



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 393 – FRIDAY 8 JULY 2022

BROLGA ROOM
NOVOTEL DARWIN CBD
100 THE ESPLANADE
DARWIN CITY

MEMBERS PRESENT: Suzanne Philip (Chair), Marion Guppy, Mark Blackburn, Peter Pangquee and Mick Palmer

APOLOGIES: Nil
LEAVE OF ABSENCE: Nil

OFFICERS PRESENT: Margaret Macintyre (Secretary), Ann-Marie Reynolds and Monica Pham (Development Assessment Services)

COUNCIL REPRESENTATIVE: Conneil Brown and Brian Sellers

Meeting opened at 10.00 am and closed at 10.20 am

THE MINUTES RECORD OF THE EVIDENTIARY STAGE AND THE DELIBERATIVE STAGE ARE RECORDED SEPARATELY. THESE MINUTES RECORD THE DELIBERATIVE STAGE. THE TWO STAGES ARE GENERALLY HELD AT DIFFERENT TIMES DURING THE MEETING AND INVITEES ARE PRESENT FOR THE EVIDENTIARY STAGE ONLY.

ITEM 1 **DWELLING-MULTIPLE (12 X 2 BEDROOM) IN 1 X 4 STOREY BUILDINGS**
PA2022/0143 **INCLUDING 1 LEVEL OF BASEMENT LEVEL CAR PARKING**
LOT 2017 (6) QUEEN STREET, STUART PARK, TOWN OF DARWIN
APPLICANT George Mamouzellos

The applicant, George Mamouzellos attended.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 5.4.3
38/22 (Building Setbacks of Residential Buildings and Ancillary Structures), Clause 5.4.3.1
 (Additional Setback Requirements for Residential Buildings longer than 18
 metres...) and Clause 5.4.6 (Private Open Space) of the Northern Territory Planning
 Scheme 2020, and pursuant to section 53(a) of the *Planning Act 1999*, consent to
 the application to develop Lot 2017 (6) Queen St, Stuart Park, Town of Darwin for
 the purpose of dwelling-multiple (12 x 2 bedroom) in 1 x 4 storey buildings
 including 1 level of basement level car parking, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the City of Darwin stormwater drainage system shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority. The plan shall include details of site levels and Council's stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected underground to Council's system.
2. Prior to the commencement of works (including site preparation), the location, design and specifications for the proposed and affected crossovers is required from the City of Darwin, to the satisfaction of the consent authority.
3. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP is to address how construction will be managed on the site, and is to include details of waste management, traffic control, haulage routes, stormwater drainage and sediment control and the use of City of Darwin land during construction.
4. Prior to the commencement of works (including site preparation), a Waste Management Plan demonstrating waste disposal, storage and removal in accordance with City of Darwin's Waste Management Guidelines, shall be submitted to and approved by the City of Darwin, to the satisfaction of the consent authority.

5. Prior to commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.
6. Before the development starts, a landscape plan to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and a digital copy must be provided. The landscaping plan must be generally in accordance with PWC easement requirements and guidelines. All species selected must be to the requirements of Power and Water Corporation (Water Services), to the satisfaction of the consent authority.

GENERAL CONDITIONS

7. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage, electricity and telecommunication network services to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
9. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to City of Darwin, to the satisfaction of the consent authority.
10. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
11. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
12. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report.
13. The owner shall:
 - a) remove disused vehicle and/ or pedestrian crossovers;
 - b) provide footpaths/cycleways;
 - c) collect stormwater and discharge it to the drainage network; and
 - d) undertake reinstatement works;all to the technical requirements of and at no cost to the City of Darwin, to the satisfaction of the consent authority.

14. Before the use or occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a) constructed;
 - b) properly formed to such levels that they can be used in accordance with the plans;
 - c) surfaced with an all-weather-seal coat;
 - d) drained;
 - e) line marked to indicate each car space and all access lanes; and
 - f) clearly marked to show the direction of traffic along access lanes and driveways; to the satisfaction of the consent authority.Car spaces, access lanes and driveways must be kept available for these purposes at all times.
15. The car parking shown on the endorsed plans must be available at all times for the exclusive use of the occupants of the development and their visitors.
16. All air conditioning condensers (including any condenser units required to be added or replaced in the future) are to be appropriately screened from public view and from view of neighbouring or nearby developments (or developments reasonably anticipated), located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed of to ground level in a controlled manner to the satisfaction of the consent authority. The use of angled louvered slats for screening purposes is acceptable, however the slat screening must be designed with a panel to gap ratio, such that the condenser units are not readily visible from any angle.
17. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the consent authority.
18. All substation, fire booster and water meter arrangements are to be appropriately screened to soften the visual impact of such infrastructure on the streetscape, to ensure that the infrastructure is sympathetic to and blends in with the design of the building. Details will need to be resolved to the satisfaction of the consent authority in consultation with the Power and Water Corporation, and NT Fire and Emergency Services.
19. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
20. Before the occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
21. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.
22. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of

the driveway and the public street to the requirements of the City of Darwin, to the satisfaction of the consent authority.

23. Before the use commences the owner must, in accordance with Part 6 of the *Planning Act 1999*, pay a monetary contribution to the City of Darwin for the upgrade of local infrastructure, in accordance with its Development Contribution Plan.

NOTES

1. A "Permit to Work Within a Road Reserve" may be required from City of Darwin before commencement of any work within the road reserve.
2. Any proposed works on/over City of Darwin property shall be subject to separate application to City of Darwin and shall be carried out to the requirements and satisfaction of City of Darwin.
3. In accordance with City of Darwin By-Laws, prior to occupation, the applicant shall ensure that a building number is displayed in a position clearly visible from the street. The number must be visible against the background on which it is placed, to the satisfaction and at no cost to City of Darwin.
4. City of Darwin advises that designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by the City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
5. City of Darwin advises that If the development involves an excavation that extends below the level of the base of the footings of a building and or footpath/road reserve on adjoining land, the developer must, at their own expense:
 - protect and support the adjoining property and pedestrians from possible damage or injury from the excavation, and
 - where necessary, underpin the adjoining premises to prevent any such damage.
6. A Compliance Certificate under the *Swimming Pool Safety Act 2004* issued by the Swimming Pool Safety Authority is required for the swimming pool/s prior to the commencement of the use/development.
7. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5346(surveylandrecords@nt.gov.au).
8. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the *Northern Territory Building Act 1993* before commencing any demolition or construction works.
9. If you choose nbn to service your development, you will need to enter into a development agreement with nbn. The first step is to register the

development via <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html> once registered nbn will be in contact to discuss the specific requirements for the development. Nbn requires you to apply at least 3 months before any civil works commence. All telecommunications infrastructure should be built to nbn guidelines found at <http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments/builders-designers.html>

10. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act 2005* must be notified to NT Build by lodgement of the required Project Notification Form. Payment of any levy must be made prior to the commencement of any construction activity. NT Build should be contacted via email (info@ntbuild.com.au) or by phone on 08 8936 4070 to determine if the proposed works are subject to the Act.

REASONS FOR THE DECISION

1. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and dwelling-multiple (12 x 2 bedroom) in 1 x 4 storey buildings including 1 level of basement level car parking requires consent under Clause 1.8 (When development consent is required). It is identified as *Merit Assessable* under Clause 4.4 Zone MR (Medium Density Residential), therefore Clauses 5.2.4 (Vehicle Parking), 5.2.6 (Landscaping), 5.4.1 (Residential Density Limitations), 5.4.2 (Residential Height Limitations), 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 5.4.3.1 (Additional Setback Requirements for Residential Buildings longer than 18 metres...), 5.4.6 (Private Open Space), 5.4.7 (Communal Open Space) and 5.4.8 (Building Design for Dwelling-Group, Dwelling-Multiple...), need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clauses 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 5.4.3.1 (Additional Setback Requirements for Residential Buildings longer than 18 metres...) and 5.4.6 (Private Open Space).

2. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)

The proposal has been found not to be in accordance with Clause 5.4.3 because the proposal will result in a setback of 7.136m to the primary street frontage, where the NTPS 2020 requirement is 7.5m.

Administratively, the consent authority may consent to a development that is not in accordance with sub-clauses 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 Authority considers that a variation to this clause is appropriate in this instance because the proposal is consistent with the purpose of Clause 5.4.3 in that the proposal:

- is compatible with the streetscape and surrounding development as it is a form of residential development expected in the area;
- minimises adverse effects of building massing through the use of balconies, windows and screening of air-conditioning units which breaks up the visual massing of the development from the streetscape;
- overlooking is reduced as the balconies are oriented towards Queen Street; and
- includes doors and windows and balconies to allow for breeze penetration and circulation.

The proposal results a reduced front setback of 7.136m to the primary street frontage, where the NTPS 2020 requirement is 7.5m. The reduced setback is unlikely to impact on adjoining and nearby property as the reduced setback faces the road frontage where potential overlooking is minimised.

5.4.3.1 (Additional Setback Requirements for Residential Buildings longer than 18 metres...)

The proposal has been found not to be in accordance with Clause 5.4.3.1 because the proposal will result in:

- A setback of 7.136m to the primary street frontage, where the NTPS 2020 requirement is 8.5m for all levels; and
- A setback of 3.5m to the side (western) boundary where the NTPS 2020 requirement is 4m for Levels 1 to 3.

Administratively, the consent authority may consent to a development that is not in accordance with sub-clause 3 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 visual bulk that may arise from non-conformity with sub-clause 3.

The Authority considers that a variation to this clause is appropriate in this instance because the proposal is consistent with the purpose of Clause 5.4.3.1 in that the proposal minimises the adverse effects of building massing through the use of windows with awnings, and the open sides of the balconies which breaks up the visual massing of the

development from adjoining properties at the side. The setback reduction for the side (western) boundary sought is 0.5m less than the NTPS 2020 requirement. The Authority determined this was appropriate as it is a small reduction and a greater setback distance is applied to the side (eastern) boundary and rear than that which is required. A landscape plan is provided which includes species that grow higher than the 1.8m fence and will assist in breaking up the visual mass and provide additional visual interest to the development.

To the primary street frontage a setback reduction of 1.364m is sought, the Authority considers this appropriate in this instance as treatments are applied to the front of the building including balconies and screening of air-conditioning units. This will provide further articulation to the building and break up the visual mass of the development on the streetscape and from adjoining properties.

5.4.6 (Private Open Space)

The proposal has been found not to be in accordance with Clause 5.4.6 (Private Open Space) because the proposal will result in no private open space that meets the minimum dimensions, where the NTPS 2020 requires 12m² with no dimension less than 2.8m of private open space for dwelling-multiple without direct ground level access.

Administratively, the consent authority may consent to private open space that is not in accordance with sub-clauses 4 and 5 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property. If a dwelling within a dwelling-multiple development has no direct access at ground level to private open space, and where on-site communal open space is provided, compliance with purpose provisions (c) and (d), and sub-clauses 4(d), (e) and (f) is not required.

The Authority considers that a variation to this clause is appropriate in this instance because the proposal is consistent with the purpose of Clause 5.4.6 in that the private open space provided extends the function of the dwelling and is of an adequate size. Each dwelling has a total balcony area that exceeds the 12m² minimum requirement, however the non-compliance is due to the dimensions being approximately 2.2m in width rather than the required 2.8m. The private open space is located to provide views from the dwelling to landscaped areas of the site, and overlooking is reduced as the balconies are oriented towards Queen Street to the North. A 3m wide landscaped area is proposed to the rear of the site which will provide some screening and limits overlooking to the adjoining property to the south.

The proposal is consistent with the purpose of Clause 4.4 Zone MR (Medium Density Residential) in that the proposal provides for a range of mid-rise housing options close to community facilities, commercial

uses, public transport or open space, where reticulated services can support medium density residential development.

The considerations listed under Clause 1.10(4) have been given regard to and it has been found that the proposal complies with all relevant requirements of the NT Planning Scheme 2020, except for Clauses 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures), 5.4.3.1 (Additional Setback Requirements for Residential Buildings longer than 18 metres...) and 5.4.6 (Private Open Space), as identified above.

The applicant, George Mamouzellos, attended the meeting and spoke to the purpose of the application. Mr Mamouzellos did not raise any concerns regarding the recommendation or the proposed conditions on the development permit.

The Authority noted that while the technical assessment indicates the car parking layout complies with the requirements of the NTPS 2020; the drawings submitted did not illustrate any dimensions and queried whether it was acceptable to include a note on the drawings to specify the car parking dimensions, should the application be approved.

Mr Mamouzellos confirmed that he had no issues with the Authority including an annotation on the drawings noting that all car parking spaces are to be a minimum 2.5m by 5.5m.

The Authority also commended Mr Mamouzellos on the inclusion of a swimming pool within the communal open space area and queried whether a standard note could also be included on which highlights requirements under the *Swimming Pool Safety Act 2004*

Mr Mamouzellos confirmed he had no issues with the Authority including a note on the development permit that a Compliance Certificate under the *Swimming Pool Safety Act 2004* is required for the swimming pool prior to the commencement of the use/development.

3. Pursuant to section 51(1)(j) of the *Planning Act 1999*, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The land is within Zone MR (Medium Density Residential) and identified for residential development in the Darwin Inner Suburbs Area Plan. No land capability concerns have been identified during assessment of the application. Additionally, the Department of Environment, Parks and Water Security did not identify or raise any issues of concern in relation to land capability.

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

The proposal is consistent with surrounding residential land uses in the immediate locality, which predominately comprise residential and service commercial uses. Given the scale and density of the proposal, no impact on the existing or future amenity of the area is anticipated. The internal orientation of dwellings and the use of solid perimeter walls will assist in reducing noise transmission from adjoining streets.

5. Pursuant to section 51(1)(t) of the *Planning Act 1999*, the consent authority must take into consideration other matters it think fit.

One late public submission was received on 30 May 2022 by Ms Tegan Berg. The main issues raised in the submission relate to the lack of visitor parking provided, existing traffic congestion in the locality, residents parking on the street on yellow lines. Ms Berg also noted the existing water pressure is intermittent and recommended upgrades to the water and sewerage infrastructure.

The Authority notes that the proposed development meets the car parking requirement and although the proposed development is not required to provide visitor parking, there is a surplus of two car parking spaces.

The Authority also notes that the City of Darwin is the road authority for Queen Street. City of Darwin representatives were in attendance and indicated that they did not have any further comments beyond their written submission. Their written submission did not raise any concerns regarding car parking and/or traffic congestion.

With regards to the services requirements, the Authority notes that Power and Water (Water Services) have not raised any concerns in its service authority comments, however it indicated that a new lot connection is required and that the developer will need to upgrade the existing water and sewer service. These requirements are addressed through conditions and notes as outlined above.

FOR: 5 **AGAINST: 0** **ABSTAIN: 0**

ACTION: Notice of Consent and Development Permit

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



Suzanne Philip
2022.07.11
16:07:55
+09'30'

SUZANNE PHILIP
Chair

11 July 2022

