

STATEMENT OF EFFECT – LOTS 01287, 01288, 01295 AND 01296 TOWN OF DARWIN

1. Introduction

This application seeks approval for a multi-level serviced apartment and multiple dwelling development on the site of the old Asti Hotel, Smith Street, Larrakeyah. The proposal seeks to amend 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 a 6, 8 and 13 storey building. 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.

In preparing this application, I have viewed the subject land and locality, assessed the concept plans and details of the proposed development, had consideration to the past applications and approvals, and addressed the relevant components of the **Section 46(3)** of the Northern Territory Planning Scheme. 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 Impact Assessment – March 2014
- Attachment F:** Titles

2. Subject Land

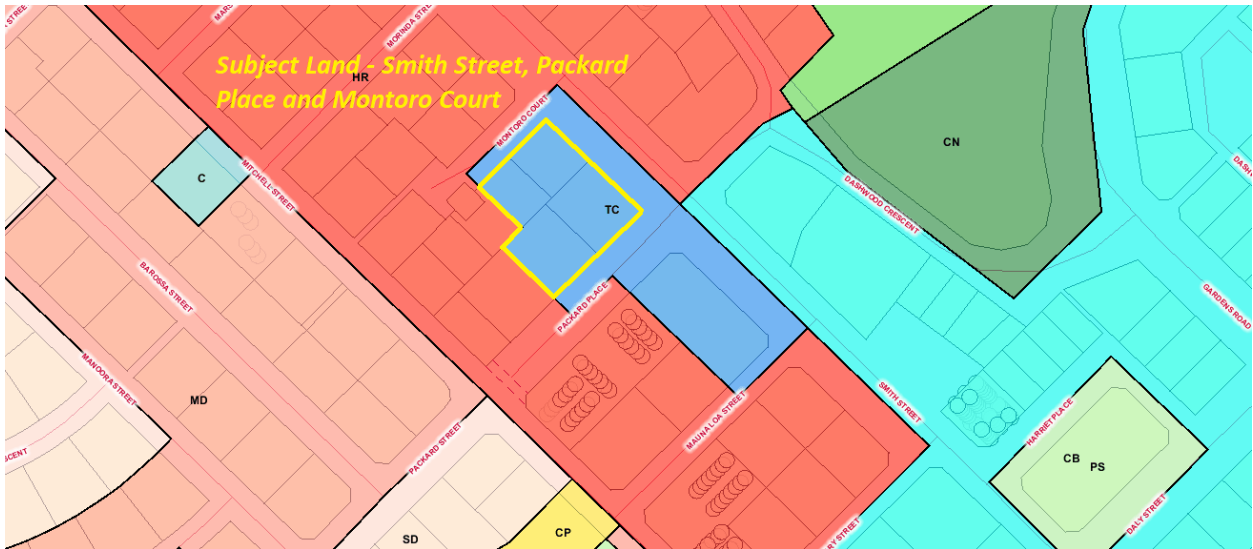


Figure 1: Lots 01287, 01288, 01295 and 01296 Town of Darwin

Address: Lot 01287 Town of Darwin (1 Montoro Court, Larrakeyah)

Lot 01288 Town of Darwin (2 Montoro Court, Larrakeyah)

Lot 01295 Town of Darwin (8 Packard Place, Larrakeyah)

Lot 01296 Town of Darwin (7 Packard Court, Larrakeyah)

Title Reference and Land Tenure: CUFT 790 981 (Montoro Court and 8 Packard Place) – Estate in Fee Simple (freehold)

CUFT 793 460 (7 Packard Place) – Estate in Fee Simple (freehold)

Landowner: Joondanna Investments Pty Ltd

Land Area: 3985.00 square metres

Easements: Lot 01296 – Sewerage and Electricity Supply easements to the Power and Water Corporation (written confirmation from PWC that works to extinguish easement have been completed)

Road Frontage: 69.88 metres to Smith Street
64.01 metres to Packard Place
48.77 metres to Montoro Court

Zone: TC (Tourist Commercial)

Relevant Planning History: **DP13/0895** – 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 – 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 – 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.

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 in three buildings. Works on the above development approvals commenced sometime 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 Montoro Court frontage.

3. 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 this 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 comprises a combination of walking and cycle paths, lineal open space and car parking. The portion adjacent the subject land comprises a public 19-bay car park.

Built form within the surrounding locality comprises a mix of predominantly residential development at varying densities. A number of residential flat buildings within the immediate locality are constructed at heights, if not densities, below the maximum height provisions within the Northern Territory Planning Scheme, and generally comprise building stock more than 10 years old.

Newer residential development, including the eight storey building directly opposite the site in Packard place, a nine storey building diagonally opposite the site (in Zone CB), and seven storey building directly opposite the site in Smith Street, present a much larger and dominant built form, aligned with the height and density provisions in both the HR and CB Zones.

4. Proposed Development

Full plans and details prepared by Troppo Architects are contained within **Attachment A**. The proposal maintains a building approach and built form outcomes similar to that approved through DP15/0400 (refer endorsed plans in **Attachment B**) albeit with amended land use components (ie no *motel* is proposed) and the provision of a seven-storey building fronting Smith Street (as opposed to six-storeys approved through DP15/0400). Development details comprise:

- Construction of a mixed serviced apartment and multiple dwelling development with three buildings of 8 (building 1), 13 (building 2) and 7 (building 3) storeys, each with 46, 60 and 34 apartments respectively, for a total of 140 apartments. Building 1 consists of 17 1-bedroom and 29 2-bedroom apartments, building 2 with 24 1-bedroom, 24 2-bedroom and 12 3-bedroom apartments, and building 3 has 14 1-bedroom and 20 2-bedroom apartments, with an overall mix of 55 1-bedroom, 73 2-bedroom and 12 3-bedroom apartments;
- Ground level comprising integrated deck and pavilion area, office and reception area, café / commercial tenancy, gymnasium and ancillary storage area, swimming pool and outdoor shower, communal garden and barbecue area, 5 1-bedroom and 3 two-bedroom apartments, landscaping and pedestrian access areas. a 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 5 car parking spaced, bin storage and loading bay, service areas including water meters, air conditioning plant, electrical equipment and fire stairs, storage area, bike parking and the basement car park access ramps;
- Three basement car parking levels comprising 64, 90 and 42 car parking spaces, bicycle parking, lift and stairwell access, vehicle ramps and storage space. Including the 5 parking spaces at ground level, 201 car parking spaces are provided within the site;
- 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 large number of apartments have been designed to enable disabled access, along with a high number of access 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 lightweight building methods, raw cladding and 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 plans.

Whilst the nature of development has varied from that approved in DP15/0400, primarily due to the removal of the motel component and replacement with a combination of serviced apartments and multiple dwellings, the overall design and outward appearance of the site and the proposed buildings has largely been retained. A traffic impact assessment was undertaken by MFY traffic engineers in March 2014 and, whilst the development details have shifted somewhat since, the report concludes that:

“The increase in movements on the surrounding road network will generally be low and readily accommodated. An assessment of the impact of the proposal on the intersections of Smith Street / Montoro Court and the Smith Street/Packard Place/Dashwood Crescent has been undertaken. Analysis of future conditions at the intersection, using a ten year design horizon, identify that the intersections will work satisfactorily in the current configurations.”

Based on the above conclusion and the relatively stable road network situation since, a further traffic impact assessment has not been prepared at this stage. Any further traffic impact assessment will be undertaken per the requirements of the City of Darwin and/or the Transport and Civil Services Division (within the Department of Infrastructure, Planning and Logistics).

5. Section 46(3)(a) - NT Planning Scheme

The relevant provisions of the Northern Territory Planning Scheme are referred to herein.

Nature of Development

The proposal comprises the development of *serviced apartments*, *multiple dwellings* and *restaurant* per the definitions within **Clause 3.0** of the Scheme. The *office* component is entirely ancillary to the function of both the *serviced apartments* and *multiple dwellings*, and thus is not considered as a separate land use per **Clause 3.0**. *Multiple dwellings* are also included in the definition of *residential building*.

“serviced apartment” 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 by an owner or manager of the building or by an agent of an owner or manager of the building.

“multiple dwellings” means a building or group of buildings on a site which individually or collectively contain more than one dwelling (including serviced apartments) but does not include a dependant unit.

“restaurant” means premises (other than a shop, or part of a hotel or a motel) in which meals are served to the public whether or not the premises provides a drive-through service or requires a licence under the Liquor Act;

“residential building” means a building or part of a building used or developed or proposed to be used or developed for a caretaker’s residence, dependant unit, group home, hostel, hotel (where the hotel includes accommodation available to members of the public), motel, multiple dwellings, single dwelling or supporting accommodation.

Clause 5.10 of the Scheme relating to development within the TC (Tourist Commercial) Zone identifies the development and use of land for the purpose of *multiple dwellings* (including *serviced apartments*) and *restaurant* as *Discretionary*.

Zone TC

Clause 5.10 contains two objectives for development within Zone TC:

1. *The primary purpose of Zone TC is to provide for uses or development servicing tourism, including commercial and residential activities.*

The proposal includes 70 *serviced apartments* and 70 *multiple dwellings*, with the proportion of short-term (apartment) and long-term (dwelling) uses at 50% respectively. Together with the *restaurant* (café) component on the ground floor which primarily provides a function consistent with uses and development servicing tourism, the proposal adheres to the above objective, in that the *primary* purpose is for uses servicing tourism (as well as the resident population).

2. *Development should be of a scale and character compatible with uses or development nearby.*

Reason 2 within the DP14/0362 Notice of Consent (refer **Attachment C**) provided the following in relation to **Objective 2** above:

“The proposed amendments are seen to continue to be consistent with purpose of clause 5.10 (Zone TC – Tourist Commercial), by providing development considered to be “of a scale and character that is compatible with uses or development nearby”, given the context of the site’s proximity to the CB (Central Business) Zone and the existence of a number of mid to high rise buildings (six to nine storeys) within close proximity. The additional level of building1 is consistent with the Authority’s previous consideration that the buildings proposed are ‘fairly open in nature and the articulation and interest provided by this design, through its varied heights and ‘tropical’ design features, are seen as positive aspects.”

Reason 2 within the DP15/0400 Notice of Consent reflects that above, and provides clarification on the DCA’s consideration of the current concept (albeit with building 3 at 6 storeys instead of 7) and provides:

“The proposed amendments are seen to continue to be consistent with the purpose of clause 5.10 (Zone TC – Tourist Commercial), by providing development considered to be “of a scale and character that is compatible with uses or development nearby”, given the context of the site’s proximity to the CB (Central Business) Zone and the existence of a number of mid to high rise buildings (six to nine storeys) within close proximity. No changes are proposed to the development which would affect the reasons of this previous

determination, noting that the 6 storey height of 'Building 3' is well below the overall height already approved to be developed on the site."

The aforementioned reasoning equally applies to the proposed development. The site's context hasn't 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 **Objective 2** above clearly requires built form to be *compatible* with the surrounding areas, however does not limit future development to the same height as surrounding development. For the aforementioned reasons, the proposed development will be a positive character addition to the surrounding area, and is *compatible with uses or development nearby*.

The enclosed floor area of all buildings equates to 9,560m². **Clause 6.4** stipulates a maximum plot ratio in Zone TC in Darwin of 3, equating to a maximum floor area for development within the site of 11,955m². The proposed development is well below the maximum plot ratio per the requirements of **Clause 6.4**, thus achieve the objective of that clause to *provide for development that will, in terms of building massing, be compatible with adjacent and nearby development*.

Accordingly, the proposed development is consistent with the positive attributes previously identified by the DCA, and aligns with the objectives for the use and development of land within Zone TC, including the scale of buildings in the context of the surrounding locality.

General Provisions

Clause 6.4 relates to plot ratio in commercial zones. **Clause 6.4** stipulates a maximum plot ratio in Zone TC in Darwin of 3, equating to a maximum floor area for development within the site of 11,955m². The enclosed floor area of all buildings in the proposed development equates to 9,560m², well below the maximum plot ratio per the requirements of **Clause 6.4**.

Clause 6.5.1 relates to the provision of car parking and requires the provision of car parking in accordance with the following table.

Use	Number / area	Car parks required
Serviced Apartments	70	70
Multiple Dwellings	70	140
Restaurant (café)	113m ²	6.78 (6/100m ²)
Serviced Apartments (ancillary)	192m ²	5.76 (3/100m ²)
Total		223 (222.54)

The proposed development provides a total of 201 car parking spaces within the subject land. Based on the above table, the proposed development has a shortfall of 22 car parking spaces.

Clause 6.5.2 allows a reduction in parking requirements subject to certain considerations, and states:

1. *The purpose of this clause is to provide for a use or development with fewer **car parking spaces** than required by clause 6.5.1.*
2. *The consent authority may approve a use or development with fewer **car parking spaces** than required by clause 6.5.1 if it is satisfied that a reduction is appropriate for the use or development, having considered all the following matters:*
 - (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; or*
 - (d) *the use or development relates to a **heritage place** and the Minister responsible for the administration of the Heritage Conservation Act supports the reduced provision of **car parking spaces** in the interest of preserving the significance of the **heritage place***

In the consideration of DP13/0895, the DCA identified a number of considerations in relation to the generation of car parking for the proposed development. The minutes of the relevant DCA hearing identified:

A reduction to the requirements of clause 6.5.1 (Parking Requirements) of the Northern Territory Planning Scheme is supported under Clause 6.5.2 (Reduction in Parking Requirements) as it is considered that there is sufficient ability for the locality to accommodate the parking required by the development, noting the ability to endorse a reduced parking demand through:

1. *Reference to the zoning in proximity of the site, noting that compliance would be achieved by assessing the development as being in zone CB (Central Business), in addition to accounting for the on-street bays mentioned below, as mentioned by subclause 2(a) of clause 6.5.2.*
2. *The high proportion of 'short-stay' residences associated with this development, whether motel suites or serviced apartments, does also point towards a likelihood that other forms of transport are likely to be used.*
3. *The 10 on-street car parking bays that are immediately to the north-east of lots 1287 and 1295, as referenced by subclause 2(b) of clause 6.5.2.*
4. *The large on-street perimeter to the development site (measured as being 180m) also means that there is also greater ability for overflow parking to be accommodated by the existing street network without impacting on other sites in the vicinity.*

5. *The proximity of public transport bus stops and services that run along Smith Street and Mitchell Street (50m to the south), as referenced by subclause 2(c) of clause 6.5.2.*
6. *Additionally, the likelihood for other forms of transportation to be used should be taken into account.*

The development includes facilities for the parking of 18 motorcycles, approximately 40 bicycles, is within walking distance of a number of attractions, and includes two drop-off areas to allow for the regular use of buses or taxis.

The proposed development retains a number of components to which the DP13/0895 decision defers, given the proximity to the CBD, prevalence of short-stay accommodation, large street frontages facilitating overflow car parking, proximity to alternative transport options, bicycle parking and access to public car parking adjacent the Smith Street frontage. In relation to point 1 above, the below table indicates the parking generation that would apply if the site was located in Zone CB.

Use	Additional number / area	Additional car parks required
Serviced Apartments	70	70
2-bedroom Multiple Dwellings	58	87 (1.5 / unit)
3-bedroom Multiple Dwellings	12	20.4 (1.7 per unit)
Restaurant (café)	113m ²	3.39 (3/100m ²)
Serviced Apartments (ancillary)	192m ²	5.76 (3/100m ²)
Total		187 (186.55)

Due to the aforementioned reasons, primarily the proximity to the Darwin CBD and the corresponding increased access to alternative transport options and walkability, the provision of car parking between the rates for Zone TC and Zone CB is considered appropriate. Together with the public angled car parking along Smith Street, the proposal will provide ample car parking for occupants.

Clause 6.5.3 refers to the design and layout of car parking areas. The proposed car parking layout generally complies with the car parking requirements of **Clause 6.5.3**. Parking spaces located at the end of rows are opposite access ramps to enable adequate space for reversing and exiting, or provide the additional metre of aisle space per the requirements of **Clause 6.5.3**. 20 of the basement car parking spaces are identified as 'small-car' bays due to slight reductions in the minimum dimension requirements. The extent of small-car bays is less than 10% of the total number of car parking spaces on site, can be specifically allocated to users in need of small bays only, and given the proximity of the site to the CBD and the overall number of compliant parking spaces provided, will ensure adequate car parking facilities for all users. The remaining car parking areas comply with the dimension and layout parameters of **Clause 6.5.3**, in that:

- With the exception of the small-car bays, parking spaces have minimum dimensions of 2.5 metres width by 5.5 metres length;
- Driveways are minimum 6 metres wide;

- No ground level car parks are less than three metres from an adjacent road boundary; and
- Car parking areas will be sealed, drained and line-marked.

Clause 6.6 refers to the provision of *loading bays*, and requires a single loading bay for the proposed *restaurant* (given the restaurant is less than 2,000m²). A single loading bay is provided in the rear ground level service lane, nearby the Montoro Court access. The loading bay complies with the minimum 7.5 by 3.5 metres at ground level, however vertical clearance is limited to 3 metres rather than the required 4 metres. The reduction is appropriate given the small area of the proposed café (113m²) relative to the extent to which one loading bay can cater for a *restaurant* (up to 2,000m²). At less than 6% of the maximum area to which one loading bay can cater for, the proposed *restaurant* will have no demand for large vehicle loading and unloading, and can function with the reduced height of the proposed loading bay.

Residential Development

Clause 7.1 relates to residential density and height limitations to ensure residential densities and buildings are compatible with the existing and planned provision of reticulated services and community facilities which service the area, are consistent with the land capability, are compatible with nearby development and do not unduly overlook adjoining properties. There are no maximum residential density and/or height limitations applicable for Zone TC in Darwin, invoking consideration of **Clause 5.10** (Zone TC objectives) and **Clause 6.4** (plot ratios), both previously addressed.

Clause 7.3 relates to the setback of residential buildings, and seeks to ensure development is compatible with surrounding development, to minimise the effects of building massing, to avoid undue overlooking and to encourage breeze penetration. **Clause 7.3.1** stipulates additional setback requirements for residential buildings longer than 18 metres and higher than 4 storeys. The table below indicates the proposed setbacks in comparison to the setbacks required under both **Clause 7.3** and **Clause 7.3.1**. Non-compliance setbacks are underlined in italics.

Boundary	Proposed (Required) - Wall for residential buildings Clause 7.3	Proposed (Required) - Wall for residential buildings Clause 7.3.1
Primary Street (Smith Street)	<i>B1 – 0m (7.5m)</i> B2 - >10.5m (7.5m) B3 – 10.5m (7.5m)	<i>B1 – 0m (8m Lground – L3, 9.5m L4, 10.5m L5-L7)</i> B2 - >10.5m (10m Lground – L3, 10.5m L4-L12) B3 – 10.5m (10m Lground – L3, 10.5m L4-L6)
Side (Montoro Court)	B1 – 5.2m (2.5m)	<i>B1 – 5.2m (6.5m Lground – L3, 8m L4, 9.5m L5, 10.5m L6-7)</i>
Side (Packard Place)	B2 – 2.5m (2.5m) B3 – 2.5m (2.5m)	<i>B2 – 2.5m (3m Lground – L3, 4.5m L4, 6m L5, 7.5m L6, 9m L7, 10.5m L8-12)</i>

		<u>B3 – 2.5m (3m Lground – L3, 4.5m L4, 6m L5, 7.5m L6)</u>
Rear	B1 – 6m (3m) B2 – 10.26m (3m)	<u>B1 – 6m (4m Lground – L3, 5.5m L4, 7m L5, 8.5m L6, 10m L7)</u> <u>B2 – 10.26m (5.5m Lground – L3, 7m L4, 8.5m L5, 10m L6, 10.5m L7-L12)</u>

The proposal largely retains the setbacks approved through DP15/0400. With the exception of the Building 1 Smith Street setback, the proposed buildings comply with the setback requirements of **Clause 7.3**, ensuring the *structures are compatible with the streetscape and surrounding development, adverse effects of building massing are reduced when viewed from adjoining land and the street, avoid undue overlooking of adjoining properties, and encourage breeze penetration* in accordance with the objectives of **Clause 7.3**. Building 1 retains the 0m setback to the Smith Street boundary provided in all three previous development approvals. Whilst below the required 7.5 metre setback per **Clause 7.3**, the fact that this is consistent with recent approvals, and thus to an extent the expected development within the subject land, and the significant distance (approximately 12 metres) between the Smith Street verge and the property boundary, are sufficient circumstances to support the variation.

Clause 7.3.1 requires additional setbacks to “ensure that residential buildings respond to the potential adverse effects of building massing and visual bulk when viewed from adjoining land and the street.” **Subclause 5** provides the consent authority with specific discretion in relation to **Clause 7.3.1**, providing that “the consent authority may consent to a development that is not in accordance with sub-clause 2 if it is satisfied that the design of the development adequately mitigates the adverse effects of building massing and visual bulk that may arise from non-conformity with sub-clause 2.” The DP15/0400 Notice of Consent (**Attachment B**) provided the following in relation to **Clause 7.3.1**:

“A variation to Clause 7.3.1 (Additional Setback Requirements for Residential Buildings Longer than 18m and for Residential Buildings over 4 storeys in Height) of the Northern Territory Planning Scheme relating to Packard Place is considered appropriate although Buildings 2 and 3 are considered as one building for the purposes of assessment, the solid walls of each component are separated by a distance of 11.3m, and provide an appearance of individual buildings despite being connected by open walkways and a lift well at upper levels. The building length of ‘Building 2’ and ‘Building 3’ together is considered to be balanced through the significant setbacks of 17m at upper levels from Smith Street, and 13m to the rear (south-west) boundary where adjacent Packard place. The proposal results in a reduced overall building length compared to the extent of existing / approved buildings along Packard Place. As considered in the previous reasons, the design maintains a lightweight architectural appearance with sufficient visual interest provided through the use of balconies, feature cladding and screening materials. The combination of the building heights varying between 6 and 13 storeys also provides interest. The overall design is considered to achieve the purpose of the clause in preventing any adverse effects of building massing and visual bulk when viewed from adjoining land and the street.”

Whilst some of the specific components referred to above have been altered (for example the building heights now range between 7 and 13 storeys), the fundamental components are retained. Buildings 2 and 3 retain a significant separation between their respective solid walls, the Smith Street setback is significantly varied between buildings 1 and 3, there are a range of building heights throughout the development, and significant void space at ground level. The overall design continues to rely on ‘tropical’ architecture, with extensive use of wall openings, balconies, lightweight cladding, awnings and shade structures to ‘minimise’ the visual impact of the proposed buildings. Accordingly, and consistent with the previous approvals, the revised proposal employs layout and design measures to minimise adverse effects of building massing.

Clause 7.5 relates to the provision of private open space, and requires that, for multiple dwellings without direct access to ground level private open space, private open space be provided in accordance with the table below. Whilst there are eight multiple dwellings located on the ground floor, given these dwellings are directly adjacent the Montoro Court frontage and/or the communal open space, they do not have access to ground level private open space per the meaning in **Clause 7.5**. Accordingly they are addressed in a manner consistent with dwellings above ground level.

multiple dwellings (for each dwelling without direct ground level access).	12m ² inclusive of an area with minimum dimensions of 2.8m x 4m.
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The individual unit floor plans in **Attachment A** demonstrate the provision of private open space. 2 and 3-bedroom dwellings are provided with balconies of 23m² and 26.5m² respectively, with 2-bedroom dwellings having a clear area of 3.725 by 4.94 metres, and 3-bedroom dwellings including an area of 5.8 by 3.95 metres, therefore compliant with the requirements of **Clause 7.5**. 1-bedroom dwellings are provided with balconies of 8.5m², with clear dimensions of 2.55 by 3.775 metres. Although below the required area and dimensions, the variation is limited to 1-bedroom dwellings, likely to have a lower number of occupants and thus demand for 12m² of private open space. It is noted that **subclause 7 of Clause 7.5** provides the DCA some discretion in relation to *serviced apartments* in Zone TC. Whilst the 1-bedroom dwellings are not limited to *serviced apartments*, the reduced requirements for 1-bedroom dwellings, and the provision of communal open space, are still applicable. Accordingly the proposed variation is appropriate.

Clause 7.6 relates to the provision of communal open space, and requires that a minimum of 15% of the **site**, being not less than 6m wide at any point, is to be communal open space. **Clause 7.6** also requires that the design of the communal open space should consider:

- a) the overall **dwelling** density proposed for the **site**;
- b) the proximity and quality of alternative private or public open space;
- c) the need to clearly distinguish communal open space from private and public open space and the need to maintain the reasonable privacy of nearby **dwellings**;
- d) the type of activities provided for ;

- e) the projected needs of children for outdoor play;
- f) the provision of landscaping and shade;
- g) safety issues including lighting and informal surveillance;
- h) on-site traffic circulation; and
- i) future maintenance and management requirements.

The purpose of **Clause 7.6** is to ensure that suitable areas for communal open space are provided for multiple dwellings, where multiple dwellings do not have direct access to private open space at ground level. The proposal provides a total of 610m² communal space, comprising a large podium area, swimming pool, landscaping, outdoor shower and common garden / barbecue area, equal to 15.3% of the subject land. In addition, a communal gymnasium of 61m² is also provided, increasing the extent and useability of communal facilities within the site. The communal open space provides a functional and useable space to cater for the range of expected occupants, thus complies with the requirements of **Clause 7.6**.

Clause 7.8 seeks to promote site-responsive designs for multiple dwellings which are pleasant for the occupants and do not unreasonably affect the use and enjoyment of adjacent land.

Clause 7.8 states:

2. Building design should:

- a) locate development on the site for correct solar orientation;*

Residential elevations minimise the extent of openings subject to direct western sunlight, and ensure appropriate shading is provided to openings.

- b) minimise expanses of walls by varying building heights, building setbacks and façades;*

Distinct building components, streetscape activation, fenestration, use of building projections and varying façade designs avoid any expanse of blank walls.

- c) locate air conditioners where they are accessible for servicing;*

Air conditioning plant is located at ground level easily accessible in dedicated enclosures.

- d) conceal service ducts, pipes, air conditioners, air conditioning plants etc;*

Service and air conditioning equipment will be appropriately screened.

- e) avoid overlooking of private open spaces and habitable rooms of adjacent residences on the same and adjacent sites;*

The proposal ensures living room windows adhere to setback requirements and places the primary living areas of balconies further than 6 metres from adjoining site boundaries.

- f) locate bedrooms and private open spaces away from noise sources;*

Bedrooms are located away from potential noise sources, with the residential levels suitably separated from street-level noise sources and buffered from car parking levels.

- g) control its own noise sources and minimise the transmission of noise between dwellings;*

Noise transmission between dwellings will be suitably controlled, primarily through construction requirements (fire rating) to enable unit titling.

- h) where close to high noise sources (such as busy roads and airport flight paths), be of appropriate acoustic design and construction;*

The separation of residential development provides sufficient buffering between traffic and street-level noise. The subject land is not likely to be overly sensitive to noise from airport flight paths.

- i) balance the achievement of visual and acoustic privacy with passive climate control features;*

Shade awnings, large openings and balconies and access to prevailing breezes will aid passive climate control.

- j) allow breeze penetration and circulation;*

The inclusion of openings facing prevailing breezes from the north-west and south-east allows access to flow-through ventilation.

- k) minimise use of reflective surfaces; and*

Reflective surfaces will be minimised.

- l) provide internal drainage of balconies and coving on the edge of balconies.*

Balconies will be internally drained and coving provided where required.

Commercial Development

Clause 8.2 relates to commercial and other development in Zone CB (among others). The extent of commercial development within the subject land is limited to the proposed *restaurant*. In relation to the requirements of **Clause 8.2**, the proposed *restaurant* does not compromise amenity or vistas, is sympathetic to the character of the surrounding locality, minimises blank walls, adds variety and interest at street level, controls on site noise sources, does not compromise pedestrian access and appropriately integrates with site facilities such as landscaping and bicycle parking.

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 active frontages (communal open space) and glazing areas (restaurant), including during daylight hours and after-hours. The proposal limits opportunities for entrapment and lighting will ensure the avoidance of dark zones. Residential car parking areas are protected and pedestrian access is within view of the communal areas, office and reception.

Clause 8.3 relates to setbacks for commercial uses adjacent land in Zones SD, MD, MR and HR, and provides setback and landscaping requirements where commercial uses adjoin land in residential zones. The proposed *restaurant* is separated from adjoining residential land by the residential buildings within the site, and therefore is not considered to adjoin the adjacent residential land.

5.1 Darwin Regional Land Use Plan

Clause 2.7 of the NT Planning Scheme provides requirements regarding reference to policy documents in development applications. **Clause 2.7** provides:

1. *The interpretation of this Planning Scheme and the determinations of a consent authority must have regard to the policies and planning concepts expressed in those documents appearing in Part 8 or Schedule 2 and ensure that a use or development or proposed use or development is consistent with them.*
2. *Where there is an inconsistency between any applicable policy and this Planning Scheme, the provisions of the Planning Scheme will prevail*

Schedule 2 of the Planning Scheme makes reference to eleven policy documents, including the *Darwin Regional Land Use Plan*. The *Darwin Regional Land Use Plan* was prepared by the NT Planning Commission and incorporated into **Schedule 2** of 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 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.

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.

6. Section 46(3)(b) – Interim Development Control Order

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

7. Section 46(3)(c) – Environmental Assessment Act

Formal consideration under the Northern Territory Environmental Assessment Act is not required.

8. Section 46(3)(d) – Merits of Proposed Development

The proposal increases 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. Section 46(3)(e) – Subject Land, Suitability of Development and effect on other land

A detailed description of the subject land and locality are contained within sections 2 and 3 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. 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 site.

11. Section 46(3)(g) – Public Utilities and Infrastructure

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

12. Section 46(3)(h) – Impact on Amenity

The suitability of built form, particularly the amendments to plans approved per DP15/0400, is considered in Section 5 of this report. The varied built form design and dimensions, articulation and separation of buildings, 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. 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. 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 relevant.

15. 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 relevant.

16. Conclusion

This application seeks a development permit for the construction of an integrated serviced apartment and multiple dwelling development, with a small complimentary café, in three buildings with basement car parking. The proposed development largely adheres to the design parameters of that previously approved, with amendments to accommodate the modified land use for serviced apartments and multiple dwellings, with no more component provided. The development seeks to retain a number of Planning Scheme variations previously considered and approved, and this report seeks to demonstrate that these variations are still appropriate and warranted in the context of **Clause 2.5** of the Northern Territory Planning Scheme and the relevant sections of the Planning Act.



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