



CUNNINGTON ROSSE
Town Planning & Consulting

Statement of Effect

DWELLINGS-MULTIPLE

LOT 01861 TOWN OF NIGHTCLIFF

May 2026

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1.0 Introduction

Cunnington Rosse Town Planning and Consulting has been engaged by Tsougranis Developments Pty Ltd to prepare, lodge and manage an application for a development permit for dwellings-multiple at 85 Progress Drive, Nightcliff. The proposal comprises 14 dwellings-multiple in a three-storey building with associated communal open space, site landscaping and ground level car parking. This development will replace the existing 11 dwellings contained on the site, which are to be demolished.

The site is located within Zone MR (Medium Density Residential), wherein dwellings-multiple require a development permit at the level of merit assessable. However, due to the property being partially located within a Primary Storm Surge Area (SSSA) under Overlay **Clause 3.7** of the Northern Territory Planning Scheme 2020 (the Planning Scheme) the level of assessment is 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 Planning Scheme, and the relevant components of **Section 46(3)** of the Northern Territory *Planning Act 1999*. This report (and application) is to be read together with the following attachments:

Attachment A: Development Plans

Attachment B: Landscaping Plan

Attachment C: Storm Surge Assessment

Attachment D: Feature Survey

Attachment E: Civil Concept Design

Attachment F: Swept Path Analysis

Attachment G: Title Documents

2.0 Site and Locality

2.1 Site

Site Details	
Location	Lot 01861 Town of Nightcliff (85 Progress Drive, Nightcliff)
Title Reference and Land Tenure	CUFT 882 802 – Estate in Fee Simple

Area	1,740m ²
Easements	Electricity supply easement to the Power and Water Corporation
Landowner	Tsougranis Developments Pty Ltd
Planning Considerations	
Planning Scheme	Northern Territory Planning Scheme 2020
Zone	MR (Medium Density Residential)
Assessment Category	Impact Assessable
Strategic Framework	<ul style="list-style-type: none"> • Darwin Regional Land Use Plan • Darwin Mid Suburbs Area Plan
Overlays	Clause 3.7 LSSS (Land Subject to Storm Surge)
General Development Requirements	<ul style="list-style-type: none"> • Clause 5.2.1 – General Height Control • Clause 5.2.4 (Car Parking) • Clause 5.2.6 (Landscaping) • Clause 5.2.7 (Setbacks for Development Adjacent Land in Zones LR, LMR, MR or HR)
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 Structures Ancillary to a Dwelling-group or Dwelling-Multiple Development • 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 • Clause 5.4.18 Fencing • Clause 5.4.19 Residential Plot Ratio
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Table 1: Site details and Planning Assessment Context

The subject land has an area of 1,740m² with 63.81 metres frontage to Progress Drive and a maximum lot depth of 40 metres along its eastern boundary, with the western boundary 14.63 metres long. The site currently contains 11 dwellings in a single and two-storey building with an associated outbuilding to the rear of the site. All existing buildings will be demolished and replaced with the proposed development.

The site is identified in the **images** below. The existing streetscape is dominated by hardstand access and car parking areas, with limited landscaping to soften the dated built form, which has limited passive surveillance of the public realm. This appearance, as discussed further within this report under the landscaping considerations of the Planning Scheme, is common throughout the wider streetscape along Progress Drive.



Image 1: The eastern frontage of the site which contains a hardstand car parking area and plain building façade with limited projections and interaction with the streetscape.



Image 2: The central lot frontage which contains established landscaping but has not been positioned to screen the bin storage area which is in plain sight to passers-by.



Image 3: The western frontage of the site, which contains a secondary car parking area.

2.2 Locality

Figure 1 in **Section 2** of this report demonstrates the zoning layout in immediate proximity of the site. To the east and west the site adjoins other parcels in Zone MR (Medium Density Residential) developed for older building stock dwellings-group and multiple (up to two-storeys); to the south (rear), the site adjoins land within Zone C (Commercial) developed for newer housing stock dwellings-multiple (up to five-storeys); and to the north, adjacent

Progress Drive is land located within Zone LMR (Low-Medium Density Residential) developed for older building stock dwellings-multiple (up to two storeys) and dwellings-single.

Further east of the site, approximately 80 metres, within Zone C (Commercial) is the Nightcliff Commercial Precinct shopfront. While some 300 metres to the east is the Nightcliff Village neighbourhood shopping centre which hosts weekly markets on Sunday, and approximately 380 metres to the south-east of the site is the Nightcliff Shopping Centre containing a major supermarket outlet.

The southern side of the Progress Drive road reserve adjacent the front boundary of the subject land consists of a 3 metres wide dual-purpose pathway. Bus stop 224 is serviced by the number four bus route is approximately 250 metres walking distance from the subject land. The Nightcliff foreshore recreation reserve commences within 80 metres to the west of the site, with the Nightcliff Jetty located some 1.5 kilometres walking distance from the site.

3.0 Planning History

Title details in **Attachment G** do not identify any historic planning applications.

4.0 Proposed Development

Architectural design details including site and floor plans, apartment plans, elevations, sections, perspectives and landscaping details are provided in **Attachments A and B**. The proposal seeks a development permit for the construction of 14 residential apartments across three building levels. Two apartments will be contained on the ground floor adjacent the complex's parking area of 28 bays and communal open space. Six apartments will each be positioned on the first and second floor levels respectively. All apartments are of a two-bedroom, two-bathroom design with a separate laundry. A 6.45 metres wide dual entry/exit driveway crossover is to be provided in the north-east corner of the site in lieu of the current dual crossovers, while a bin storage area will be screened adjacent the eastern side boundary.

The built form design provides for cross breeze ventilation through each apartment while providing privacy for individual occupants through the use of selected feature screening. A multi-pitch skillion roof is proposed to effectively drain stormwater to the front of the property into the public drainage network via a series of gutters and downpipes.

The communal open space is positioned to the rear of the site behind the built form and car parking area. Landscaping within this area and throughout the site makes use of a number of typical native and tropical plant species for screening, shading and beautification. Selected 1.5 metre-high visually permeable anti-climb fencing is to be installed along the Progress Drive street frontage; the driveway and bin storage area along a portion of the eastern side boundary will be screened by a 2.2 metre-high blockwork wall; and the remainder of the site's boundaries will be fenced with typical 1.8 metre-high aluminium screen perimeter fencing.

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

- 14x (2x2) dwellings-multiple in a three-storey building;
- A car parking area consisting of 28 bays;
- 228.33m² communal gardens to the rear of the site and built form;
- All apartments having 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.

5.0 Section 46(3)(a) - NT Planning Scheme 2020

The relevant provisions within the Planning Scheme are referred to below.

5.1 Nature of Development

The proposed development consists of *dwellings-multiple* in accordance with the definitions in **Schedule 2** of the Planning Scheme:

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.

Further to the above specific land use definition, *dwellings-multiple* is encapsulated within the broader land use term of a *residential building* which is defined below.

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 development is located entirely within Zone MR (Medium Density Residential), wherein dwellings-multiple require a development permit at the level of merit assessable. However, due to the property being located within a Secondary Storm Surge Area (SSSA) under Overlay **Clause 3.7** of the Planning Scheme the level of assessment is *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 Northern Territory 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 renewal for the continued and increased (11 to 14 apartments) use of the site for housing conveniently located nearby to commercial services and public recreation opportunities. The site has access to service infrastructure and public transport, providing additional opportunity to concentrate population within close proximity to such services and infrastructure. Furthermore, the proposed dwellings provide a climatically appropriate built form.

Through the design relationship between the built form and open space proposed, 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 an established residential locality. 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 and development outcomes anticipated within the Darwin Regional Land Use Plan, and will not compromise the outcomes of the Land Use Plan objectives.

5.2.2 Darwin Mid Suburbs Area Plan

The *Darwin Mid Suburbs Area Plan* was finalised by the Northern Territory Planning Commission and incorporated as a policy document in the Planning Scheme in mid-2016. The Plan provides a framework for land use and development outcomes within the Darwin Mid Suburbs Area (Nightcliff, Rapid Creek, Millner, Coconut Grove, and a portion of Ludmilla). The subject land is identified as *Residential* (reflective of the existing zoning) per the land use vision map on page 8, and is not located within an area for change, but is located with the Nightcliff Activity Centre.

The development contributes to the vision laid out in the Area Plan by providing 14 apartments with associated landscaping and open space within a site located close to public transport, commercial offerings and community recreation spaces (Nightcliff sporting grounds and public foreshore).

The goal of the residential land use designation is to facilitate a diversity of housing choice by ensuring new dwellings respect the character of existing residential areas whilst allowing for higher density development in focused activity centres. The renewal of the site for the continued residential use of the land with an increased yield from 11 to 14 dwellings with a commensurate building height of three-storeys is consistent with this goal.

The following planning principles are outlined for medium density development:

Residential - Medium Density	
<p>Objectives</p> <ol style="list-style-type: none"> 1. <i>Development of multiple dwellings in a residential only setting</i> 2. <i>A built form and landscape response that sensitively responds to the adjoining suburban residential area</i> 	<p>Acceptable Responses</p> <p>Development is to be in accordance with the provisions of Zone MR (Medium Density Residential), subject to any Concepts identified herein.</p> <p>A residential building in Zone MR is not to exceed a height of 3 storeys above the ground level, where:</p> <ul style="list-style-type: none"> • the site abuts land in Zone LR; or • the site has a frontage to a street of 18 m or less in width, on the opposite side of which is land in Zone LR.

Consistent with the objectives and acceptable responses, the three-storey development provides 14 apartments with a building design responding to adjacent land and the established character, by ensuring compatible building heights and open space. Bulk and scale are addressed through the use of projections, visual relief, material variations, setbacks and landscaping, with a varied and interesting ground level frontage. The building design implements principles of passive cooling and airflow and is consistent with the current zoning.

In addition to the Residential designation, the site is also located within the eastern section of the Nightcliff Activity Centre, however no specific planning principles are outlined within *Attachment 1 Nightcliff and Coconut Grove Concept Plan* of the Area Plan for the site to address.

Progress Drive is listed as a Sub-Arterial/ Primary Transport Corridor within the Movement and Transport section of the Area Plan, with the following planning principles outlined:

- *Transport corridors that cater for the safe and efficient movement of pedestrians, cyclists, public transport and private motor vehicles;*
- *Well serviced public transport corridors that provide a reliable, convenient and accessible public transport service;*
- *Enhancement of higher order bicycle and pedestrian routes; and*
- *The creation of green gateways along major boulevards.*

In response the development rationalises the existing two site crossovers into a single entry/exit driveway to limit disruption to users of the 3 metres wide shared-use path which provides linkage to the Nightcliff Foreshore and commercial centre, in either direction. Landscaping of the development's frontage will contribute to the increased amenity and greening of Progress Drive as it approaches/becomes Casuarina Drive.

5.3 Part 3 - Overlays

Overlay 3.7 Land Subject to Storm Surge is applicable to the site, as it is wholly located within a secondary storm surge area.

Purpose

Identify areas with a known risk of inundation from primary or secondary storm surges and ensure that development in these areas demonstrates adequate measures to minimise the associated risk to people, damage to property and costs to the general community caused by storm surge.

Administration

1. *This Overlay applies to land subject to the PSSA and/or the SSSA.*
2. *This Overlay does not apply to:*
 - a) *outbuildings and extensions to existing dwellings;*
 - b) *extensions to existing commercial or industrial buildings;*
 - c) *a use or development within the SSSA that would otherwise be Permitted, and complies with the requirements of Part 5;*
 - d) *unzoned land; or*
 - e) *any use or development within a PSSA or SSSA that complies with Clause 5.5.1 (Interchangeable Use and Development in Specific Zones) which but for this Overlay, would not require consent.*
3. *This overlay does not apply to the use and development of land for dwellings-group or dwellings-multiple when the land is subject to Overlay 3.11 RCFR (Rapid Creek Flood Response).*
4. *In this Overlay:*
 - a) *“AEP” means Annual Exceedance Probability, which is the likelihood, in percentage terms, of inundation by storm surge;*
 - b) *“PSSA” means Primary Storm Surge Areas, which are those coastal areas within a 1% AEP of inundation by storm surge as defined on mapping produced by the NT Government;*
 - c) *“SSSA” means Secondary Storm Surge Areas, which are those coastal areas adjacent to the PSSA with a 0.1% AEP of inundation by storm surge as defined on mapping produced by the NT Government; and*

- d) *“storm surge” means the elevation in sea level which accompanies the movement of a cyclone particularly near, or over, a coastline, attributed to a cyclone’s intensity and wind stress build-up.*
5. *Land within the PSSA is to be used or developed only with consent.*
 6. *The consent authority may consent to a use or development within the PSSA that is not in accordance with sub-clauses 8-10 only if it is satisfied that the application demonstrates that there is no increased risk to people and property, including adjoining property.*
 7. *The use or development of land within the SSSA should have regard to sub-clauses 9 and 10.*

Requirements

8. *Development in the PSSA should be limited to uses such as open space, recreation, non-essential public facilities (wastewater treatment works excepted) and short-stay tourist camping/ caravan areas.*
9. *Development within the SSSA should be confined to those uses permitted in the PSSA as well as industrial and commercial land uses.*
10. *Residential uses, strategic and community services (such as power generation, defence installations, schools, hospitals, public shelters and major transport links) should be avoided in the PSSA and the SSSA.*

Storm Surge mapping of the site shows the western portion of the property is impacted by primary storm surge; however, the lowest point of the site is 5.72m AHD, which is above the 5.52m AHD primary storm surge inundation level, thus the site in its existing form is not subject to primary storm surge inundation.

The proposed residential development is within a secondary storm surge area and as result is supported by a civil engineering statement and drawings from MDP Engineers (**Attachment C & E**). This advice outlines the proposed finished floor level (FFL) for all ground level habitable areas (2 of 14 apartments) will be 6.5m AHD as shown in **Attachments A and E**, which is above the known secondary storm surge inundation level at 6.37m. Therefore, the development can accommodate secondary storm surge inundation without impact to the habitable dwellings. While the proposed car park will be partially located below the secondary storm surge inundation level it will remain trafficable during an inundation event with a maximum water depth of 120 millimetres modelled. It is also noted the ground floor building footprint of the development is smaller than that of the existing ground floor footprint, resulting in a net decrease to the footprint at risk from storm surge inundation.

Given the above, MDP Engineers conclude the development will not result in any measurable increase in storm surge inundation or displacement impacts to adjoining properties and is considered acceptable from a flood risk and amenity perspective. In the context of the purpose of **Clause 3.7**, the extent of inundation across the subject land during a secondary storm surge event, and the development response to ensure dwelling floor levels above the corresponding inundation level, adequately minimises any risk to people. The level of inundation across the site is not expected to result in an unacceptable risk to property located outside of the dwellings, and accordingly no unacceptable cost to the community will result.

5.4 Part 4 – Zone MR

The subject land is located within Zone MR (Medium Density Residential) per **Clause 4.4** of the Northern Territory Planning Scheme. **Clause 4.4** provides the following in relation to development in Zone MR:

Zone Purpose

Provide for a range of mid-rise housing options close to community facilities, commercial uses, public transport or open space, where reticulated services can support medium density residential development.

Zone Outcomes

1. *Predominantly medium density residential developments generally not exceeding four storeys.*

A three-storey development is proposed that is in keeping with Zone Outcome 1.

2. *Home based businesses and dwellings-community residence are operated in a manner consistent with residential amenity.*

The development does not propose either of these land uses.

3. *Residential care facilities are of a scale and operated in a way that is compatible with the character and amenity associated with medium density residential development.*

The development does not propose a residential care facility.

4. *Non-residential activities, such as child care centre and community centre*

(a) support the needs of the immediate residential community;

(b) are of a scale and intensity compatible with the residential character and amenity of the area;

(c) wherever possible, are co-located with other non-residential activities in the locality;

(d) avoid adverse impacts on the surrounding road network; and

(e) are managed to minimise unreasonable impacts on the amenity of surrounding residents.

No non-residential land uses are proposed.

5. *Building design, site layout and landscaping provide a sympathetic interface to the adjoining public spaces and to adjoining lots, and provides privacy and attractive outdoor spaces.*

A 14 apartment, three-storey complex setback parallel from the Progress Drive road reserve is proposed with associated screen landscaping, car parking and communal open space. The design of each apartment provides for cross breeze ventilation through building openings and projections to capture prominent north-west and south-east prevailing wind, and passive surveillance of the public realm with the majority of apartment balconies addressing Progress Drive, while providing privacy for individual occupants through the use of selected feature screening. In combination the design provides for the renewal of the site and the continued use for residential purposes, while being in keeping with the current and future residential character of the immediate locality.

6. *An efficient pattern of land use with all lots connected to reticulated services, integrated with existing transport networks and with convenient access to open space, community and educational facilities.*

The development is compatible with surrounding land use and development and will rely on reticulated services subject to the requirements of the City of Darwin and the Power and Water Corporation. A single vehicle entry/exit point is proposed in lieu of the two current site crossovers, with clear pedestrian and bicycle access, noting the site adjoins a large 3 metre wide shared path which provides active transport access to the wider amenities of Nightcliff, including a public transport bus route. A multi-pitch skillion roof is proposed to effectively drain stormwater to the front of the property into the public drainage network via gutters and downpipes incorporated into the building design.

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
MR	Development on a <i>site</i> in zone MR abutting a <i>site</i> in Zone LR	3 storeys
	Development on a <i>site</i> that is: <ul style="list-style-type: none"> • within the boundaries of the Darwin Inner Suburbs Area Plan or Darwin Mid Suburbs Area Plan; and has frontage to a street with a reservation width not exceeding 18m on the opposite side of which is a <i>site</i> in Zone LR.	3 storeys
	All other uses	4 storeys

Table B to Clause 5.2.1 indicates a four-storey maximum building height applicable to the subject land, whereas the proposed development is three-storeys.

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.*
4. *For the purposes of this clause:*
 - a) *the reductions in Table B only apply to uses specifically referenced within Table A and apply to the base car parking rates established in Table A;*
 - b) *only one reduction percentage is permitted per category when applying Table B; and*
 - c) *the reductions in Table B do not apply to one bedroom dwellings.*

In accordance with categories **1(b)** and **2(a)** of **Table B** to this clause, a cumulative parking spaces reduction rate of 25% is applicable to the development as the site is located:

- within 400 metres walking distance of a public bus stop that provides access to five or more bus routes (10% reduction); and
- within 200 metres walking distance of a commercial zone (15% reduction).

Requirements

5. 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 per the following table.

Land Use	Number / Area	Parking Rate	Standard Required Parking	25% Reduced Required Parking	Parking Provided
Dwellings – Multiple	14 dwellings	2 per dwelling	28	21	28

The proposed development provides a surplus of seven (7) car parking bays 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.*

The car parking area is sited at 1.2m in lieu of the required 3m setback from the Progress Drive road frontage with screen landscaping proposed within this setback area. Subclause 3 of this clause outlines the following for a variation to the requirement:

The consent authority may consent to a car parking area that is not in accordance with this subclause if it is satisfied that the non-compliance will not unreasonably impact on the amenity of the surrounding locality.

It is considered that the 1.8m reduction in a car parking area landscaping buffer to Progress Drive will not result in an adverse amenity impact on the locality as the reduced 1.2m setback area provides sufficient space for landscaping to lessen any adverse visual impact from this component of the development to the road reserve frontage. The proposed landscaping in this portion of site includes dense plantings with species such as *Murraya Paniculata* which is a hedge-type screen plant as shown in the following **image**.



Image 4: An established *murraya paniculata* hedge.

In addition to the above, the established streetscape along the southern side of Progress Drive as shown in the following **images** predominantly consists of developments with reduced setbacks to parking areas with a lack of landscaping used to screen and soften the appearance of such. In this context, the proposed variation is suitable and unlikely to result in unreasonable adverse impact on the amenity of the surrounding locality, noting the established car parking interface of adjoining and nearby properties.

Conversely, the proposed development ensures the car parking area is effectively screened via landscaping in accordance with the intent of the Planning Scheme requirement.



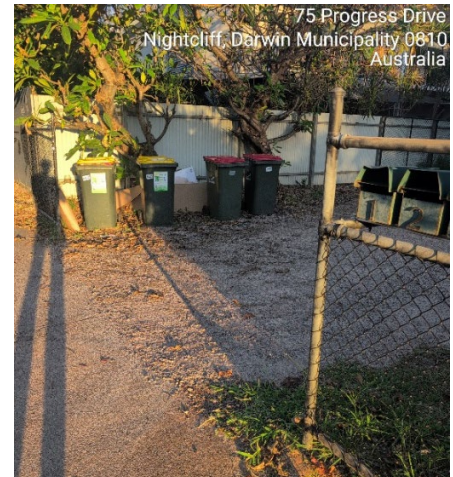
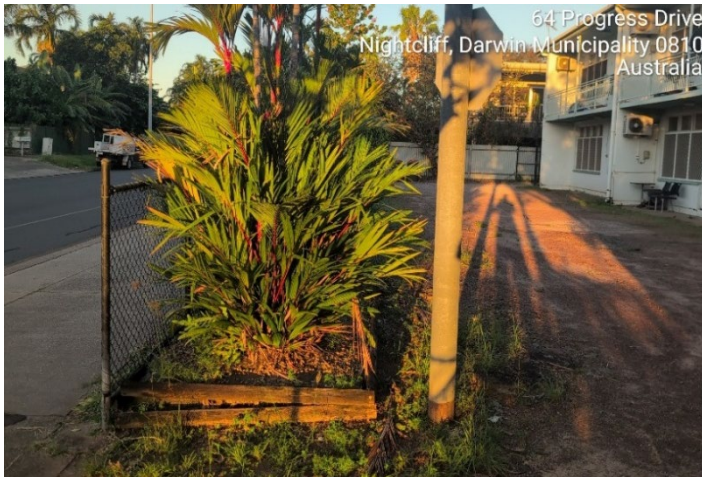


Image 5: The frontage of the adjoining eastern side property with limited screening landscaping to its front driveway and car parking area.



Image 6: Existing Progress Drive interface at 60 Progress Drive, Nightcliff.

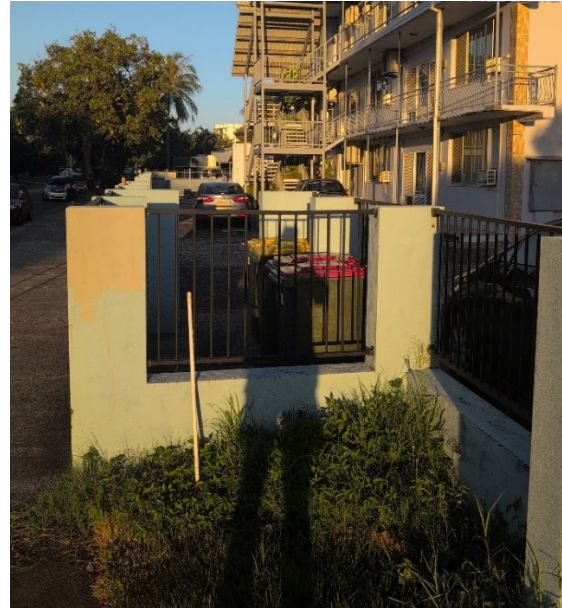


Image 7: Front (Progress Drive) interface of properties to the west of the site.

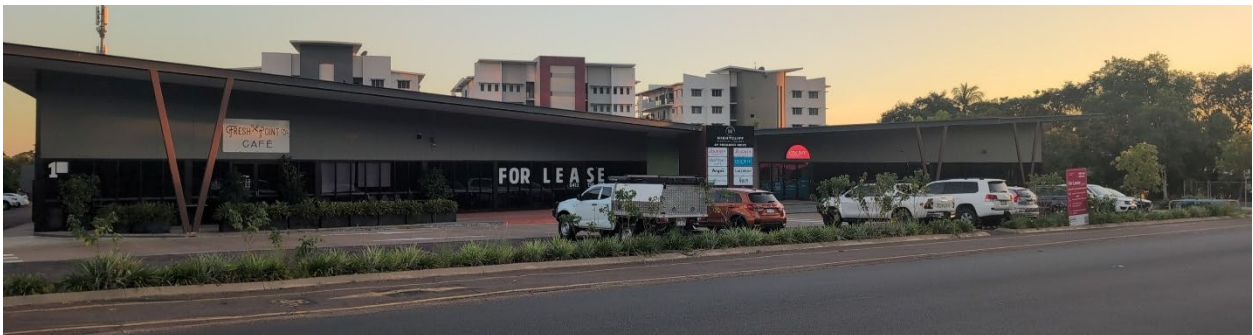


Image 8: Existing front (Progress Drive) interface at 69 Progress Drive, Nightcliff

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.

Both the architectural and civil plans (**Attachments A & E**) of the development demonstrate the car parking area will be sealed, with gradient limited to internal drainage requirements.

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 near 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 manoeuvring area between car parking bays ensure vehicles can enter and exit in a forward gear. Additionally, the swept path analysis contained in **Attachment F** details the dual width driveway and roller door access can be sufficiently manoeuvred by a passenger vehicle.

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

All car parking spaces meet or exceed the minimum dimension requirements of 2.5 metres by 5.5 metres.

- 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.*

A 1 metre long end-of-row driveway extension provides 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.*

A single vehicle 6.45 metres wide access point is proposed in lieu of the two existing vehicle crossovers. The verge area has an approximate depth of 4 metres to the road surface and visually permeable fencing will be installed in this portion of the site. Nonetheless, landscaping adjacent this crossover will be required to avoid impacting sightlines and it is expected that this will be enforced by a standard condition of approval on any forthcoming development permit.

5.5.4 Clause 5.2.6 – Landscaping

Purpose

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

Administration

1. *Landscaping may include provision of paved areas and areas for entertainment and recreational activities.*
2. *The consent authority may consent to landscaping that is not in accordance with sub-clauses 5, 6 and 7 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and is appropriate to the site having regard to the amenity of the streetscape, and the potential impact on the amenity of the locality and adjoining property.*

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, adjacent the car parking area and within the 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 Progress Drive boundary being landscaped and open, providing improved continuity of landscaping and open space together with surrounding land also fronting the road reserve.

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

The site includes a number of established landscape species that will be removed to accommodate the proposed development. The proposed landscaping outcomes will offset amenity impacts as a result of the removal of existing vegetation.

- 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 Progress Drive frontage largely consists of screen and feature species, ensuring an attractive site presentation whilst enabling passive surveillance from individual apartments.

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

The landscaped areas surrounding the building footprint provide opportunities for 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 forthcoming development permit will ensure landscaping is installed 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.

Taking into account all ground level planting, private and communal open space areas, and excluding hardstand car parking and pedestrian movement areas, the total landscaped area is equivalent to 591.46m², equivalent to 33.99% 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.

Planting to a depth of at least 2 metres is included to the western side, majority of the rear, rear part of the eastern side, and western part of the front boundary. However, the following variations are proposed:

- The front portion of the eastern side boundary is proposed to be developed with a 2.2 metres high masonry wall along the boundary; and
- Pathway and wall encroachment into a portion of the rear boundary setback, providing pedestrian access to the entrance of Unit 1.

The Planning Scheme lists the following for a variation to this requirement:

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

The portion of the eastern property boundary which is not proposed to be landscaped is adjacent a driveway and building setback area of the adjoining land as shown in the following image. The proposed building layout ensures solid screening to the site access driveway and bin storage area, locating the bin enclosure opposite the driveway / car parking area on the adjacent site thus avoiding adverse impacts on more sensitive areas adjacent the site boundary. Locating the proposed driveway directly adjacent the existing driveway on the adjoining property to the east further minimises disruption to the shared path relative to additional separation between driveways. Therefore, it is considered that this functional component of the development will not be detrimental to the streetscape appearance or the amenity of the immediate locality, including that of adjoining land. Accordingly, the proposed variation is minor and suitable in this instance.



Image 9: *The eastern side boundary between the site and the adjoining property in this direction.*

The reduction in planting depth to the rear boundary is limited to a small portion of the boundary length only, with the majority of planting adjacent this boundary meeting or exceeding 3m. The minor reduction is effectively offset by the increased depth elsewhere and is unlikely to adversely affect amenity within the adjacent property to the rear of the site.

5.5.5 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 MR, however the proposed development consists of a *residential building*. Accordingly, **Clause 5.2.7** is not applicable for assessment.

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 dwellings-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 MR are subject to Table B in Clause 5.4.3, stipulating setback requirements for residential buildings, ancillary structures and balconies in zones MR and HR. The required and proposed setbacks applicable to the subject land and proposed development are outlined in the table below.

Boundary	Required Setback	Proposed Setback
Primary Street (North /Progress Drive)	6m for residential buildings and ancillary structures 3m for balconies 2.1m for roof line	Building – 6.013m at closest point (U9 wall) U1 Courtyard – 3m Balconies – 3m Roof line – 2.5m
Side (East)	3m for residential buildings, ancillary structures and balconies 2.1m for roof line	Entry gate and support – 0.91m Bin enclosure - 1.4m Main building wall – 3m Roof line – 1.6m
Side (West)	3m for residential buildings, ancillary structures and balconies 2.1m for roof line	Building - 3m Roof line – 2.5m
Rear (South)	3m for residential buildings, ancillary structures and balconies 2.1m for roof line	Building – 3m (majority) U1 blade wall – 1.57m Stair 1 blade wall – 2.5m Roof line adjacent U9 – 0.8m Roof Line adjacent U14 – 1.2m

As detailed above, the development includes boundary setback variations to **Clause 5.4.3** at the following locations:

- The enclosed courtyard to Unit 1 on the ground floor aligns with the outer balcony facades and is setback 3 metres from the Progress Drive boundary;
- The entry driveway from Progress Drive includes a covered arbour to ground level, incorporating the separate vehicle access / egress roller doors and support columns. The nearest support columns is 0.91 metres from the eastern side boundary, and the bin enclosure further back is 1.4 metres from the boundary, with the front half of the eastern boundary to be fenced with a 2.2 metres high masonry wall;
- The blade walls separating the Unit 1 entrance and common areas at ground level encroach into the rear boundary setback by 1.43 metres, and the western-most external staircase wall encroaches at all levels by 0.5 metres; and
- The roof overhangs encroach at the following locations:
 - To the rear boundary above Unit 9 by 2.2 metres;
 - To the rear boundary above Unit 14 by 0.9 metres;
 - To the eastern side boundary by 0.5 metres; and

The Planning Scheme notes the following in this regard:

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 primary street setback variation is limited to the front courtyard solid wall of the private open space associated with Unit 1. This wall extends to the full height of the three-storey building; however, at the first and second building levels it forms part of compliant balconies. The setback variation applies only to a 3.7 metre wide wall, which functions to screen the private open space of Unit 1 from communal areas of the development and the public realm, and does not form part of an enclosed internal room. As such, and within the context of the purpose of this clause, the setback variation does not result in adverse building mass when viewed from adjoining land or the street, create overlooking or privacy impacts, or prevent breeze penetration through and between buildings.

The eastern side setback variations comprising a support column of the vehicle access roller door 0.91 metres from the property boundary; the roofed bin storage area located 1.4 metres from the boundary; and the front portion of the boundary, which is proposed to be fenced with a 2.2-metre-high masonry wall. These elements are limited in scale, confined to the ground floor and front portion of this boundary, and are located opposite the driveway and car parking area of the adjoining property to minimise impacts on more sensitive interfaces and the Progress Drive streetscape. In addition, these elements provide effective screening of service and utility areas from the public realm and the adjoining eastern property. Overall, these setback variations will not be prominent when viewed from Progress Drive or neighbouring land, create privacy or overlooking issues, or impede breeze penetration through and between buildings.

The blade walls separating the Unit 1 entrance from common areas at ground level encroach into the rear boundary setback by 1.43 metres, while the western-most external staircase wall encroaches at all levels by 0.5 metres. These elements have minimal building mass within the rear setback and are offset by substantially greater building setbacks adjoining the communal open space along the remainder of this truncated boundary. Accordingly, the scale and placement of these elements does not result in adverse building mass impacts, overlooking concerns, or restrictions to breeze penetration when assessed against the purpose of this clause.

The three identified roof overhang setback variations to the eastern and southern boundaries are limited to horizontal roof projections for weather protection and do not involve solid vertical building elements. As a result, these overhangs do not contribute to adverse building mass impacts on adjoining properties, create overlooking concerns, or inhibit breeze penetration. All southern boundary roof encroachments occur along minor portions of this boundary only and are offset by compliant or substantially greater setbacks elsewhere along this elevation.

Collectively, the setback variations are minor and appropriate in the context of the purpose of this clause. The built form is sited in a manner that is compatible with the established character of Progress Drive, does not present an overbearing building mass, maintains opportunities for breeze penetration through and between buildings, and protects the privacy and amenity of adjoining properties.

5.6.2 Clause 5.4.4 Extensions and Structures Ancillary to a Dwelling-group or Dwelling-Multiple Development

The development does not include an extension or ancillary structure to an existing dwelling-group or dwelling-multiple. Therefore, Clause 5.4.4 is not applicable for assessment.

5.6.3 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 is provided in the form of balconies and courtyards for the two ground level apartments as an extension of the primary internal living areas within each apartment. The smallest allotted private open space across the 14 apartments is 18.5m² with a minimum dimension of 3 metres, well above the stipulated 12m² minimum.

- 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, and/or the public realm of Progress Drive, 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 dwellings; or*

- b. *planted with dense vegetation which will provide a visual barrier to 1.8m to adjoining to adjoining dwellings within two years of planting.*

Ground level private open space areas are fenced with 1.8 metres high powdercoated aluminium fencing, screened with *Syzygium Columnar* species, a fast growing evergreen lilly pilly designed for narrow, high-density screening.

5.6.5 Clause 5.4.7 – Communal Open Space

Purpose

Ensure that suitable areas for communal open space are provided for dwellings-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.*

The communal open space of the development is 256.41m², or 14.73% of the site area, resulting in variation of 4.59m² or 0.3% of the site area. The Planning Scheme notes the following in this regard:

...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.

As detailed above the variation to the area of the communal open space is minor in size, and it also considered that it is minor in impact for the following cumulative reasons:

- this clause as outlined in subclause 1 does not apply to the two ground level apartments which have ground level private open space;
- each apartment on the first and second floor has more than 54% additional private open space via balconies larger than required by the Planning Scheme;
- the communal open space is of a sufficient area and depth in a rear site location which is away from the public realm to provide useable private green space for the recreation of dwelling occupants and ensure an attractive landscape design; and
- the subject land is in immediate proximity to the commencement of the Nightcliff foreshore park and shared path, providing immediate access to regional-level public open space.

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 open space is clearly delineated from ground level private open space areas and includes irrigated lawn for recreation opportunities for people of all ages, in a location separate from adjacent private open space, and focussed on the centre rear of the site to ensure appropriate levels of privacy are maintained.

As Unit 2 has windows to habitable rooms facing the communal open space, external aluminium louvres will be installed as shown in **Attachment A** (Ground Floor Plan) to ensure there are no direct views from users of the communal open space into Unit 2 through these windows.

Furthermore, the communal open space provides for a range of additional activities for a range of occupants, including landscaping and shade, facilitates informal surveillance and user security, on-site pedestrian circulation and is separated from vehicle movements, and suitably provides for future maintenance and management requirements.

5.6.6 Clause 5.4.8.2 – Building Design for Dwellings-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 with balconies addressing Progress Drive. The proposal limits opportunities for entrapment and low-level zone 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.

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 dwellings below.*

Requirements

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

Individual apartment designs provide clear crossflow ventilation between balcony and main entrances, which is aided by permeable common access corridors to maximise 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 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*

Lift shafts, and other mechanical services are suitably separated from habitable rooms.

- b. *locating air conditioner plants away from openings in habitable rooms.*

Air conditioning condensers are to be positioned within private open space areas adjacent bedroom major openings. The Planning Scheme outlines the following regarding such a design variation:

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.

Air conditioning equipment will be positioned so that it is screened from predominant views from the public realm, while also allowing for ongoing maintenance and replacement throughout each individual system's useful life. Screening gates and a perpendicular condenser orientation will aid the dispersal of operational noise from each unit so that it does not create an adverse nuisance for occupants.

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 not screened to the Progress Drive frontage by solid materials to the requirement of this clause. The Planning Scheme outlines the following for such a design variation:

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... are appropriately concealed or integrated into the development to minimise visual impacts.

As detailed previously at **Section 5.5.3** of this report the car parking area is to be suitably screened to the street frontage by landscaping to minimise the visual impact of this component of the development.

- 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*

Generally, services and utilities will be internalised within the site with screening to the public realm. However, guttering and downpipes will be noticeable from the Progress Drive street frontage. The Planning Scheme outlines the following for such a design variation:

The consent authority may consent to a development that is not in accordance with sub-clause 12 if it is satisfied that... services and utilities... are appropriately concealed or integrated into the development to minimise visual impacts.

The guttering and downpipes are integrated into the building design as a design feature while also providing a key structural component for weatherproofing compliance with the National Construction Code in a high-rainfall area such as Darwin. On this basis, it is not anticipated that these standard building components will create an adverse visual impact on the site or neighbouring land.

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

The bin storage area adjacent the eastern side boundary is screened by solid materials to the Progress Drive frontage and to the adjoining eastern property.

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.*

All balconies are open aspect in design with only Units 3 and 9 having solid walls which are 50% of their balcony frontage.

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

Full-height screens are shown on balconies facing Progress Drive, with dimensions confirming the screens do not exceed 25% of the relative balcony frontage, except for Units 3 and 9 which have screening across 50% of their Progress Drive balcony frontages. The Planning Scheme notes the following for such a variation:

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.

The balconies of Unit 3 and 9 are completely open to the western and eastern side elevations in lieu of the northern frontage which includes both the use of a feature solid screen wall and screening across the balcony frontages of these units to soften the building mass and maximise useability of the balconies. Balcony screens consist of aluminium louvres and offset the solid balcony walls, whilst the open aspect balcony elevations of Units 3 and 9 to the west provides for breeze penetration from the predominant wet season north-west winds through these apartments. Given this, the variation ensures the intent of this subclause is achieved.

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.*

The north (front), east (side), south (rear – majority) and west (side) building lines are sufficiently articulated in accordance with these requirements. However, the south-western rear building elevation adjacent Units 3 and 9 is 16.48 metres long without articulation. The Planning Scheme outlines the following for variation to this requirement:

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.

The south-western building elevation with a 1.4 metre variation to this requirement is minor in scale and its positioning to the rear of the site will not be noticeable from Progress Drive. The proposed variation will not result in an adverse building mass impact on adjoining land, as this building elevation complies with the 3 metre wall to boundary setback stipulated under **Clause 5.4.3**. Additionally, the proposed variation is substantially offset by increased building setbacks to the rear boundary around the communal open space area of the development. Furthermore, building projections and windows are proposed along this subject elevation to provide visual interest, articulation and opportunities for cross-ventilation within the building design.

5.6.8 Clause 5.4.18 – Fencing

Purpose

Promote fencing in medium and high density areas that provides a positive interface with the public domain, while allowing necessary privacy for residents and neighbouring properties.

Administration

1. *The consent authority may consent to a use or development that is not in accordance with sub-clause 4 if it is satisfied the fence enhances the streetscape and allows for passive surveillance to the public domain.*
2. *The consent authority may consent to a use or development that is not in accordance with sub-clause 5 if it is satisfied the fencing provides sufficient sightlines for pedestrian and cyclist safety.*
3. *The consent authority may consent to a use or development that is not in accordance with sub-clause 6 if it is satisfied the development protects the privacy of adjacent lower density residential development.*

Requirements

4. *All fences adjacent to road boundaries or boundaries adjoining public open space are to be constructed so that:*

- a. *the maximum height is 2m above ground level measured at the relevant site boundary; and*
- b. *the area of materials that is not visually permeable does not exceed an area equivalent to the length of the site boundary (excluding driveways) multiplied by 1.2m.*

The Progress Drive frontage will be fenced with a visually permeable anti-climb fence to a height of 1.5m per **Image 11**.



Image 10: Proposed permeable anti-climb front fencing

5. *Fencing within 1.5m of driveways, pedestrian entries, and street corners is to be visually permeable above 0.6m (unless there is truncation provided within these areas to the same distance).*

The 1.5 metre-high visually permeable anti-climb fence will extend inwards to the driveway entry roller door in the north-east corner of the site. A parabolic mirror for sightlines to passing pedestrians will also be installed adjacent to the driveway for exiting traffic.

6. *Where the development abuts land in Zones LR or LMR, development is to provide a solid screen fence to a minimum height of 1.8m to that boundary.*

The development site does not directly adjoin any lots within Zone LR or LMR on the southern side of Progress Drive.

5.6.9 Clause 5.4.19 – Residential Plot Ratio

Purpose

To encourage varied built form outcomes in higher density zones that are consistent with the anticipated character of the area.

Administration

- 1. The consent authority may consent to a use or development that is not in accordance with sub-clauses 3 and 4 if it is satisfied the design response mitigates the appearance of visual bulk to the street and neighbouring properties, having regards to matters such as the articulation of the building and setbacks of the development.*
- 2. The residential plot ratio in Table A does not apply to dwellings at ground level in Zones MR or HR.*
- 3. This clause does not apply where an alternative residential plot ratio is established under Clause 5.9 (Location specific development requirements).*

Requirements

- 4. The maximum residential plot ratio for development consisting of dwellings-multiple and/or rooming accommodation in Zones MR, HR and C is to be determined in accordance with Table A.*
- 5. The maximum residential plot ratio for development consisting of rooming accommodation in Zone TC is to be determined in accordance with Table B.*

Table A to this clause stipulates a residential plot ratio of 1.3:1 for the development. The proposed plot ratio is 1.02:1, below this requirement threshold.

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 1998*.

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

The proposed development will increase the provision and range of residential accommodation available within the suburb of Nightcliff. The redevelopment of the site will enable the increased and continued use of the site for residential purposes 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 building 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. Numerous services and facilities are provided in the immediate Nightcliff locality, with several public open space areas including the Nightcliff sporting ground and the foreshore reserve located within 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 from 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 authorities.

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 Nightcliff locality.

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

The proposal will increase the range of residential accommodation available within the suburb of Nightcliff and therefore is unlikely to be any detriment to public interest.

14.0 Section 46(3)(ja) – Restricted Water Extraction Area

The application does not comprise any form of subdivision. Accordingly, **Section 46(3)(ja)** is not applicable. Nonetheless, the subject property is not located within a declared Restricted Water Extraction Area under the *Water Act 1992*.

15.0 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.

16.0 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.

17.0 Conclusion

This application seeks a development permit for the construction of 14 dwellings-multiple in a three-storey building with associated communal open space, landscaping and ground level car parking. The proposed redevelopment of the site, which currently contains 11 older dwellings-multiple, will modernise the land to better suit the site, the surrounding locality, and the requirements of the Planning Scheme, while ensuring the continued residential use of the site as envisaged by the applicable strategic planning framework. This report considers the proposed variations against the requirements of the current Planning Scheme and concludes that the proposed development is suitable for approval.



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