



DEVELOPMENT CONSENT AUTHORITY

DARWIN DIVISION

MINUTES

MEETING No. 322 – FRIDAY 7 SEPTEMBER 2018

**BROLGA ROOM
NOVOTEL DARWIN ATRIUM
100 THE ESPLANADE
DARWIN**

MEMBERS PRESENT: Suzanne Philip (Chair), John Gleeson, Sherry Cullen and Simon Niblock

APOLOGIES: Doug Phillips and Mick Palmer

OFFICERS PRESENT: Poppy Zaronias (A/Secretary), Dawn Parkes, Adelle Godfrey and Susannah Penman (Development Assessment Services)

COUNCIL REPRESENTATIVE: Apologies

Meeting opened at 10.15 am and closed at 10.45 pm

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 **ALTERATIONS AND ADDITIONS (CARPORT, PORTICO AND SHED) TO AN**
PA2018/0303 **EXISTING SINGLE DWELLING WITH REDUCED FRONT, SIDE AND REAR**
 SETBACKS
APPLICANT **LOT 3154 (10) EDWARDS STREET, TOWN OF DARWIN**
 DPL DEVELOPMENTS

Mr Darron Lyons (DPL Developments) attended.

RESOLVED That, the Development Consent Authority vary the requirements of Clause 7.3
153/18 (Building Setbacks of Residential Buildings and Ancillary Structures) of the
 Northern Territory Planning Scheme, and pursuant to Section 53(a) of the *Planning*
 Act, consent to the application to develop Lot 3154 (10) Edwards Street, Town of
 Darwin for the purpose of alterations and additions (carport and shed) to an existing
 single dwelling with reduced front, side and rear setbacks, subject to the following
 conditions:

CONDITION PRECEDENT

1. Prior to the endorsement of plans and prior to commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) the provision of gutters and downpipes to capture stormwater runoff from the roof of the proposed shed.

2. Prior to the endorsement of plans and prior to commencement of works (including site preparation), 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 must be generally in accordance with that submitted with the application and must include:
 - (a) a survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - (b) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant.
All species selected must be to the satisfaction of the consent authority.

3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the 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 stormwater drain connection point/s. The plan shall also indicate

how stormwater will be collected on the site and connected underground to system

GENERAL CONDITIONS

4. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity facilities to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
6. 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.
7. 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. 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.
8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
9. Before the use/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.
10. 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.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The Northern Territory Environment Protection Authority (NTEPA) advises that construction work should be conducted in accordance with the Agency's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.

3. 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 General Manager Infrastructure, City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.

REASONS FOR THE DECISIONS

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

Lot 3154 Town of Darwin is identified within Zone SD (Single Dwelling Residential) of the NT Planning Scheme and is surrounded by lots predominantly developed as single dwellings. The primary purpose of Zone SD is to provide for single dwellings on individual lots. The proposal is for the construction of a carport and shed which are ancillary to the existing single dwelling, and as such the development is considered consistent with the purpose of the zone. It is noted that the application was exhibited to include the portico but upon assessment it was identified that the portico was fully compliant with the requirements of the NT Planning Scheme.

2. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Northern Territory Planning Scheme the Authority may consent to a development that does not meet the standard set out in Part 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The Authority acknowledged that the shape of the lot together with the location of the PWC easement running diagonally through the site posed difficulties in accommodating the proposed structures within the prescribed setbacks.

A variation to Clause 7.3 (Building Setbacks for Residential Buildings and Ancillary Structures) of the NT Planning Scheme is supported given that the proposal satisfies the purpose of the clause based upon the following reasons:

- The reduced setback of the carport affects only 9.7m portion of the total 42.67m frontage to the Edwards Street. The remainder of the dwelling is setback significantly from Edward Street which will assist in reducing overall building massing;
- When viewed from adjoining land, on the eastern boundary, the proposed carport is screened from view by means of existing vegetation along the boundary which also prevents overlooking to the adjoining property;
- The height of the carport sits below the dwelling and this together with the varying roof design minimises the effect of building massing when viewed from the street;
- The carport is not a habitable room and therefore no issues of undue overlooking of adjacent properties is anticipated;

- The carport is an open structure and will not affect the breeze penetration through and between the existing buildings;
 - Due to the angled placement of the existing PWC easement through the site, the proposed shed along the north-west corner is likely to require a variation to the performance criteria of the Scheme; and
 - The proposed shed has no window openings along affected boundaries, and as such issues of overlooking to adjacent properties are not foreseen.
3. Pursuant to Section 51(m) of the *Planning Act*, the consent authority must take into account the public utilities or infrastructure provided in the area in which the land is situated, the requirement for public facilities and services to be connected to the land and the requirement, if any, for those facilities, infrastructure or land to be provided by the developer for that purpose.

Comments received from service authorities highlighted a number of development specific requirements that have been addressed through appropriate conditions and/or notations on the development permit.

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

It is acknowledged that the development comprises of structure that are reasonably anticipated within residential areas. The height of the carport sits below the dwelling and this together with the varying roof design minimises the effect of building massing when viewed from the street. When viewed from adjoining land, on the eastern boundary, the proposed carport is screened from view by means of existing vegetation along the boundary which also prevents overlooking to the adjoining property. Noting the placing of the carport would require removal of some landscaping that exists along the front boundary, the applicant has provided a landscape plan showing vegetation to be retained and additional landscaping that could be provided to maintain the visual aesthetics. A condition precedent is included to show further details (type of species) of existing vegetation to be retained and quantity of all proposed trees, shrubs including botanical names to be provided along front and side boundaries.

ACTION: Notice of Consent and Development Permit

ITEM 2 **ENCLOSURE OF 'BREEZEWAY' BETWEEN TWO SHOPS TO EXTEND**
PA2018/0314 **FLOOR AREA**
APPLICANT **LOT 1523 (41) CAVENAGH STREET, TOWN OF DARWIN**
 AB CONSULTING (NT) PTY LTD

Ms Annette Joseland (AB Consulting (NT) PTY LTD attended

RESOLVED That, the Development Consent Authority reduce the car parking requirements
154/18 pursuant to Clause 6.5.2 (Reduction in Parking Requirements) of the Northern
Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*,
consent to the application to develop Lot 1523 (41) Cavenagh Street, Town of

Darwin for the purpose of the enclosure of a 'breezeway' between two shops to extend the floor area, subject to the following conditions:

GENERAL CONDITIONS

1. The works carried out under this permit shall be in accordance with the drawings endorsed as forming part of this permit.
2. The owner of land must enter into agreements with the relevant authorities for the provision of water supply, sewerage and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
3. 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.
4. Any additional 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.
5. Any additional roof top plant equipment, equipment relating to the operation of the lift and any other equipment (such as any vents and ducting associated with requirements for stairwell pressurisation or other such ventilation purposes or similar) that will be placed on the rooftop of the development shall be appropriately screened, or designed to soften the visual impact of such equipment from view from neighbouring or nearby developments (or developments reasonably anticipated).
6. Any additional 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.

NOTES

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. The Environment division of the Department of Environment and Natural Resources advise that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For

construction activities outside these hours refer to the guidelines for further information.

3. Notwithstanding the approved plans, any works within the City of Darwin's road reserve is subject to approval and shall meet all requirements to the satisfaction of the City of Darwin, at no cost to Council.
4. The City of Darwin has advised that the local rates currently payable under the *Local Government (Darwin Parking Local Rates) Regulations* can be revised as a result of the development.

REASONS FOR THE DECISION

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

The primary purpose of Zone CB (Central Business) is to provide for a diversity of activities, including administrative, judicial, professional, office, entertainment, cultural, residential and retail and other business activities with a commitment to the separation of incompatible activities. In Zone CB, building form and design is expected to be sensitive to the needs to pedestrian movement and facilitate the creation of safe and active street frontages and public places and a vibrant commercial precinct. The proposal comprises a minor expansion of an existing use which aligns with the zone purpose. With respect to building form and design, the proposal maintains the extent of active street frontages already provided for along Cavenagh Street, and will improve the appearance of the entrance to this particular tenancy.

2. An assessment against Clause 6.5.1 (Parking Requirements) of the Planning Scheme has identified an additional net floor area of 25.9m², requiring 1 additional car parking space (0.78 spaces rounded). The site has no car parking currently with no additional parking on site proposed. A reduction to the parking required under Clause 6.5.1, pursuant to Clause 6.5.2 (Reduction in Parking Requirements) for the 1 space is considered appropriate having regard to the use of the land, as the limited expansion of the existing use is not expected to generate any noticeable or significant increase to car parking demands. The development will provide a design improvement to the building and enable the tenancies either side to be combined as a single tenancy. The City of Darwin have also commented that a revised rate can be charged to the land owner under the *Local Government (Darwin Parking Local Rates) Regulations*.
3. Pursuant to section 51(j) of the *Planning Act*, 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.

No concerns have been identified in relation to the capability of the land in accommodating the proposed development.

4. Pursuant to section 51(n) of the *Planning Act*, 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 expansion is situated beneath the existing building roof, is small in extent and as such is unlikely to have a broader impact on the existing and future local amenity. With respect to the building's design, the proposal maintains the extent of active street frontages already provided for along Cavenagh Street, and will improve the appearance of the entrance to this particular tenancy. The shortfall of 1 car parking space is unlikely to impact on the existing or future amenity of the area.

ACTION: Notice of Consent and Development Permit

ITEM 3
PA2018/0256
APPLICANT

CHANGES TO DP17/0098 RESULTING IN 5 X 4 BEDROOM MULTIPLE DWELLINGS IN 3 X 2 STOREY BUILDINGS LOT 1781 (46) PHILIP STREET, TOWN OF DARWIN PA GROUP PTY LTD

Mr Savvas Savvas and Mr Israel Ksogiemang (One Planning Consult) attended.

Mr Savvas Savvas tabled a plan clarifying that the gate house structures are entirely within the site boundary adjacent to Phillip Street frontage.

RESOLVED
155/18

That, the Development Consent Authority vary the requirements of Clauses 7.1.1 (Residential Density Limitations), 7.3 (Building Setbacks of Residential Buildings), and 7.3.1 (Additional Setback Requirements for Buildings longer Than 18) of the Northern Territory Planning Scheme, and pursuant to section 53(a) of the *Planning Act*, consent to the application to develop Lot 1781 (46) Philip Street, Town of Darwin for the purpose of changes to DP17/0098 resulting in 5 x 4 bedroom multiple dwellings in 3 x 2 storey buildings, subject to the following conditions:

CONDITIONS PRECEDENT

1. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), amended plans to the satisfaction of the consent authority must be submitted to and approved by the consent authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, and must be generally in accordance with the plans submitted with the application but modified to show:
 - (a) a minimum sill height of 1.6m for the upper level windows of dwelling 1 where adjacent to the southern boundary, on the elevation plan;
 - (b) a 1.5m ground level setback to the main living areas of dwelling 1 from the southern boundary, on the ground floor plan;
 - (c) the 0.6m feature gap in the southern building wall of dwelling 1 adjacent to the upper level balcony overlooking Philip Street, on the elevation plan;
 - (d) a correct elevation view labelling on the elevation extract plan;
 - (e) a private open space area for dwelling 4 which complies with the minimum area requirements of Clause 7.5 (Private Open Space);
 - (f) extension of the block wall fence along the southern and northern boundaries adjacent to dwellings 1 and 2, to separate the air conditioning condensers in this location;
 - (g) the inclusion of indian mast trees (*Polyathia longifolia pendula*) at 0.6m spacing between dwelling 1 and the southern boundary.

Page 8 of 16

2. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), in principal approval is required for any works within the City of Darwin road reserve, to the satisfaction of the consent authority.
3. Prior to the endorsement of plans and prior to the commencement of works (including site preparation), a schematic plan demonstrating the on-site collection of stormwater and its discharge into the underground 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 stormwater drain connection point/s. The plan shall also indicate how stormwater will be collected on the site and connected to the underground system.
4. Prior to the commencement of works (including site preparation), the applicant is to prepare an Environmental and Construction Management Plan (ECMP) to the requirements of the City of Darwin. The ECMP is to address waste management, traffic control, haulage routes, and the use of Council land during construction, to the satisfaction of the consent authority.
5. Prior to the 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. Prior to the commencement of work (including site preparation), a waste management plan shall be submitted to and approved by the City of Darwin 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, drainage, sewerage, electricity facilities and telecommunication networks to the land shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
9. 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.
10. All existing and proposed easements and sites for existing and required utility services must be vested in the relevant authority for which the easement or site is to be created.
11. No access is permitted to the stormwater reserve located on adjacent Lot 5693.
12. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of the City of Darwin, to the satisfaction of the consent authority. The owner shall:

Page 9 of 16

- (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.
13. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
14. A Compliance Certificate under the *Swimming Pool Safety Act* issued by the Swimming Pool Safety Authority is required for the swimming pools prior to the commencement of the use to the satisfaction of the consent authority. The pool fencing is to comprise either self-closing doors to the living room or frameless glass fencing.
15. Prior to the use/occupation of the development and connection of services (i.e. power and water), the owner of the land must apply for unit/street addressing from the Surveyor-General of the Northern Territory. This will form the legal address and will be required to be placed on the doors and meters within the development in accordance with the allocation. A Certificate of Compliance will not be able to be granted until such time as addressing is obtained.
16. Confirmation shall be provided to Development Assessment Services (in the form of an email addressed to the Power and Water Corporation) from a suitably qualified professional confirming that all new number labels have been correctly installed at the Customer's Metering Panel(s) and water meters (where applicable). Please provide a copy of an email addressed to both landdevelopmentnorth@powerwater.com.au and powerconnections@powerwater.com.au.
17. 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.
18. 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.
19. The private open space areas of each dwelling shall be screened on each boundary by:
- (a) the erection of a solid wall or screen fence not less than 1.8m high; and
 - (b) fenced to a height of not less than 1.8m high and planted with dense vegetation.
20. 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.
21. 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, 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.

22. 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.
23. All balconies are to be internally drained and discharged is to be disposed of at ground level and in a manner consistent with stormwater disposal arrangements for the site to the satisfaction of the consent authority.
24. Soil erosion control and dust control measures must be employed throughout the construction stage of the development to the satisfaction of the consent authority.
25. The boundary screen fencing along the shared boundary with Lot 1780 is to be erected throughout the construction stage of the development, to the satisfaction of the consent authority.

NOTES

1. This development permit does not grant building approval. You are advised to contact a registered private Building Certifier to ensure that you have attained all necessary approvals before commencing construction works.
2. The Power and Water Corporation advises that the Water and Sewer Services Development Section (landdevelopmentnorth@powerwater.com.au) and Power Network Engineering Section (powerconnections@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
3. The Northern Territory Environment Protection Authority advises that construction work should be conducted in accordance with the Authority's Noise Guidelines for Development Sites in the Northern Territory. The guidelines specify that on-site construction activities are restricted to between 7am and 7pm Monday to Saturday and 9am to 6pm Sunday and Public Holidays. For construction activities outside these hours refer to the guidelines for further information.
4. Professional advice regarding implementation of soil erosion control and dust control measures to be employed throughout the construction phase of the development are available from Department of Environment and Natural Resources.
5. Any proposed works which fall within the scope of the *Construction Industry Long Service Leave and Benefits Act* 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 89364070 to determine if the proposed works are subject to the Act.
6. 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>

7. The Surveyor-General advises you should immediately make application for unit/street addresses to the Survey and Land Records unit on (08) 8995 5362 (surveylandrecords@nt.gov.au).
8. The City of Darwin advises that any works on/over Council property shall be subject to separate approval, at no cost to Council.
9. A permit to work within a road reserve may be required from the City of Darwin before commencement of any works within the road reserve.
10. The City of Darwin advises that prior to occupation, a building number will need to be displayed in accordance with Council's by-laws.

REASONS FOR THE DECISIONS

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

The application is for changes to an existing development permit, including the relocation of the driveway, separating dwellings 1 and 2 into individual buildings, the relocation of dwelling 1 adjacent to the southern boundary, the inclusion of gate house structures adjacent to Philip Street, changes to the private open space area for dwelling 4, fencing changes, plus other minor design changes.

The primary purpose of Zone MD is to provide for a range of housing options to a maximum height of two storeys above ground level. The scale, character and architectural style of infill development should be compatible with the streetscape and surrounding development. As a two storey townhouse development within the 8.5m height limit, the scale of the development is considered consistent with the zone purpose. The character and architectural style of the development includes varied setbacks and materials to the Philip Street frontage.

2. Clause 7.1.1 (Residential Density Limitations) ensures that residential development is of a density compatible with the existing and planned provision of reticulated services and community facilities which will service the area, and consistent with land capability having regard to relevant characteristics including but not limited to the drainage, slope, seasonal inundation, landforms or soil characteristics, heritage constraints or noise from aircraft operations. The consent authority has the discretion to consent to a development that is not in accordance with the density limitations if it is satisfied that compliance with other aspects of this Planning Scheme indicates that the density of the development is appropriate, having regard to the purpose of this clause. The development proposes a dwelling density of 1 dwelling per 280m² when 1 dwelling per 300m² is required in Zone MD. This is consistent with the density approved through DP17/0098. Having regard to the proposed changes to the development and the compliance with

Planning Scheme requirements, maintaining the approved level of density is considered appropriate. No issues have been identified in relation to land capability beyond those already identified and addressed as part of DP17/0098.

3. Clause 7.3.1 ensures that residential buildings respond to the potential adverse effects of building massing and visual bulk when viewed from adjoining land and the street. Additional setback requirements apply for the relocated dwelling 1 to the southern boundary due to the building length. The additional setbacks for the buildings adjacent to the northern boundary were already approved through DP17/0098. The consent authority has the discretion to vary this clause where it is satisfied that the design adequately mitigates the adverse effects of building massing and visual bulk that may arise from any nonconformity.

The ground level of dwelling 1 is situated behind a solid fence and the additional length of this component is not expected to impact the adjoining property. With regards to the upper level, the plans include a number of design features which assist in reducing the overall massing and visual bulk and prevent the appearance of a solid wall as viewed from the southern boundary. The features include varied materials through the inclusion of timber cladding, high level windows of varied heights, and the skillion roof design with gable cladding inset from the building wall. Closer to Philip Street, the building wall extends to the edge of the upper level balcony adjoining the master bedroom, and includes a 0.6m feature gap to the southern elevation. These design features adequately minimise any adverse effects of building massing and visual bulk.

4. Pursuant to Clause 2.5 (Exercise of Discretion by the Consent Authority) of the Planning Scheme, the consent authority may consent to a development that does not meet the standard set out in Parts 4 and 5 of the Planning Scheme where it is satisfied that special circumstances justify the granting of consent.

The purpose of Clause 7.3 (Building Setbacks of Residential Buildings and Ancillary Structures) is to ensure residential buildings and ancillary structures are located so they are compatible with the streetscape and surrounding development including residential buildings on the same site, as to minimise any adverse effects of building massing when viewed from adjoining land and the street, as to avoid undue overlooking of adjoining properties, and as to encourage breeze penetration through and between buildings. There is no change to the assessment of setbacks to the northern (side) and eastern (rear) setbacks from that previously approved.

The development has compliant setbacks to Philip Street, with the exception of a new non-compliance where two gate house structures are proposed to provide a sheltered pedestrian entrance to dwellings 1 and 2. Clause 7.3 requires that open structures are be setback 4.5m from the primary street frontage. With regard to compatibility with the streetscape and massing, the gatehouse structures are 2.7m which is somewhat taller than the block wall fence along the front boundary, however they have a limited width of 1.5m, and are also cantilevered which in this instance reduces bulk. The gatehouses are considered to provide interest and variation to the streetscape, and enable a more visually prominent pedestrian entrance and

sense of arrival to the development from Philip Street. There are no concerns with regard to breeze penetration as the gatehouses comprise open structures, and also no concerns with the potential for overlooking. The applicant tabled a further plan to the consent authority at the hearing confirming that the gate house structures are entirely located within the site boundary.

To the southern side boundary, one new non-compliance relates to relocated dwelling 1 to the southern side boundary. This is where Clause 7.3 specifies a setback of 1.0m when the subject wall meets certain criteria, or is otherwise required to be setback 1.5m. Whilst meeting the dimensions of height and length, the garage includes an exterior door and a setback of 1.5m is required. Notwithstanding, the garage door is likely to provide for access to service areas of the dwelling, and is unlikely to be used as a main access to the private open space. The door is also situated behind a 2.0m solid boundary fence which provides for separation from the neighbouring property, and prevents overlooking. In this way, the door inclusion is considered compatible with adjoining development.

5. The application sought a variation to Clause 7.5 (Private Open Space), of which the purpose is to ensure that each dwelling has private open space that is of an adequate size to provide for domestic purposes, appropriately sited, permeable and open to the sky, and inclusive of areas of deep soil for shade tree planting. All dwellings have access at ground level to private open space, being screened by a combination of good neighbour fencing and blockwork walls along the boundary. Dwellings 1, 2, 3 & 5 were assessed as meeting the minimum private open space areas, however the floor plan of dwelling 4 was assessed as providing a minimum private open space area of 42m² when 45m² is required. The consent authority was unable to find special circumstances to vary the private open space area for this dwelling and accordingly amended plans are required demonstrating compliance.
6. Pursuant to section 51(m) of the *Planning Act*, the consent authority must take into consideration the public utilities or infrastructure provided in the area in which the land is situated.

Comments received from service authorities highlighted a number of development specific requirements that have been addressed through appropriate conditions and/or notations on the development permit.

7. Pursuant to section 51(n) of the *Planning Act*, 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 density is consistent with that already approved, and consideration of the proposed changes and compliance with the Planning Scheme overall suggests the density is still appropriate for the development. The non-compliance with the setbacks for dwelling 1 to the southern boundary are addressed through a number of design treatments, which are considered to adequately minimise any adverse effects of building massing and visual bulk. The other changes including an additional variation relating to the construction of the gate house structures within the front setback will not impact on the amenity of neighbouring properties, and rather has been identified as a design element that will add interest to the streetscape.

8. Pursuant to section 51(e) of the *Planning Act*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

Two public submissions were received during exhibition of the application from the adjoining property to the south. The main concerns raised related to incorrect references and landscaping shown in the application, general impacts on amenity as a result of relocated dwelling 1 and the proposed setback, a concern for the design not being appropriate for a tropical environment, requesting that upper level windows be a minimum of 1.8m above the finished floor level, the setback to the pool impacting on privacy, concerns with regards to storm surge and drainage, a request for a solid block wall fence along the southern boundary, and for a fence to be installed along the southern boundary prior to any construction commencing.

With regards to landscaping, the consent authority noted comments from the applicant that indian mast trees can be included between dwelling 1 and the southern side boundary at a spacing of 0.6m. As this is not currently shown on the landscape plan, amended plans are required through a condition of the permit. This landscaping will assist in providing a visual screen to the development from the neighbouring property to the south.

The consent authority determined that a minimum 1.6m window sill height for the upper level of dwelling 1 is appropriate where adjacent to the southern boundary. A 1.6m window sill height improves the opportunity for ventilation and light to the dwelling, and is an adequate height to prevent direct or undue overlooking to the adjoining site. The inclusion of indian mast trees will also prevent direct views once they are established.

The development includes a 2.0m combination colourbond and block wall fence styles along the southern boundary, with the block wall components proposed to provide additional separation to the neighbouring property where the risk of noise transport is greatest, including adjacent to the pool and pool pumps. Whilst this is generally considered an acceptable response, amended plans are required by the consent authority, extending the block wall to also provide separation between the air conditioning condenser units along the southern and northern boundaries for dwellings 1 and 2.

The setbacks required by the Planning Scheme relate to built structures only with no setbacks required to the pool for dwelling 1. Stormwater from the site will be appropriately managed as the City of Darwin has requested a stormwater plan for the development demonstrating that all stormwater collected from the site be collected and discharged underground to Council's stormwater system.

The original permit DP17/0098 included a condition relating to the adjacent Lot 5396 Town of Darwin, prohibiting access to this land and this has been carried over on the new permit. Also, the original permit included a condition relating to the southern boundary fence to be installed prior to the construction of the development and this is also carried over on the new permit.

ACTION:

Notice of Consent and Development Permit

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

SUZANNE PHILIP
Chair

13 September 2018