

14 July 2025

Development Consent Authority
GPO Box 1680
Darwin NT 0801

ATTENTION: Amit Magotra

Dear Amit

Re: Amendment to DP24/0010

At: Lots 1287, 1288, 1295 and 1296 Town of Darwin (1-2 Montoro Court and 7-8 Packard Place, Larrakeyah)

1.0 Introduction and Background

Cunnington Rosse Town Planning and Consulting have been engaged by Joondanna Investments Pty Ltd to lodge a development application for amendments to the development approved via development permit DP24/0010 issued on behalf of the Darwin division of the Development Consent Authority on 5 January 2024. DP24/0010 approved the use and development of the land for the purpose of *56 dwellings-multiple and 63 serviced apartments in 1x10 and 1x11 storey buildings plus three levels of basement parking*, and is subject to 9 precedent and 19 general conditions.

PA2022/0321, being the application that was ultimately approved as DP24/0010, was originally lodged in August 2022 for the purpose of *44 dwellings-multiple and 47 serviced apartments in two 10-storey buildings plus ground level food premises-café/takeaway with alfresco dining area and three basement levels of car parking*. PA2022/0321 was publicly exhibited for 28 days from 9 September until 7 October, with a number of public and service authority submissions. Upon receipt of the submissions, the application was deferred to enable the proponent to determine their preferred course of action.

Following the deferral, the Northern Territory Planning Scheme was amended in February 2023 to introduce the designing better initiatives relating to residential and mixed use development. The submissions received and amendments to the Planning Scheme resulted in significant design changes to the proposal submitted in August 2023, including:

- Redesigning the site layout such that the two residential buildings are centrally located within the site, significantly increasing the setbacks (and thus separation) to the Montoro Court, Packard Place and rear boundaries;

- Increasing the number of dwellings from 44 dwellings-multiple and 47 serviced apartments to 56 dwellings-multiple and 63 serviced apartments;
- Increasing the height of building 2 from 10-storeys to 11-storeys; and
- Increasing the provision of on-site car parking from 189 to 248 car parking spaces within the basement and ground levels.

PA2022/0321 was re-exhibited in September and October 2023, with a total of 4 additional service authority submissions and 29 public submissions provided in relation to the revised proposal. The proposed development was considered by the DCA at their 17 November 2023 hearing, and DP24/0010 was subsequently issued on 5 January 2024.

2.0 Current Situation and Amendments

Following the engagement of a builder, a number of construction efficiencies have been identified, and subsequently adopted as part of a revised architectural design process. Importantly, these amendments retain the fundamental development outcomes approved through DP24/0010, including:

- 47 / 53% distribution between dwellings-multiple and serviced apartments;
- Generally retaining the same bedroom yield, with a minor increase to overall dwelling yield of one 2-bedroom dwelling-multiple (ground level of building 1);
- Two towers of 10 and 11 storeys each;
- Vast majority of car parking within the basement levels;
- No vehicle access / egress to Smith Street; and
- High proportion of ground level communal open space and landscaping.

Whilst these fundamental elements are retained, the extent of a number of the proposed amendments is beyond the extent able to be approved via a variation to the existing development permit pursuant to **Section 57** of the Northern Territory Planning Act. Specifically, a number of amendments alter a measurable aspect of the approved development by more than 5%. Accordingly, this application seeks a new development permit for amendments to the development approved through DP24/0010. The proposed amendments are considered in this assessment, and all other application documents submitted for the consideration of PA2022/0321 are appended hereto and continue to be relied upon.

2.1 Proposed Amendments

The revised architectural plans are included at **Attachment A**, and comprise the following primary amendments to the DP24/0010 architectural plans (**Attachment B**):

- Removal of one basement car parking level resulting in two basement levels (rather than three) with a total of 221 basement car parking spaces (a reduction of 25 spaces whilst retaining a surplus relative to the **Clause 5.2.4.1** requirements);
- Amending the ground level layout to reduce and relocate the office space, relocate the gymnasium, provide an additional 2-bedroom dwelling within building 1, include an indoor playground, relocate the bicycle parking enclosure and increase the provision of bicycle parking, convert the Montoro Court driveway to egress-only, and provide additional ground-level car parking spaces. The ground level landscaping and communal open space areas have been revised to include feature planters, relocate the swimming pool, provide services at street level, provide open-sided shade structures at the Smith / Montoro and Smith / Packard corners, and provide required basement car park vents (northern vents integrated with the shade structures). The layout of site fencing has also been revised to fence the communal open space areas; and
- Minor changes to building materials, finishes and screening, including proposed balcony screening. Whilst the level of detail for the proposed screening is similar to the approved plans in **Attachment B**, it is proposed that the DP24/0010 conditions precedent are retained, including condition precedent 1 requiring the submission of screening details and compliance with **Clause 5.4.8.2**.

Whilst the majority of design amendments are relatively minor and do not affect the assessment provided in the PA2022/0321 statement of effect in **Attachment D**, the following sections compare the technical compliance for the approved development against that proposed.

2.1.1 Development Yield Outcomes

	DP24/0010 Approved	Proposed	Change
1 / 2 / 3-bedroom dwellings	18 / 38 / 0	18 / 39 / 0	+1 2-bed dwelling
1 / 2 / 3 bedroom serviced apartments	10 / 43 / 10	10 / 43 / 10	-
Building 1 / 2 height	10 / 11 storeys	10 / 11 storeys	-
Car parking spaces – basement	246	221	-25 spaces
Car parking spaces – ground level	2	4	+2 spaces
Car parking spaces required (Clause 5.2.4.1)	185	183	-2 spaces required
Motorcycle bays	6	6	-
Bicycle parking spaces (enclosure)	31	40	+9 spaces

Bicycle parking spaces required	40	40	-
Office / Reception	196m ²	24m ²	-172m ²
Gymnasium (ancillary)	80m ²	86m ²	+6m ²
Communal Open Space	1,630m ² (40.9%)	1,322m ² (33.2%)	-308m ²
Landscaping	1,700m ² (42.6%)	1,798m ² (45.1%) <i>1,023m² planting and 772m² paving</i>	+98m ²

2.1.2 Building Setbacks – Building 1

Boundary	Required Setback (NTPS)	Approved Setback	Building 1	Proposed Setback	Building 1
Primary Street (Smith Street)	7.5m	0m		0m	
Secondary Street (Montoro Court)	2.5m	10.5m		11.29m – main building line 9.85m – roof overhang 0m – Basement vents and Outdoor area shade structure	
Secondary Street (Packard Place)	2.5m	NA – behind Building 2		NA – behind Building 2	
Side (Boundary running NE-SW adjacent lot 1289)	3m (habitable rooms with windows, verandahs and balconies) 1.5m (non-habitable)	NA		NA	
Rear (Adjacent lot 1289)	3m (habitable rooms with windows, verandahs and balconies) 1.5m (non-habitable)	7m		6.17m – main building line 5.255m – roof overhang	
Rear (Adjacent lot 1297)	3m (habitable rooms with windows, verandahs and balconies) 1.5m (non-habitable)	NA		NA	

2.1.3 Building Setbacks – Building 2

Boundary	Required Setback (NTPS)	Approved Building 2 Setback	Proposed Building 2 Setback
Primary Street (Smith Street)	7.5m	8.2m	8.225m – main building line 7.905m – roof overhang 6.26m – fly roof overhang
Secondary Street (Montoro Court)	2.5m	NA – behind Building 1	NA – behind Building 1
Secondary Street (Packard Place)	2.5m	11.6m – main building line 8.3m – GL car parking access	11.245m – main building line 4.885m – Bin enclosure / 3.585m BE awning / roof overhang 9.84m – roof overhang 0m – Basement vents and Outdoor area shade structure
Side (Boundary running NE-SW adjacent lot 1289)	3m (habitable rooms with windows, verandahs and balconies) 1.5m (non-habitable)	8.7m – habitable 2.5m – non-habitable	10.585m – habitable 9.035m – non-habitable (UL walkway edge) 2.13m – non-habitable (car park ramp) 7.61m – roof overhang
Rear (Adjacent lot 1289)	3m (habitable rooms with windows, verandahs and balconies) 1.5m (non-habitable)	NA	NA
Rear (Adjacent lot 1297)	3m (habitable rooms with windows, verandahs and balconies) 1.5m (non-habitable)	10.1m – habitable 3m – non-habitable	9.265m 0 habitable 3m – non-habitable (car park ramp) 8.955m – roof overhang

The majority of setback changes retain the approved developments' compliance with the requirements of **Clause 5.4.3**. The proposed amendments include new variations to the Packard Place, Smith Street and Montoro Court frontages in the form of four car park vent structures and two open-sided outdoor shade structures. The shade structures are located at the Packard / Smith and Montoro / Smith site corners, and are integrated with the two northern-most car park vents.

The car park vents are required to mechanically ventilate the basement car park levels, and have been identified as a result of the ongoing detailed design process, including the stipulation of the number, separation and height of the vents.

Subclause 3 of **Clause 5.4.3** provides guidance on setback variations:

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

The purpose of **Clause 5.4.3** seeks to:

*Ensure that **residential buildings** and **ancillary** structures are located in a manner that:*

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

As narrow and/or open-sided structures with no potential occupation above ground level, the vent and shade structures will not impact breeze penetration of privacy. The structures have been designed and treated with external feature panelling to minimise their visual prominence relative to the proposed buildings and the landscaping areas. Whilst the vent structures are located on the boundary, they are necessary to enable the provision of carparking within basement levels, and are a reasonable compromise given the benefits associated with the avoidance of large areas of car parking at or above ground level. The encroaching structures are limited in both height and length / width, and relative to the associated buildings will not cause adverse building massing effects.

It is noted that 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 setbacks are not out character with the streetscape and surrounding development given the location and scale of the proposed buildings, and impact on nearby property.

2.1.4 Building Separation

Per the original statement of effect, **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 approved development components were separated at the outer edges of the opposing lift shafts by **6 metres** at all levels, and at the outer edge of the opposing dwellings by approximately **15.2 metres** at the nearest point. The revised concept proposes lift shaft / stairwell separation to all levels of **4.58 metres**, and **14.68 metres** to the apartment edges.

Whilst the edge separation remains compliant, the lift shafts and stairwells for the separate building elements have been shifted closer together, resulting in a compliant separation between ground and level 3, and non-compliant separation from level 4 and above. **Clause 5.4.3.2** provides the following:

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 nonconformity with sub-clauses 2 and 3.*

Evident in **figure 1** below, the reduced separation applies to the lift shafts / stairwells, which are set well into the building separation area, back from the outermost front and rear building edges. This setback, combined with the open walkways between the lift shafts / stairwells and the adjacent dwellings, separates these structures from the main building forms. Further separating the lift shafts / stairwells by relocating them closer to the respective buildings is likely to have an adverse effect on building massing by increasing the relative built of each of the primary building elements. The varied roof structure as a result of the fly roof over the separation area provides further built form articulation, and the reduced separation will not compromise privacy due to the nature and orientation of the encroaching structures. Accordingly the variation is appropriate.

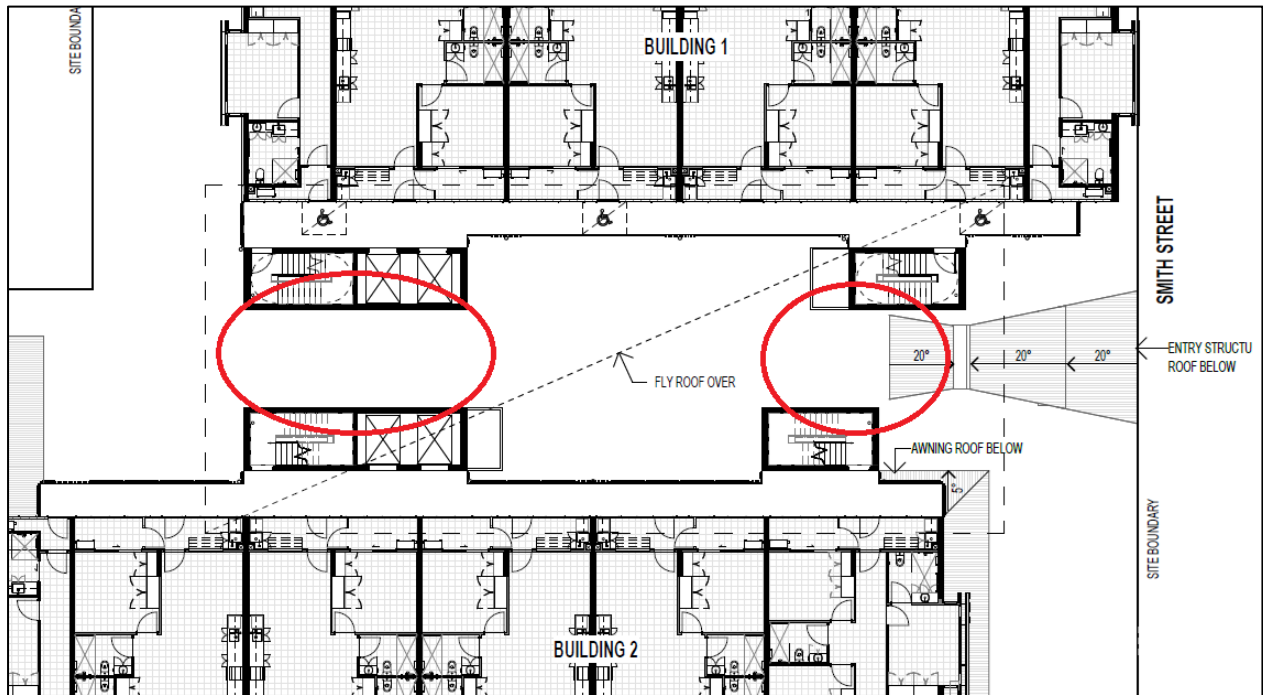


Figure 1: Building separation between lift shafts / stairwells

The remaining elements of the Northern Territory Planning Scheme and **Section 46(3)** of the Northern Territory Planning Act are per the (revised) PA2022/0321 statement of effect in **Attachment D**, together with the associated attachments appended hereto.

Please do not hesitate to contact the undersigned with any queries regarding this matter.

Regards

BRAD CUNNINGTON

Director, Cunnington Rosse Town Planning and Consulting