EOT Facilities Required	Bike Parking Provided	EOT Facilities Provided
Serviced Apartments	63 apartments	21 bicycle parking spaces	<50 staff	1 Shower	33 Spaces (ground floor enclosure) 81 Spaces (2-bed unit foyer)	2 Showers
Dwellings-Multiple	56 dwellings	18.7 bicycle parking spaces				
Total		40 (39.7)				

- 3. *All bicycle parking facilities and associated bicycle parking devices should be designed in accordance with Australian Standard AS2890.3 – Bicycle Parking and must:*
 - a) *be located in a convenient and safe location with adequate security for the storage of bicycles;*
 - b) *have an appropriate mix of long and short term, wall and floor mounted bicycle parking;*
 - c) *where secure parking is provided, provide e-bike charging facilities, as necessary;*
 - d) *not require access via steps;*

- e) be protected from the weather;*
- f) enable the wheels and frame of a bicycle to be locked to the device without damaging the bicycle;*
- g) be located outside pedestrian movement paths;*
- h) be easily accessible from the road;*
- i) be arranged so that parking and manoeuvring motor vehicles will not damage adjacent bicycles;*
- j) be protected from manoeuvring motor vehicles and opening car doors;*
- k) be as close as possible the cyclist's ultimate destination;*
- l) be well lit by appropriate existing or new lighting; and*
- m) be sympathetic in design, material and colour to compliment the surrounding environment.*

Bicycle parking and storage is integrated into the ground floor layout of the proposal in a secure facility, with capacity for 33 bicycles. Additional bicycle storage is provided in the entry foyers of 2-bedroom apartments, for a total of 114 bicycle spaces. Bicycle storage is protected and easily accessible with appropriate security levels, includes storage racking in the communal storage area, is separate from vehicle movement and parking areas and is integrated into the design of the building.

4. *A locker should accompany every secure bicycle parking space provided, and should be:*

- a) of suitable volume and dimensions to allow storage of clothing, cycling helmets and other personal items;*
- b) well ventilated, secure and lockable; and*
- c) located close to shower and changing facilities.*

Storage will be provided in the EOT for communal bicycle storage areas in accordance with the above requirements.

5. *All new non-residential buildings, hotels/motels, and serviced apartments in Zones HR, CB, C, SC and TC should provide sufficient and accessible shower and changing facilities for staff with the number of showers calculated at the rate specified in the table to this clause.*

A minimum of 2 showers will be provided in the EOT facilities.

6. *Shower and changing facilities must be secure facilities capable of being locked, and should:*

- a) be located as close as practical to the associated bicycle parking facilities;*

- b) *provide one change space per shower; and*
- c) *Provide for separate male and female facilities where more than one shower is provided.*

EOT facilities are directly adjacent the bicycle storage, will provide separate male and female facilities and incorporate changing space.

5.6 Specific Development Requirements

5.6.1 Clause 5.4.3 – Building Setbacks of Residential Buildings and Ancillary Structures

Purpose

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.*

Administration

1. *This clause does not apply in Zones CB, LI, GI and DV.*
2. *In this clause:*
 - a. *an **ancillary** structure includes an **outbuilding** (excluding shade sails), balcony, portico and the like, which may or may not include external walls; and*
 - b. *for all developments except **dwelling-multiple** in Zone MR or HR, where a lot has a boundary with a public street from which vehicular **access** to the lot is restricted by the controlling Agency or local government council, this boundary shall be considered a side or rear lot boundary for the purpose of calculation of the **building setback**.*
3. *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.*

4. *If a building setback plan in Schedule 9 does not establish a specific setback to a nominated boundary, **residential buildings** and **ancillary** structures are to be set back from that boundary in accordance with sub-clause 6(a) or clause 5.4.3.3 as appropriate.*
5. *Despite sub-clause 6 sheds in Zones other than H, A, RR, RL and R may have a nil setback to the side and rear boundaries provided it is*
 - a. *6m or more from the **primary street** and 2.5m or more from a **secondary street** when measured to the wall of the shed or where there is no wall, the outer face of any column;*
 - b. *has a cumulative **floor area** of 15m² or less;*
 - c. *is 2.5m or less in height;*
 - d. *has no openings in walls that are less than 1.5m from a lot or unit title; and*
 - e. *does not discharge rainwater on an adjacent lot or unit title.*

Requirements

6. *Subject to clause 5.2.7, **building setbacks** of **residential buildings** and **ancillary** structures are to be set back from lot boundaries in accordance with:*
 - a. *the relevant table to this clause; or*
 - b. *any setbacks established in a building setback plan that is included in Schedule 9.*
7. *Where a zero or 300mm setback is identified on a building setback plan in Schedule 9, a zero or 300mm setback can only be established to the boundary nominated on the setback plan.*
8. *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.*

Setbacks for residential buildings in Zone TC are subject to Table A in **Clause 5.4.3**, stipulating setback requirements for residential buildings and ancillary structures in zones other than RR, RL, R, H and A. The required and proposed setbacks applicable to the subject land and proposed development are outlined in the table below.

Boundary	Required Setback	Building 1 Proposed Setback (Compliance / Non-Compliance)	Building 2 Proposed Setback (Compliance / Non-Compliance)
Primary Street (Smith Street)	7.5m	0m (-7.5m)	8.2m (+0.7m)
Secondary Street (Montoro Court)	2.5m	10.5m (+8m)	NA
Secondary Street (Packard Place)	2.5m	NA	GL car parking access: 8.3m (+5.8m) Residential Component: 11.6m (+9.1m)
Side (Boundary running NE-SW adjacent lot 1289)	3m (habitable rooms with windows, verandahs and balconies) 1.5m (non-habitable)	NA	Habitable: 8.7m (+5.7m) Non-habitable: 2.5m (+1m)
Rear (Adjacent lot 1289)	3m (habitable rooms with windows, verandahs and balconies) 1.5m (non-habitable)	7m (+5.5m)	NA
Rear (Adjacent lot 1297)	3m (habitable rooms with windows, verandahs and balconies) 1.5m (non-habitable)	NA	Habitable: 10.1m (+7.1m) Non-habitable: 3m (+1.5m)

Both building components exceed the setback requirements of **Clause 5.4.3** to all boundaries with the exception of the Building 1 boundary setback to Smith Street, ensuring the proposed structures are consistent with the purpose of **Clause 5.4.3** in that the development:

- 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.*

Building 1 seeks to retain the 0 metre setback to the Smith Street boundary approved previously.

Whilst below the required 7.5 metre setback, the significant distance (approximately 12 metres) between the Smith Street verge and the property boundary, are sufficient circumstances to warrant consideration of a setback reduction. Administration **subclause 3** provides guidance on variations to **Clause 5.4.3**:

*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.*

With regard to the purpose of **Clause 5.4.3**, the setback variation (being a setback variation to the primary street frontage) will not cause or contribute to overlooking of adjoining properties, enables a narrow building width to Smith Street (and large setback to Building 2) thus minimising adverse effects of building massing, and is adjacent Smith Street and the open car parking area, providing ample opportunity for breeze penetration and circulation. A number of buildings fronting Smith Street in the locality adopt a reduced front setback, including lot 6667, 7573 diagonally opposite the subject land, 2432 and the Kim on Smith Building on the corner of Smith Street and Harriet Place. The existing variations in built form, including the nature of the locality influenced by buildings in Zone CB in immediate proximity to the subject site, ensures the reduced setback is not out character with the streetscape and surrounding development given the location and scale of the proposed buildings, and impact on nearby property. Furthermore, a reduction to the front setback of building 1 enables a significant increase to the required secondary street setback (to Montoro Court), approximately 8 metres above the required minimum of 2.5 metres, and to the rear boundary at 7 metres, 4 metres above the minimum of 3 metres.

5.6.2 Clause 5.4.3.2 - Distance Between Residential Buildings on one Site

Purpose

Ensure residential buildings provide a sympathetic interface with the streetscape and surrounding development, minimise adverse effects of building massing, and avoid undue overlooking of adjoining residential buildings and private open space.

Administration

- 1. The consent authority may consent to a development that is not in accordance with sub-clauses 2 and 3 only if it is satisfied it is consistent with the purpose of this clause and that the design of the development adequately mitigates the adverse effects of building massing and privacy and overlooking impacts that may arise from non-conformity with sub-clauses 2 and 3.*

Requirements

2. *Where more than one building comprising one or two storey residential buildings is located on a site the distance between the buildings is to be calculated in accordance with Table A to Clause 5.4.3 as if there was a lot boundary between the buildings.*
3. *Where more than one building comprising residential buildings that exceeds two storeys in height is located on a site, the distance between buildings is to be a minimum of:*
 - a) *3m for walls to non-habitable rooms and habitable rooms without windows or doors; and*
 - b) *4.5m for walls with windows or doors to habitable rooms or to a verandah or balcony.*
4. *For each storey over four storeys, the distance between buildings referred to in sub-clause 3 is measured from a straight line that is half the average distance between the walls of the buildings.*

Clause 5.4.3.2 requires separation between residential buildings provided on the same site. For the purpose of **Clause 5.4.3.2** the Planning Scheme may consider the adjoining roof space contributing to a single residential building with two distinct components. The definition of residential building in Schedule 2 of the Planning Scheme, along with the findings of Dr John Allan Lowndes, Northern Territory Lands, Planning and Mining Tribunal in Jan Salmon Consulting and DCA, 31 October 2011, suggest the proposed development may be considered a connected residential building for the purpose of Clause 5.4.3.2. However, and in the alternative, subclause 3 and 4 has the following effect:

- That the separation (being the opposing lift shafts) must be no less than 3 metres between the ground level and level 3, and 6 metres between level 4 and the upper limit of the buildings; and
- That the separation between the outer face of the dwellings (being the narrowest separation between habitable components) must be no less than 4.5 metres between the ground level and level 3, and 9 metres between level 4 and the upper limit of the buildings.

The outer edges of the opposing lift shafts are separated by 6 metres at all levels. The outer edge of the opposing dwellings are separated by approximately 15.2 metres at the nearest point.

5.6.3 Clause 5.4.4 – Extensions and Ancillary Structures

Clause 5.4.4 applies to extensions and ancillary structures, and is not applicable to the proposed development at this stage.

5.6.4 Clause 5.4.6.2 – Private Open Space (Dwellings-Multiple)

Purpose

Ensure **dwellings** include private open space that enhances the function of the **dwelling** and are:

- a) of an adequate size to provide for outdoor living; and
- b) appropriately sited to provide outlook for the **dwelling**.

Administration

1. The consent authority may **consent to dwellings-multiple** comprising of **serviced apartments** in Zone TC that is not in accordance with sub-clauses 4, 5 and 6 if it is satisfied that the communal open space and communal facilities will adequately meet the activity needs of residents.
2. The consent authority may **consent to dwellings-multiple**, other than **dwellings-multiple** comprising of **serviced apartments** in Zone TC, that is not in accordance with sub-clauses 3-5 if it is satisfied the development is consistent with the purpose of this clause.

Requirements

3. Each **dwelling-multiple** is to have at least one area of private open space that:
 - a. is a minimum area of 12m² with no dimensions less than 2.8m;

Private open space for all dwellings (other than the single ground level accessible dwelling in Building 1) is provided in the form of balconies as an extension of the primary internal living areas within each apartment. The ground level 2-bedroom dwelling is provided with an external courtyard of 53.055m² (6.55 by 8.1 metres), in addition to the undercover verandah area. The ground level apartment includes open space areas with sufficient permeability and access to sunlight, as well as space for landscaping and tree planting. Balconies are appropriately sized to provide for domestic purposes and provide a direct outlook for internal dwelling areas.

The table to **Clause 5.4.6** requires private open space for all apartments with a minimum 12m² with no dimension less than 2.8 metres.

The proposal includes the following private open space areas:

- 1-bedroom dwellings – 9.47m² with dimensions of 2.55 by 3.715 metres;

- 2-bedroom dwellings – 19.44m² with dimensions of 3.85 by 5.05 metres and an additional 1.2 metre wide area for a total of 23m²; and
- 3-bedroom dwellings – 16m² with dimensions of 3.8 by 4.25 metres.

With the exception of the 1-bedroom dwellings, all dwellings comply with the required private open space. 1-bedroom dwellings are provided with 9.47m² balconies (rather than 12m² required), with a minimum dimension of 2.55 metres (rather than 2.8 metres required). Of the 28 1-bedroom dwellings proposed, 10 will be *serviced apartments*, for which a reduced area of private open space is appropriate under administration **subclause 1**, given the over-provision of communal open space relative to the requirements of **Clause 5.4.7**. A reduced area for the 18 1-bedroom residential apartments is appropriate in the context of administrative **subclause 2**. Single bedroom dwellings are likely to have a lower number of occupants and thus reduced demand for 12m² of private open space. The over-provision of communal open space ensures:

- Together with the balconies proposed, open space of adequate size to provide for domestic purposes, appropriately sited to provide an outlook for the dwelling;
- Private open space appropriate to the site given the extent of communal open space available, and the proposed features and facilities therein; and
- An appropriate building appearance consistent with the additional (wider) balconies provided in 2 and 3-bedroom apartments.

Accordingly, the proposed private open space areas are appropriate.

- b. is directly accessible from the main living area or dining area of the **dwelling** to enable an extension of the function of the **dwelling**;*

All balconies and private open space areas are directly accessible from the main living areas within the respective dwellings.

- c. is located to provide views from the **dwelling** to open space and natural features of the **site** or **locality**.*

Balconies ensure views over the communal and landscaped areas, enabling an attractive outlook from within dwellings, without unduly compromising privacy of adjacent and nearby land.

- 4. Where private open space is adjacent to communal open space, direct access is to be provided from the private open space to the communal open space, with a delineation between each area.*

Direct access is provided between the ground level private open space areas and the communal areas, with clear delineation between the two.

5. Where the private open space is at **ground level** and not adjacent to communal open space, it should be:
 - a. fenced to a maximum height of 1.8m providing a visual barrier to adjoining **dwelling**s; or
 - b. planted with dense vegetation which will provide a visual barrier to 1.8m to adjoining to adjoining **dwelling**s within two years of planting.

Ground level private open space will be fenced and screened with suitable landscape species.

5.6.5 Clause 5.4.7 – Communal Open Space

Purpose

Ensure that suitable areas for communal open space are provided for **dwelling**s-multiple, residential care facilities and rooming accommodation.

Administration

1. This clause does not apply to **dwelling**-multiple where each **dwelling** has direct and independent **access** to private open space at **ground level**.
2. The consent authority may **consent** to a **dwelling**-multiple comprising **serviced apartments** in Zone TC that is not in accordance with sub-clauses 5 and 6 only if it is satisfied it is consistent with the purpose of this clause and that the private open space associated with each **dwelling** provides appropriate opportunities for outdoor activities.
3. The consent authority may **consent** to a development in Zone C or Zone CB that is not in accordance with sub-clauses 5 and 6 if appropriate recreational space for the occupants of the development is provided, having regard to the following matters:
 - a. whether the communal open space has usable dimensions and is of a sufficient size for the density of the development;
 - b. the development is in proximity to adequate public open space or sufficient amenities; and
 - c. whether there is an appropriate increase in private open space provided (over that which is required by Clause 5.4.6), for each dwelling in the development.
4. For zones and uses not covered by sub-clauses 2 and 3, the consent authority may **consent** to a development that is not in accordance with sub-clauses 5 and 6 if it is satisfied the communal open space has usable dimensions and is of a sufficient size for the development.

Requirements

5. A minimum of 15% of the **site**, being not less than 6m wide at any point, is to be communal open space.

Communal open space in accordance with or exceeding the minimum dimension requirements is equivalent to 1,630m², or 40.9% of the site area.

6. Communal open space is to be designed to:
- a. be clearly delineated from private and **public open space**;
 - b. maintain reasonable privacy of nearby **dwellings**;
 - c. provide recreational facilities for occupants; address the projected needs of children;
 - d. include landscaping and shade where located outdoors;
 - e. minimise safety issues, including through lighting and passive surveillance;
 - f. minimise the effects of any on-site traffic circulation and **car parking areas**; and
 - g. be capable of efficient maintenance and management.

The communal gardens are clearly delineated from ground level private open space areas, and include landscaping, shaded pavilions, swimming pool, BBQ facilities, walkways and a children's play area. Active recreation areas are separate from the communal areas adjacent private open space, and focussed towards the primary street frontage to ensure appropriate levels of privacy are maintained.

The gardens more than double the minimum area provision for communal open space, providing a design offset to the residential buildings and ensuring an attractive and high quality site and landscape design. The gardens provide for a range of activities for a range of occupants, including landscaping and shade, facilitate informal surveillance and user security, facilitate on-site pedestrian circulation and are separated from vehicle movements, and provide for future maintenance and management requirements.

5.6.6 Clause 5.4.8.2 – Building Design for Dwelling-multiple

Purpose

*Promote site-responsive design of **dwellings-multiple** that provides a sympathetic interface with the streetscape and surrounding **dwellings**, is climatically appropriate and provides a pleasant living environment for the occupants.*

Administration

1. *A development application must, in addition to the matters described in sub-clauses 8-15, demonstrate consideration of and the consent authority is to have regard to the Community Safety Design Guide in Schedule 5.*

The *Community Safety Design Guide* seeks to ensure development considers the principles of *Community Protection through Environmental Design* (CPTED). In relation to the guide, the proposed development provides opportunities for passive surveillance through ground level communal and private open space, and upper level residential uses, including balconies. The proposal limits opportunities for entrapment and low level zone lighting lighting will ensure the avoidance of dark zones. Residential car parking areas are protected and the primary pedestrian access is within view of the communal areas, office and reception.

2. *The consent authority may **consent** to a development that is not in accordance with sub-clauses 8-9 if it is satisfied that it is consistent with the purpose of the clause.*
3. *The consent authority may **consent** to a development that is not in accordance with sub-clause 10 if it is satisfied that the development facilitates safe and convenient pedestrian movement through the **site**.*
4. *The consent authority may **consent** to a development that is not in accordance with sub-clause 11 if it is satisfied that all reasonable measures have been taken to mitigate potential noise impacts on **habitable rooms** within the **site**.*
5. *The consent authority may **consent** to a development that is not in accordance with sub-clause 12 if it is satisfied that **car parking areas**, services and utilities, and bin storage areas are appropriately concealed or integrated into the development to minimise visual impacts.*
6. *The consent authority may **consent** to a development that is not in accordance with sub-clauses 13 and 14 if it is satisfied that the balcony design allows for sufficient breeze penetration and limits the appearance of building massing when viewed from the public domain.*
7. *The consent authority may **consent** to a development that is not in accordance with sub-clauses 15 if it is satisfied the development prevents run-off from balconies to adjoining private open space, communal open space and **dwelling**s below.*

Requirements

8. *Doors and openable windows are to provide natural cross ventilation opportunities to **habitable rooms**.*

Individual apartment designs provide clear cross-flow ventilation between balcony and main entrances, including internal perforations to aid breeze penetration. Ensuring buildings consist of a single apartment width only, with permeable common access corridors and building separation maximises opportunities for flow-through ventilation.

9. *Building design is to minimise the expanse of blank walls facing the street and **public open spaces** and limit external finishes that could cause nuisance to residents or the general public, such as materials that would result in excessive reflected glare.*

Building elevations ensure appropriate shading is provided to openings, with distinct building components, streetscape activation, fenestration, use of building projections and varying façade designs avoid any expanse of blank walls. Selected materials focus on matte, natural finishes minimising any opportunity for glare or other nuisance.

10. *Development is to provide legible entry points and clear and direct pathways for pedestrians from the street and to all buildings on the **site**.*

Clear, legible pedestrian entry is provided to the primary frontage, with legible pedestrian access between the primary entrance, car park levels, lifts and apartments.

11. *Development is to minimise the transmission of noise and exhaust from services by:*

- a. *locating lift shafts away from **habitable rooms**, or by using other noise attenuation measures; and*
- b. *locating air conditioner plants away from openings in **habitable rooms**.*

Lift shafts, air conditioning condensers and other mechanical services are suitably separated from habitable rooms. Service and air conditioning equipment will be appropriately screened.

12. *Development is to include screening to:*

- a. ***car parking areas** at or above **ground level** (excluding access points) to the public domain, using materials that have a maximum visual permeability of 50%;*

Car parking areas are located within the basement levels or screened by the proposed buildings.

- b. *services and utilities (such as servicing ducts and air conditioning units) to the public domain and neighbouring properties, using materials that have a maximum visual permeability of 50%; and*

The through-driveway between Packard Place and Montoro Court enables services and utilities to be internalised within the site, ensuring screening to the public realm.

- c. *bin storage areas to the public domain, using solid materials and/or landscaping.*

Bin storage and collection areas are internalised within the site screened by the proposed buildings.

13. Balconies are to provide at least:

- a. One side without an external wall; and*
- b. One side without an external wall for more than 50% of the length of that side.*

Balconies are completely open to the respective frontage, with side elevations either open, consisting of permeable privacy / shade screening (consistent with privacy screening that promotes breeze penetration), or a solid wall to no more than 50% of the respective balcony length.

14. Full-height privacy screening on balconies is not to exceed 25% of the length the balcony that faces a street.

Full height sun-screens are shown on balconies facing Montoro Court, Smith Street and Packard Place, with dimensions confirming the screens do not exceed 25% of the relative balcony frontage.

15. Buildings are to provide internal drainage of balconies.

All balconies will be internally drained.

5.6.7 Clause 5.4.17 – Building Articulation

Purpose

*Ensure that **residential buildings** mitigate the perception of building mass and bulking when viewed from adjoining properties and the street, and provide opportunities for cross-ventilation within building design.*

Administration

- 1. This clause applies to all sides of **residential buildings** that are longer than 15m, except the ground floor of buildings in Zone CB.*
- 2. The consent authority may **consent** to a development that is not in accordance with sub-clause 4 only if it is satisfied it is consistent with the purpose of this clause.*
- 3. The length of the building excludes verandahs, balconies, porches and carports integrated into the **residential building** design.*

Requirements

4. *A step or recess to the building line of no less than 1m by 1m is required for every 15m of building length, or part thereof.*

With the exception of building elevations internal to the site (ie the respective building elevations facing each other), the main building line is sufficiently articulated to ensure the required step is provided within each 15 metres continuous frontage.

6.0 Section 46(3)(b) – Interim Development Control Order

There are no Interim Development Control Orders currently applicable to the subject land.

7.0 Section 46(3)(c) – Referral to the NT EPA

Section 48 of the *Environmental Protection Act 2019* (EPA Act) requires a project be referred to the NT Environmental Protection Authority (NT EPA) for a standard assessment if it has the potential to have a significant impact on the environment or meets a referral trigger. Formal consideration under the EPA Act is not required, and the proponent is aware of their obligations under the Waste Management and Pollution Control Act.

8.0 Section 46(3)(d) – Merits of Proposed Development

The proposed development will increase the provision and range of short-term and residential accommodation available within immediate proximity of the Darwin CBD. The redevelopment of the site will enable the reuse of vacant land, and will appropriately integrate with the surrounding locality.

9.0 Section 46(3)(e) – Physical Characteristics and Suitability of the Land

A detailed description of the subject land and locality are contained within **Section 2** of this report. The site is suitably accessible and serviced, with any necessary upgrades able to be carried out without major infrastructure works. The land is zoned in anticipation of such development, and the unique and ‘tropical’ design ensures the development is suitable in the context of the locality.

10.0 Section 46(3)(f) – Public Facilities and Open Space

The proposal includes communal areas and facilities available to residents and guests. Extensive public facilities are provided in the Darwin CBD, located a short distance south-west of the site, with a number of public open space areas including Bicentennial Park and Harriet Park located a short walking distance from the subject land.

11.0 Section 46(3)(g) – Public Utilities and Infrastructure

The site is currently serviced by mains power, water and sewer, with access provided through the surrounding road network. Any upgrades to service capacity to accommodate the proposed development can occur as part of the construction process in accordance with the requirements of the service providers.

12.0 Section 46(3)(h) – Impact on Amenity

The suitability of built form in the context of existing and reasonably anticipated amenity is considered in **Section 5** of this report. The varied built form design and dimensions, location of buildings, significant proportion of landscaping and open space, and the varied nature of built form within the locality, mean that the proposed development will occur without an unreasonable impact on the amenity of the subject land, adjoining land, and land within the immediate and greater locality.

13.0 Section 46(3)(j) – Benefit/Detriment to Public Interest

The proposal will increase the range of accommodation available within immediate proximity to the Darwin CBD, and enable an increase in employment through the operation of the serviced apartments. There is unlikely to be any detriment to public interest.

14.0 Section 46(3)(k) – Compliance with the Building Act

The application does not comprise any form of subdivision. Accordingly, **Section 46(3)(k)** is not applicable.

15.0 Section 46(3)(l) – Development of Scheme Land

The application does not comprise the subdivision of land under a unit titles scheme. Accordingly, **Section 46(3)(l)** is not applicable.

16.0 Conclusion

This application seeks a development permit for the construction of an integrated residential and serviced apartment development in 10 and 11-storey buildings with three levels of basement car parking. The proposed development is an evolution of development outcomes previously approved, albeit modified to better suit the current site and surrounding locality, and the requirements of the Northern Territory Planning Scheme 2020. This report considers the proposed variations against the requirements of the current Planning Scheme, and concludes that the proposed development is appropriate.



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