

Business Papers

Town Planning Committee Meeting

Tuesday, 7 June 2016
5:00pm



Notice of Meeting

To the Lord Mayor and Aldermen

You are invited to attend a Town Planning Committee Meeting to be held in Council Chambers, Level 1, Civic Centre, Harry Chan Avenue, Darwin, on Tuesday, 7 June 2016, commencing at 5.00 pm.

A handwritten signature in black ink, appearing to read "B P Dowd".

B P DOWD
CHIEF EXECUTIVE OFFICER

Office Use Only

Placed on Public Notice Board: _____

Removed from Public Notice Board: _____

Town Planning Committee Meeting

Tuesday, 7 June 2016

at 5.00 pm

Guests

From 5.15pm.

Mr Michael Wells, Director Heritage Branch, Department of Lands, Planning and the Environment, will be in attendance from 5.15pm to brief the Committee on Heritage Management in the Top End at the Open Section of the Meeting.

OPEN SECTION

TP06/1

CITY OF DARWIN

TOWN PLANNING COMMITTEE

TUESDAY, 7 JUNE 2016

MEMBERS: Member S J Niblock, (Chairman); The Right Worshipful, Lord Mayor, Ms K M Fong Lim; Member R K Elix; Member J A Glover; Member G J Haslett; Member R M Knox; Member G A Lambert; Member G Lambrinidis; Member A R Mitchell; Member M Palmer; Member R Want de Rowe; Member K J Worden; Member E L Young.

OFFICERS: Chief Executive Officer, Mr B Dowd; General Manager Infrastructure, Mr L Cercarelli; Executive Manager, Mr M Blackburn; Manager Design, Projects & Planning, Mr D Lelekis; Strategic Town Planner, Ms C Robson; Planning Officer, Mr B Sellers; Town Planner, Ms N Smith; Executive Assistant, Ms A Smit.

GUESTS: Mr Michael Wells, Director Heritage Branch, Department of Lands, Planning and the Environment, will be in attendance from 5.15pm to brief the Committee on Heritage Management in the Top End.

Enquiries and/or Apologies: Arweena Smit
E-mail: a.smit@darwin.nt.gov.au - PH: 89300 685
OR Phone Committee Room 1, for Late Apologies - PH: 89300 519

Committee's Responsibilities

- Development Applications referred from the Development Consent Authority
- Town Planning Strategy, Policies and Procedures
- Development and Planning Matters referred to Council from Developers, Community Groups and Individuals
- Signage Applications, Policies and Procedures

THAT effective as of 16 April 2012 Council, pursuant to Section 32 (2)(b) of the Local Government Act 2008, hereby delegates to the Town Planning Committee the power to make recommendations to Council and decisions relating to Town Planning matters within the approved budget.

OPEN SECTION

TP06/2

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Reports, recommendations and supporting documentation can be accessed via the City of Darwin Council Website at www.darwin.nt.gov.au, at Council Public Libraries or contact the Committee Administrator on (08) 8930 0670.

OPEN SECTION

TP06/3

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OPEN SECTION

TP06/4

Town Planning Committee Meeting – Tuesday, 7 June 2016

1. MEETING DECLARED OPEN

2. APOLOGIES AND LEAVE OF ABSENCE

Common No. 2695036

2.1 Apologies

2.2 Leave of Absence Granted

- A. THAT it be noted Member G Lambrinidis is an apology due to a Leave of Absence previously granted on 17 May 2016 for the period 5 to 13 June 2016.
- B. THAT it be noted Member G A Lambert is an apology due to a Leave of Absence previously granted on 31 May 2016, for the period 7 to 14 June 2016.

3. ELECTRONIC MEETING ATTENDANCE

Common No. 2221528

Nil

4. DECLARATION OF INTEREST OF MEMBERS AND STAFF

Common No. 2752228

4.1 Declaration of Interest by Members

4.2 Declaration of Interest by Staff

5. CONFIDENTIAL ITEMS

Common No. 1944604

Nil

OPEN SECTION

TP06/5

Town Planning Committee Meeting – Tuesday, 7 June 2016

6. WITHDRAWAL OF ITEMS FOR DISCUSSION

THAT the Committee resolve under delegated authority that all Information Items and Officers Reports to the Town Planning Committee Meeting held on Tuesday, 7 June 2016 be received and considered individually.

7. CONFIRMATION OF MINUTES PERTAINING TO THE PREVIOUS TOWN PLANNING COMMITTEE MEETING

THAT the Committee resolve that the minutes of the previous Town Planning Committee Meeting held on Tuesday, 5 April 2016, tabled by the Chairman, be received and confirmed as a true and correct record of the proceedings of that meeting.

8. BUSINESS ARISING FROM THE MINUTES PERTAINING TO THE PREVIOUS TOWN PLANNING COMMITTEE MEETING

8.1 Business Arising

9. DEPUTATIONS AND BRIEFINGS

9.1 Heritage Management in the Top End Common No. 3299179

Mr Michael Wells, Director Heritage Branch, Department of Lands, Planning and the Environment, will be in attendance from 5.15pm to brief the Committee on Heritage Management in the Top End.

OPEN SECTION

TP06/6

Town Planning Committee Meeting – Tuesday, 7 June 2016

10.1 OFFICERS REPORTS (ACTION REQUIRED)

ENCL: TOWN PLANNING COMMITTEE/OPEN **AGENDA ITEM:** 10.1.1
YES

PROPOSAL FOR DUAL OCCUPANCY IN ZONE SD (SINGLE DWELLING RESIDENTIAL) - PA2016/0290

REPORT No.: 16TS0107 NS:hd **COMMON No.:** 3245500 **DATE:** 07/06/2016

Presenter: Manager Design, Planning & Projects, Drosso Lelekis

Approved: General Manager Infrastructure, Luccio Cercarelli

PURPOSE

The purpose of this report is to refer to the Town Planning Committee for comment, Pursuant to Section 19 of the *Planning Act*, the following Northern Territory Planning Scheme Amendment: Proposal for Dual Occupancy in Zone SD (Single Dwelling Residential) - PA2016/0290.

LINK TO STRATEGIC PLAN

The issues addressed in this Report are in accordance with the following Goals/Strategies of the City of Darwin 2012 – 2016 as outlined in the 'Evolving Darwin Towards 2020 Strategic Plan':-

Goal

1. Collaborative, Inclusive and Connected Community

Outcome

1.4 Improved relations with all levels of government and significant stakeholders

Key Strategies

1.4.2 Play an active role in strategic and statutory planning processes

KEY ISSUES

- Dual occupancy allows for the ability to develop a second dwelling on what has previously been a single residential lot (i.e. within Zone SD (Single Dwelling Residential)).
- The proposed provisions applicable to Zone SD (Single Dwelling Residential) lots with a minimum of 1,000m² would allow for dual occupancy development across the entire Northern Territory.
- Strategic planning documents which guide development and land uses within the Darwin municipality include the: *Darwin Regional Land Use Plan* (Land Use Plan), *Darwin Inner Suburbs Area Plan* (Inner Area Plan), *Darwin Mid Suburbs Area Plan* (Mid Area Plan) and the *Compact Urban Growth Policy* (CUG Policy). The subject proposal contradicts these bodies of work given that it will allow for growth on lots which are dispersed across the municipality.
- With a growing population comes the need to plan strategically for this growth and the future needs of the community, which Council strongly encourages.

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 REPORT NUMBER: 16TS0107 NS:hd
 SUBJECT: PROPOSAL FOR DUAL OCCUPANCY IN ZONE SD (SINGLE DWELLING RESIDENTIAL) - PA2016/0290

- The subject proposal (if adopted) would allow 2,561 of 23,649 (or 10.8%) of all lots within the Darwin municipality to have dual occupancy development.
- Increased growth (beyond expected), will place further pressure on existing and planned infrastructure and make it difficult for Council as a service provider to meet the demand and need for such infrastructure, at a significant cost to the community.

RECOMMENDATIONS

THAT the Committee resolve under delegated authority:-

- A. THAT Report Number 16TS0107 NS:hd entitled Proposal for Dual Occupancy in Zone SD (Single Dwelling Residential) - PA2016/0290 be received and noted.
- B. THAT Council endorse the draft submission, dated 10 June 2016, strongly objecting to the Reporting Body within **Attachment C** to Report Number 16TS0107 NS:hd entitled Proposal for Dual Occupancy in Zone SD (Single Dwelling Residential) - PA2016/0290.

BACKGROUND

In April 2016, Council responded to a discussion paper developed by the Northern Territory Planning Commission (the Commission). The discussion paper provided key considerations related to typical dual occupancy arrangements to assist in providing feedback for consultation purposes.

The discussion paper included the development of a draft proposal to introduce the opportunity for dual occupancy development to occur within Zone SD (Single Dwelling Residential) of the Northern Territory Planning Scheme (the Scheme).

Council provided a response to the discussion paper, strongly objecting to the proposal in the form which was exhibited (at **Attachment D**). In summary the key grounds for the objection included:

- contradicting the strategic guidance that the: Land Use Plan; Inner Area Plan; Mid Area Plan; and CUG Policy provides for development within the municipality.
- Impacts to social and physical infrastructure and funding mechanisms, beyond the expected growth.
- Increased stormwater and impervious surfaces due to increased development, beyond expected.
- Alterations to the streetscape and tropical amenity/character due to reduced setbacks, increased building mass, increased densities, the likely need to remove vegetation to cater for increased development, increased crossovers, altered breeze penetration and battle-axe development arrangements.
- If the subdivision was not proposed it would make it difficult for Council to capture rates and additional waste services.

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- The proposed lot size of 800m² was inconsistent with previous proposals and feedback received from the community in developing the Inner Area Plan and the Mid Area Plan and if approved at 800m², approximately 49.4% of the Darwin municipality could be developed to allow for dual occupancy arrangements. Council did not offer an alternative lot size, but requested that further modelling, which addressed Council's objections, be undertaken. and
- Council encouraged that dual occupancy proposals would be a discretionary use in areas that comply with the performance criteria of the CUG Policy, rather than the size of the lot being the sole determinant.

The Commission has since collated the feedback on the draft proposal and found that there were several key themes emerging from the consultation processes. A revised proposal (which according to the Commission, incorporated feedback obtained) was recommended to the Minister for Lands and Planning to exhibit the subject Planning Scheme Amendment proposal (at **Attachment A**).

Details of the current proposal are expanded upon within the discussion section of this report.

The plans at **Attachment B** provide a visual context to how many 1,000m² lots within the Darwin Inner, Mid and Northern Suburbs would be capable of achieving dual occupancy development according to the proposed provisions. City of Darwin records indicate that if the proposal were adopted, it would allow 2,561 of 23,649 (or 10.8%) of all lots within the Darwin municipality to have dual occupancy development.

Currently, Zone SD allows only one single dwelling per lot and may include an independent unit and therefore prohibits the development of multiple dwellings.

Note: Independent unit is defined as "an ancillary dwelling constructed in the same site as a single dwelling" and are a Permitted use, subject to meeting certain criteria of the Scheme.

Currently the minimum size of Zone SD lots is 800m² in brownfield (infill) areas. Recent provisions introduced in the Scheme require the development of lots in Zone SD in greenfield (new subdivision developments) to be no less than 450m² in area, with the subdivision having an average lot size of 600m².

DISCUSSION

Current Proposal

The proposed Scheme Amendment introduces two new clauses relating to site coverage and the subdivision of multiple dwellings in Zone SD, in addition to a number of amendments to existing clauses of the Scheme to capture necessary provisions related to the dual occupancy proposal. The specific wording of the provisions can be found at **Attachment A**.

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In summary, the dual occupancy proposal will:

- define dual occupancy development in Zone SD as “multiple dwellings”.
- Allow for dual occupancy on lots with a minimum lot size of 1,000m², therefore allowing a minimum of 500m² per dwelling.
- Include a provision that limits site coverage for residential buildings and ancillary stand-alone structures to no more than 60% of the lot (i.e. 600m² for a 1,000m² lot). This includes a definition within the Scheme that states site coverage as excluding, access ramps and driveways, pathways or paving; awnings or eaves to a maximum depth of 0.9m; basements; and swimming pool, spas or ponds.
- Prohibit development within Australian Noise Exposure Forecast (ANEF) contour 20 or greater.
- Restrict development of a lot where a road reservation width is less than 15m or within a cul-de-sac, unless it can be shown that the development will not disrupt the ability for emergency and waste removal vehicles.
- Introduce a *Clause 11.1.4, Subdivision of Multiple Dwellings in Zone SD*. The intent of this clause is to; “allow for subdivision of a dual-occupancy development once it has gained development approval. Lots subdivided through this clause will be separate entities with their own titles, associated yard space and access”. Subdivision where dual occupancy development has occurred “may or may not then later be subdivided”; and
- *Clause 11.2.3* is amended to allow battle-axes lots “only provided as part of a subdivision that has taken place through clause 11.1.4”. However, the “Planning Scheme retains a discouragement of battle-axes in greenfield subdivisions that may occur in new areas”.

In addition to the above, it is noted that the exhibition document intends to prohibit dual occupancy development in areas affected by Secondary and Primary Storm Surge, which was also confirmed in discussions with the Commission. However, given that the proposed amendment relies on residential uses being prohibited by the existing *Clause 6.14, Land Subject to Flooding and Storm Surge*, no amendments were proposed. Upon review of the existing *Clause 6.14*, it states that development of residential uses “should be avoided” where affected by Secondary and Primary Storm Surge.

Council’s response to the proposed amendment is at **Attachment C**.

Summary

In summary, it is recommended that Council endorse the draft submission at **Attachment C**, strongly objecting to the subject Scheme Amendment.

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 SUBJECT: PROPOSAL FOR DUAL OCCUPANCY IN ZONE SD (SINGLE DWELLING RESIDENTIAL) - PA2016/0290

CONSULTATION PROCESS

In preparing this report, the following City of Darwin officers were consulted:

- Town Planner
- Manager Climate Change and Environment
- Manager Technical Services
- Spatial Systems Administrator

In preparing this report, the following External Parties were consulted:

- Northern Territory Planning Commission

POLICY IMPLICATIONS

City of Darwin Policy No. 049 Roads – General, states that “Council will maintain a single driveway to each and every property within the Municipality” and that “Council will maintain a 6m driveway to each allotment zoned for multi storey residential buildings or commercial and industrial purposes”.

If approved, dual occupancy development could have other policy implications for Council on issues, including but not limited to the following:

- road hierarchies;
- shared path networks;
- street planting;
- waste collection and services;
- rate collections;
- social and physical infrastructure provisions; and
- contribution plans, etc.

The dual occupancy proposal contradicts the strategic guidance that the: Land Use Plan; Inner Area Plan; Mid Area Plan; and CUG Policy provides for development within the municipality.

BUDGET AND RESOURCE IMPLICATIONS

If development beyond that identified by the Inner Area Plan and the Mid Area Plan occurs as the result of the dual occupancy proposal, it is difficult for Council to understand whether existing infrastructure will meet demand. Therefore at this stage it is difficult to ascertain the level of budget and resources implications that Council may expect.

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If dual occupancy is not subdivided this provides issues for collecting rates. There may not necessarily be an increase in rates, but if there is, it makes it difficult to collect with intensified development which may contribute to demand on Council services that benefit the community.

RISK/LEGAL/LEGISLATIVE IMPLICATIONS

Not assessed.

ENVIRONMENTAL IMPLICATIONS

Potential environmental implications of the proposal, if approved, are explored further within the discussion section of the report.

COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

DROSSO LELEKIS
MANAGER DESIGN, PLANNING & PROJECTS

LUCCIO CERCARELLI
GENERAL MANAGER INFRASTRUCTURE

For enquiries, please contact Cindy Robson on 8930 0528 or email: c.robson@darwin.nt.gov.au.

Attachments:

- Attachment A:** Development Application, Dual Occupancy Development Amendment PA2016/0290
- Attachment B:** Darwin Inner, Mid and Northern Suburbs maps – according to lot sizes
- Attachment C:** City of Darwin, Draft letter of response to the Reporting Body, dated 10 June 2016
- Attachment D:** City of Darwin, letter of response to the Northern Territory Planning Commission, dated 29 April 2016

ATTACHMENT A

NORTHERN TERRITORY OF AUSTRALIA

Planning Act

**NOTICE OF EXHIBITION OF PROPOSAL
TO AMEND NT PLANNING SCHEME
PA2016/0290**

I, DAVID WILLIAM TOLLNER Minister for Lands and Planning give notice under section 17 of the *Planning Act* of the following:

- (a) a proposal to amend the NT Planning Scheme, as described in (e), is to be exhibited;
- (b) the proposed amendment is to be exhibited at the office of the Department of Lands, Planning and the Environment, Ground Floor, Arnhemica House, 16 Parap Road, Parap;
- (c) the period of exhibition is for 28 days, commencing upon first newspaper publication of the notice required by section 17(1);
- (d) written submissions regarding this exhibition should be made to:

Director, Lands Planning
Department of Lands, Planning and the Environment
GPO Box 1680
DARWIN NT 0801 or

Fax: (08) 8999 7189 or

Email: planning.dlpe@nt.gov.au

- (e) the proposed amendment is to the NT Planning Scheme to:
 - i. introduce the following clauses:
 - o Clause 6.4.2 (Site Coverage); and
 - o Clause 11.1.4 (Subdivision of Multiple Dwellings in Zone SD); and
 - ii. alter the following existing clauses:
 - o Clause 3.0 (Definitions);
 - o Clause 5.1 (Zone SD – Single Dwelling Residential);
 - o Clause 6.9 (Land in Proximity to Airports);
 - o Clause 7.1.1 (Residential Density Limitations);
 - o Clause 7.3.2 (Distance between Residential Buildings on One Site);
 - o Clause 7.5 (Private Open Space);
 - o Clause 7.6 (Communal Open Space); and
 - o Clause 11.2.3 (Lot Size and Configuration in Residential Subdivisions).

Dated

11.5.2016.



Minister for Lands and Planning

Proposal for Dual Occupancy in Zone SD (Single Dwelling Residential)

May 2016

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DRAFT

1. Introduction

This report outlines potential changes to the NT Planning Scheme to allow for the development of dual-occupancies on lots in Zone SD. Dual-occupancy is a term generally used to refer to the development of two houses over the one lot, which may or may not then later be subdivided.

The introduction of this policy would require a number of changes to the Planning Scheme, drafts of which are set out and explained through this report, with key aspects summarised below for reference:

- A minimum lot size of 1,000m² overall, with each resultant lot to be no less than 500m².
- Inability to develop dual-occupancies on land that is affected by aircraft noise (defined as an ANEF contour of 20 or greater).
- Prohibition on land that is affected by either the primary or secondary storm surge.
- The application of setbacks, private open space, landscaping and architectural merit controls as per clauses 7.3, 7.5, 7.7 and 7.8 of the Planning Scheme.
- The introduction of a 'site coverage' control to ensure the continuation of a balance between the built form and open spaces.

The controls within this report provide the ability to develop a dual-occupancy as part of an attached, semi-detached or detached fashion.

This report presents an option for use in the Planning Scheme. If adopted, an application for a dual-occupancy would follow the steps listed for a 'multiple dwelling' in Zone SD, as outlined by the zoning table on page 6 of this report. As a result, it is the term 'multiple dwellings' which is used through most of this report. In the event that subdivision approval is granted, the related development will effectively become two separate single dwellings. Note that subdivision consent can only be given after development consent to build a dual-occupancy has been granted by the consent authority.

2. Draft Changes to the NT Planning Scheme

The current text of relevant clauses in the NT Planning Scheme is shown within the text boxes in **black font**, while the proposed changes are in **red font**.

2.1 Part 1, Clause 3.0, Definitions – Site Coverage

Explanation of Amendment

A new defined term has been introduced to assist people with their understanding of the related new clause on site coverage. This new clause has been introduced to the NT Planning Scheme, largely in response to a concern that was regularly raised by members of the public during the consultation phase, to ensure that the proportion of land covered by a new development is not excessive. This has crossover with a number of controls already in the Planning Scheme that address matters such as massing, permeability of soils and landscaped area. The definition applies to the footprint of all structures on a site and is similar to definitions used in other jurisdictions.

3.0 Definitions

.....
.....
“**site**” means an area of land, whether consisting of one lot or more, which is the subject of an application to the consent authority;
“**site coverage**” means the proportion of a **site** that is covered by buildings and structures, expressed as a percentage. It does not include:

- access ramps, driveways, pathways or paving;
- awnings or eaves that are outside the outer wall of a building, to a maximum depth of 0.9m;
- basements;
- swimming pools, spas or ponds;

“**sport and recreation**” means the use of land for recreation purposes, but does not include such a use which involves commercial transactions, motor sports or activities which, by virtue of the generation of noise or disturbance, will adversely affect the **amenity** of adjoining land nor does it include **leisure and recreation**;

.....
.....

2.2 Part 3, Clause 5.1, Zone SD – Single Dwelling Residential

Explanation of Amendment

The primary purpose for Zone SD has been broadened to cater for single dwellings and dual-occupancies, both of which are considered to be low density urban residential developments.

Subclause 2 has been introduced to prompt consideration of the existing streetscape that an area has, with this increasingly important with the ability to subdivide to smaller lot sizes. This subclause is taken directly from the zone purpose criteria for Zone MD and Zone MR.

The zoning table shall now show ‘multiple dwellings’ as a discretionary land use in Zone SD, will see all developments for this purpose being publicly exhibited and submitted to the development assessment process.

5.1 Zone SD – Single Dwelling Residential

1. The primary purpose of Zone SD is to provide for **low density urban residential development** ~~single dwellings on individual lots.~~
2. **The scale, character and architectural style of infill development should be compatible with the streetscape and surrounding development.**
3. Non-residential uses or development should be limited to those which predominantly service the local neighbourhood and do not have any detrimental effect on residential **amenity**.

Clause 6.4.2 applies to **single dwellings** developed on lots created using clause 11.1.4 (Subdivision of Multiple Dwellings in Zone SD).

ZONING TABLE – ZONE SD			
abattoir	x		
agriculture	x		
animal boarding	x		
business sign	P	6.7	
caravan park	x		
caretaker's residence	x		
car park	x		
child care centre	x		
community centre	D	6.1, 6.5.1	
domestic livestock	x		
education establishment	x		
fuel depot	x		
general industry	x		
group home	P	7.1, 7.10.5	
home based child care centre	D	6.5.1, 7.10.6	
home based contracting	P	7.10.8	
home based visitor accommodation	S	7.10.1	
home occupation	P	7.10.7	
horticulture	x		
hospital	x		
hostel	x		
hotel	x		
independent unit	P	6.5.1, 7.1, 7.3, 7.5, 7.10.4	
intensive animal husbandry	x		
leisure and recreation	x		
licensed club	x		
light industry	x		
medical clinic	x		
medical consulting rooms	D	6.5.1, 7.10.9	
motel	x		
motor body works	x		
motor repair station	x		
multiple dwellings	D	6.4.2, 6.5, 7.1, 7.3, 7.5, 7.7, 7.8	
office	x		
passenger terminal	x		
place of worship	x		
plant nursery	x		
promotion sign	x		
recycling depot	x		
restaurant	x		
retail agricultural stall	x		
rural industry	x		
service station	x		
shop	x		
showroom sales	x		
single dwelling	P	6.5.1, 7.1, 7.3, 7.5	
stables	x		
supporting accommodation	D	6.5.1, 7.1, 7.5, 7.6, 7.7, 7.8	
transport terminal	x		
vehicle sales and hire	x		
veterinary clinic	x		
warehouse	x		
P = Permitted S = Self Assessable D = Discretionary x = Prohibited			

2.3 Part 4, Clause 6.4.2 – Site Coverage

Explanation of Amendment

The issue of ensuring that dual-occupancies retain a balance between the extent of buildings on a site and the area of open and undeveloped space was a common theme that arose from the consultation. Although the Planning Scheme already includes provisions on setbacks, open space and landscaping, it was felt that a control that directly addressed this issue was needed. A control that limits the area of a site that can be occupied is, therefore, proposed for inclusion.

The figure of 50% maximum site coverage is reflected in many other planning policies on this matter, while an additional 10% was seen as a reasonable allowance for related stand-alone structures to give some flexibility to land owners over time. On a 1,000m² site, for example, this clause will see that a maximum of 600m² could be developed or covered by built structures.

6.4 Plot Ratios and Site Coverage

6.4.1 Plot Ratios

- Renumber existing clause 6.4 as 6.4.1 (no change to content).

6.4.2 Site Coverage

1. The purpose of this clause is to ensure that a proper balance is retained between built form and open space on land in Zone SD where densities are greater than one **single dwelling per site**.
2. Development of **sites** within Zone SD for **multiple dwellings**, or for a **single dwelling** on a lot that was created using clause 11.1.4, is not to result in a **site coverage** in excess of:
 - (a) 50% for **residential buildings**; and
 - (b) 10% for stand-alone ancillary structures.

2.4 Part 4, Clause 6.9 – Land in Proximity to Airports and Part 4, Clause 6.14 – Land Subject to Flooding and Storm Surge

Explanation of Amendment

Dual-occupancies will be explicitly prohibited when any part of the site is affected by the air noise exposure forecast (ANEF) contour of 20 or greater. This is more stringent than the 'building site acceptability table' referenced in subclauses 2 and 3, which lists residential houses and flats as being 'conditionally acceptable' when affected by an ANEF of between 20 – 25.

No amendment to clause 6.14 (Land Subject to Flooding and Storm Surge) was necessary as this clause already prohibits residential uses on land that is affected by either the secondary or primary storm surge. The ability to develop in an area that is affected by flooding that is not caused by storm surge is not altered; subclause 5 of clause 6.14 gives specific criteria for when this is permissible.

6.9 Land in Proximity to Airports

1. The purpose of this clause is to:
 - (a) minimise the detrimental effects of aircraft noise on people who reside or work in the vicinity of an airport;
 - (b) prevent any new use or intensification of development on land that would prejudice the safety or efficiency of an airport; and
 - (c) retain the non-urban character of the land.
2. Despite anything to the contrary in this Planning Scheme, in Zones A, RL, R, CP, CN, RD, WM and FD, the use or development of land near an airport that is subject to the Australian Noise Exposure Forecast (ANEF) 20 unit value contour line or greater as defined on the ANEF maps produced by the Department of Defence (as in force from time to time), requires **consent**.
3. In determining an application for the use or development of land subject to the ANEF 20 unit value contour line or greater, the consent authority is to have regard to the Building Site Acceptability Table (Table 2.1) based on ANEF Zones taken from AS 2021 – 2000 as a guide to the type of use or development it may **consent** to.
4. **Multiple dwellings in Zone SD are prohibited when any part of the site is subject to the ANEF 20 unit value or greater.**
5. Lighting associated with development on land within flight approach paths is not to prejudice the safe operation of an airport.
6. Use or development of land is not to be of a nature that attracts birds or bats to an extent that prejudices the safe operation of an airport.

2.5 Part 4, Clause 7.1.1 – Residential Density Limitations

Explanation of Amendment

The table to this clause has been amended to reflect the primary purpose of this proposal, which is to enable a dual-occupancy development to proceed on a site in Zone SD, subject to a number of other controls as outlined through this report.

This clause has been amended to state that dual-occupancies are not to proceed when it is shown that they will disrupt the ability for a waste removal or emergency vehicle to properly access the road to which access is gained.

The reference to ‘independent units’ has been taken out of this clause to clarify the situation surrounding their application and assessment. Independent units are permitted in all of the residential zones and a number of the rural zones, but only referenced in the row to Table A of clause 7.1.1. The incomplete connection between the range of zones in which this is a permissible use and the zones referenced in the table creates anomalies. Clause 7.1.1 is intended to relate to dwellings of primary residence, while clause 7.10.4 is specifically in place to outline the detailed, and additional, criteria that apply to the development of independent units on a particular lot. A note is to be placed within clause 7.1.1 to direct potential applicants to clause 7.10.4 when considering the development of an independent unit, which already places a density limitation on sites looking to develop for this purpose of “no more than two dwellings on the site”. In short, the change to Table A does not alter the controls surrounding independent units in any way, merely provides for a consistent approach on this matter.

7.1.1 Residential Density Limitations

1. The purpose of this clause is to ensure that residential development is:
 - (a) of a density compatible with the existing and planned provision of reticulated services and community facilities which will service the area; and
 - (b) 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.
2. The maximum number of **dwellings** that may be constructed on a **site** is to be determined in accordance with tables A, B, C, D and E (as the case requires) to this clause.
3. The consent authority may consent to a development that is not in accordance with sub-clause 2 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 as set out in sub-clause 1.
4. **The consent authority must not consent to a multiple dwelling development in Zone SD that:**
 - (a) **has frontage to a street with a reservation width of less than 15m, for the length of the site’s frontage with that road reservation; or**
 - (b) **is within a cul-de-sac.**

unless it can be shown that the development will not disrupt the ability for emergency and waste removal vehicles.

Independent units are not to form part of the density calculation for the purposes of the tables to clause 7.1.1. For clarification on **independent units**, refer to clause 7.10.4 (Independent Units).

TABLE A TO CLAUSE 7.1.1 – DWELLING DENSITY IN CERTAIN ZONES	
Zone	Dwelling Density
SD, RR, RL, R and for a single dwelling in CL, CV and T	1 single dwelling per lot and may include an independent unit.
SD	1 per 500m ²
MD and for multiple dwellings in CL and T	1 per 300m ²

2.6 Part 4, Clause 7.3.2 – Distance between Residential Buildings on One Site

Explanation of Amendment

A purpose statement, which is largely taken from the overriding clause 7.3, has been added to this clause to give context to the controls. Additionally, the capacity for residences to be built with a common wall, as is commonplace for dual-occupancies, has been built into the applicable control. The 'zero setback' mentioned here can only be constructed to the two dwellings forming the dual-occupancy and must be fire rated accordingly. If dual-occupancies are detached from one another, a 3m setback, reflecting the existing 1.5m side setback provision, is to be provided between the two dwellings on the one site.

7.3.2 Distance between Residential Buildings on One Site

1. The purpose of this clause is to ensure **residential buildings** are located so:
 - (a) they are compatible with the streetscape and surrounding development;
 - (b) as to minimise any adverse effects of building massing when viewed from adjoining **residential buildings**, associated private open space and the street; and
 - (c) as to avoid undue overlooking of adjoining **residential buildings** and associated private open space.
2. Where more than one building comprising one or two storey **residential buildings** is located on a **site** the distance between the buildings is to be:
 - (a) 3m; or
 - (b) zero, provided that the zero building setback is provided between **multiple dwellings** in Zone SD on the same **site**.
3. Where more than one building comprising residential buildings that exceeds two **storeys** in height is located on a site, the distance between buildings is to be a minimum of:
 - (a) 3m for walls to non-habitable rooms and **habitable rooms** without windows or doors; and
 - (b) 4.5m for walls with windows or doors to **habitable rooms** or to a verandah or balcony.
4. For each **storey** over four **storeys**, the distance between buildings referred to in sub-clause 2.3 is measured from a straight line that is half the average distance between the walls of the buildings.

2.7 Part 4, Clause 7.5 – Private Open Space

Explanation of Amendment

Subclause 3 has been amended to ensure that the controls relating to the permeability of private open space areas, which already apply to SD lots of less than 600m², will also apply to dual-occupancy developments in Zone SD. As the resultant lots will likely be less than 600m² in area, this provides for a consistent approach through the process with small lots in Zone SD. This will mean that dual-occupancies will have to incorporate open space areas that allow for the infiltration of stormwater, include an area of deep soil for the planting of shade trees and allow for landscaping at the front of the property to complement the streetscape.

7.5 Private Open Space

1. The purpose of this clause is to ensure that each dwelling has private open space that is:
 - (a) of an adequate size to provide for domestic purposes;
 - (b) appropriately sited, permeable and open to the sky; and
 - (c) inclusive of areas of deep soil for shade tree planting.
2. Private open space areas should:
 - (a) satisfy the minimum area and dimensions contained in the table to this clause;
 - (b) be directly accessible from the dwelling and enable an extension of the function of the dwelling; and
 - (c) be permeable and open to the sky.
3. Private open space on lots that are either less than 600m² or for the purposes of a multiple dwelling development on a lot in excess of 600m² should:
 - (a) be sufficiently permeable to allow stormwater infiltration and lessen stormwater runoff from the site;
 - (b) include at least one area of approximately 5m² for the deep soil planting of shade trees; and
 - (c) allow for landscaping at the property frontage to complement the visual amenity of the streetscape.
4. Where the private open space is at ground level and other than for a single dwelling, or a single dwelling and associated independent unit it should be:
 - (a) screen fenced to a height of at least 1.8m providing a visual barrier to adjoining residences and public areas; or
 - (b) fenced to a height of at least 1.8m and planted with dense vegetation which will provide a visual barrier within two years of planting.
5. The location of the private open space should take into account views from the site, the natural features of the site and the location of any private open space or habitable room associated with neighbouring dwellings.

[table continued overleaf].

7.5 Private Open Space

[table continued from previous page].

6. If a **dwelling** within a **multiple dwelling** development has no direct access at ground level to private open space, compliance with subclauses 2(c) and 3 is not required providing the **multiple dwelling** development incorporates communal open space.
7. The consent authority may approve an application for a **multiple dwelling** development comprising serviced apartments in Zone TC that is not in accordance with sub-clauses 2 and 3 only if it is satisfied that the communal open space and communal facilities will adequately meet the activity needs of the residents.

TABLE TO CLAUSE 7.5 – MINIMUM AREAS OF PRIVATE OPEN SPACE	
Type of Dwelling	Private Open Space Areas
single dwellings on a lot of less than 600m ²	50m ² (exclusive of driveways and parking areas) but inclusive of an area with minimum dimensions of 6m x 6m.
independent unit	for the single dwelling 50m ² (exclusive of driveways and parking areas) but inclusive of an area with minimum dimensions of 6m x 6m; and for the independent unit 45m ² (exclusive of driveways and parking areas) but inclusive of an area with minimum dimensions of 5m x 5m.
multiple dwellings (for each dwelling with direct ground level access)	45m ² (exclusive of driveways and car parking areas) but inclusive of an area with minimum dimensions of 5m x 5m.
multiple dwellings (for each dwelling without direct ground level access)	12m ² inclusive of an area with minimum dimensions of 2.8m x 4m.

2.8 Part 4, Clause 7.6 – Communal Open Space

Explanation of Amendment

This amendment reflects the interpretation that has been in place for some time, that residential developments that are provided with independently accessible private open space at ground level, need not also provide communal open space. This provision is more applicable to developments at a greater density and not relevant, or of any benefit, to the dual-occupancy product whereby each dwelling is provided with private open space, in a front or back yard, in line with the table on the previous page and of very similar dimensions and area to that of a standard single dwelling.

7.6 Communal Open Space

1. The purpose of this clause is to ensure that suitable areas for communal open space are provided for **hostels, multiple dwellings** and **supporting accommodation**.
2. This clause does not apply to **multiple dwelling** developments in which each dwelling has direct and independent access to private open space at ground level.
3. A minimum of 15% of the **site**, being not less than 6m wide at any point, is to be communal open space.
4. The design of the communal open space should consider:
 - (a) the overall **dwelling** density proposed for the **site**;
 - (b) the proximity and quality of alternative private or public open space;
 - (c) the need to clearly distinguish communal open space from private and public open space and the need to maintain the reasonable privacy of nearby **dwellings**;
 - (d) the type of activities provided for ;
 - (e) the projected needs of children for outdoor play;
 - (f) the provision of landscaping and shade;
 - (g) safety issues including lighting and informal surveillance;
 - (h) on-site traffic circulation; and
 - (i) future maintenance and management requirements.
5. The consent authority may approve an application for a **multiple dwelling** development comprising serviced apartments in Zone TC that is not in accordance with sub-clause ~~2 3~~ only if it is satisfied that the private open space associated with each dwelling provides appropriate opportunities for outdoor activities.

2.9 Part 5, Clause 11.1.4 – Subdivision of Multiple Dwellings in Zone SD

Explanation of Amendment

This is a new clause to the Planning Scheme that would allow for subdivision of a dual-occupancy development once it has gained development approval. Lots subdivided through this clause will be separate entities with their own titles, associated yard space and access.

11.1.4 Subdivision of Multiple Dwellings in Zone SD

1. The purpose of this clause is to provide for the subdivision of approved **multiple dwelling** developments in Zone SD.
2. Notwithstanding the lot size requirements of the Table to Clause 11.1.1, a lot in Zone SD of not less than 1,000m² and for which a development permit for **multiple dwellings** has been issued, may be subdivided in accordance with that permit.
3. Lots created pursuant to this clause shall have an area of not less than 500m².

11.1.4-5 Subdivision for the Purposes of a Unit Title Scheme

- Renumber existing sub-clause 11.1.4 as 11.1.5 (no change to content).

2.10 Part 5, Clause 11.2.3 – Lot Size and Configuration in Residential Subdivisions

Explanation of Amendment

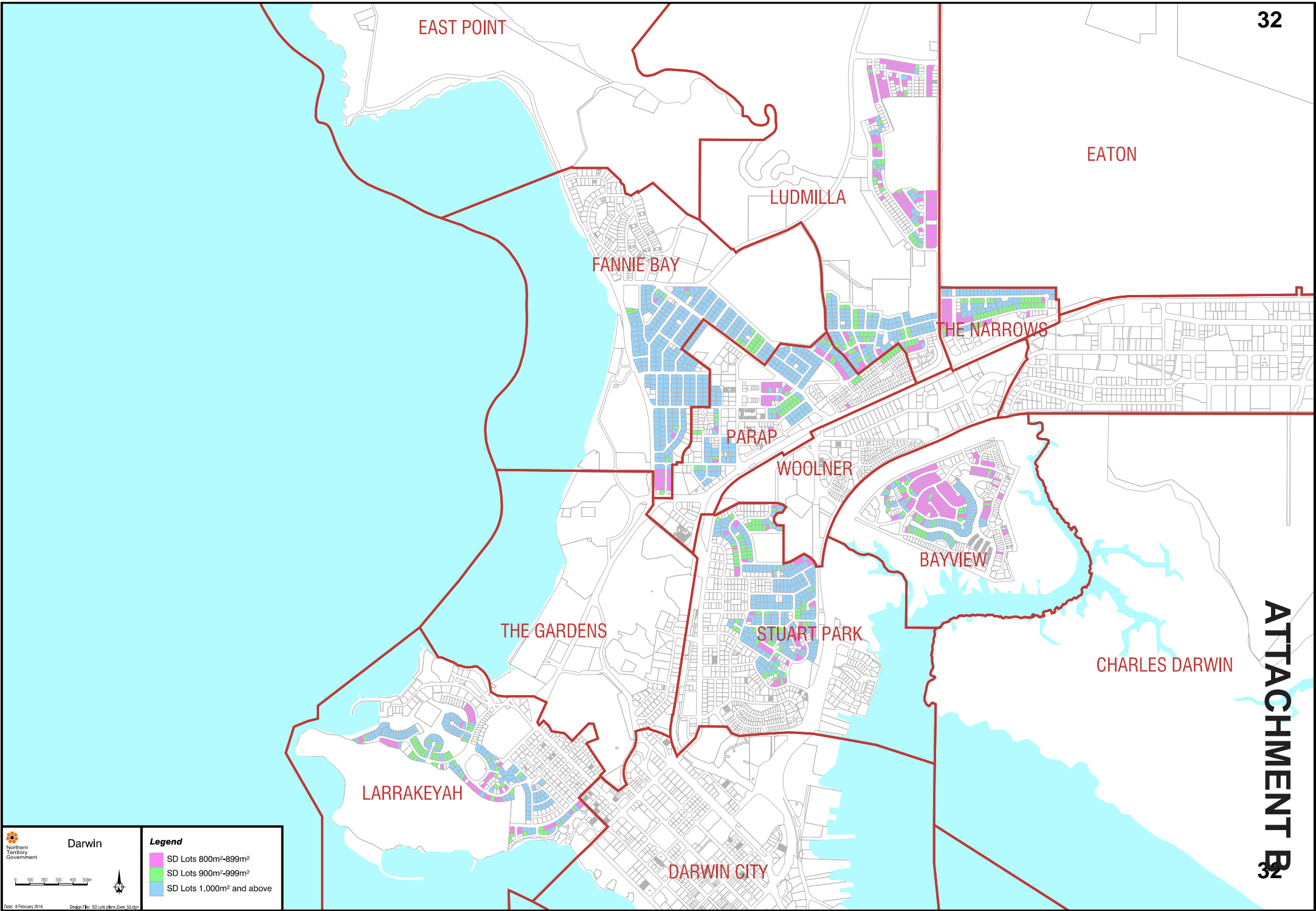
A battle-axe arrangement is a common solution in areas that permit dual-occupancy developments. It enables the streetscape to be preserved and can provide for a more economically viable way of developing a site. The Planning Scheme retains a discouragement of battle-axes in greenfield subdivisions that may occur in new areas.

11.2.3 Lot Size and Configuration in Residential Subdivisions

1. The purpose of this clause is to provide for the subdivision of approved **multiple dwelling** developments in Zone SD.
2. Residential subdivision design should provide that:
 - (a) lots have sufficient area and appropriate dimensions to provide for the proposed density of developments including **dwelling**s, vehicle access, parking and ancillary buildings;
 - (b) lots conform with the building envelope requirements in the table to this clause;
 - (c) ~~there are no battle-axe lots;~~ are only provided as part of a subdivision that has taken place through clause 11.1.4 (Subdivision of Multiple Dwellings in Zone SD);
 - (d) lots are orientated to allow dwellings to take advantage of environmental conditions such as prevailing breezes and sunlight;
 - (e) lots are connected to reticulated services;
 - (f) potential land use conflicts are minimised by taking account of the visual and acoustic privacy of residents; and
 - (g) where there are lots for medium and higher density residential development, those lots are:
 - (i) distributed in small groups serviced by public transport;
 - (ii) in close proximity to public open space and with adequate access to community facilities and services; and
 - (iii) not located in a cul-de-sac.

TABLE TO CLAUSE 11.2.3

Lot Size	Minimum Building Envelope Requirement
300m ² to less than 450m ²	7m x 15m (exclusive of any boundary setbacks or service authority requirements)
450m ² to less than 600m ²	8m x 15m (exclusive of any boundary setbacks or service authority requirements)
600m ² and greater	17m x 17m (exclusive of any boundary setbacks or service authority requirements)

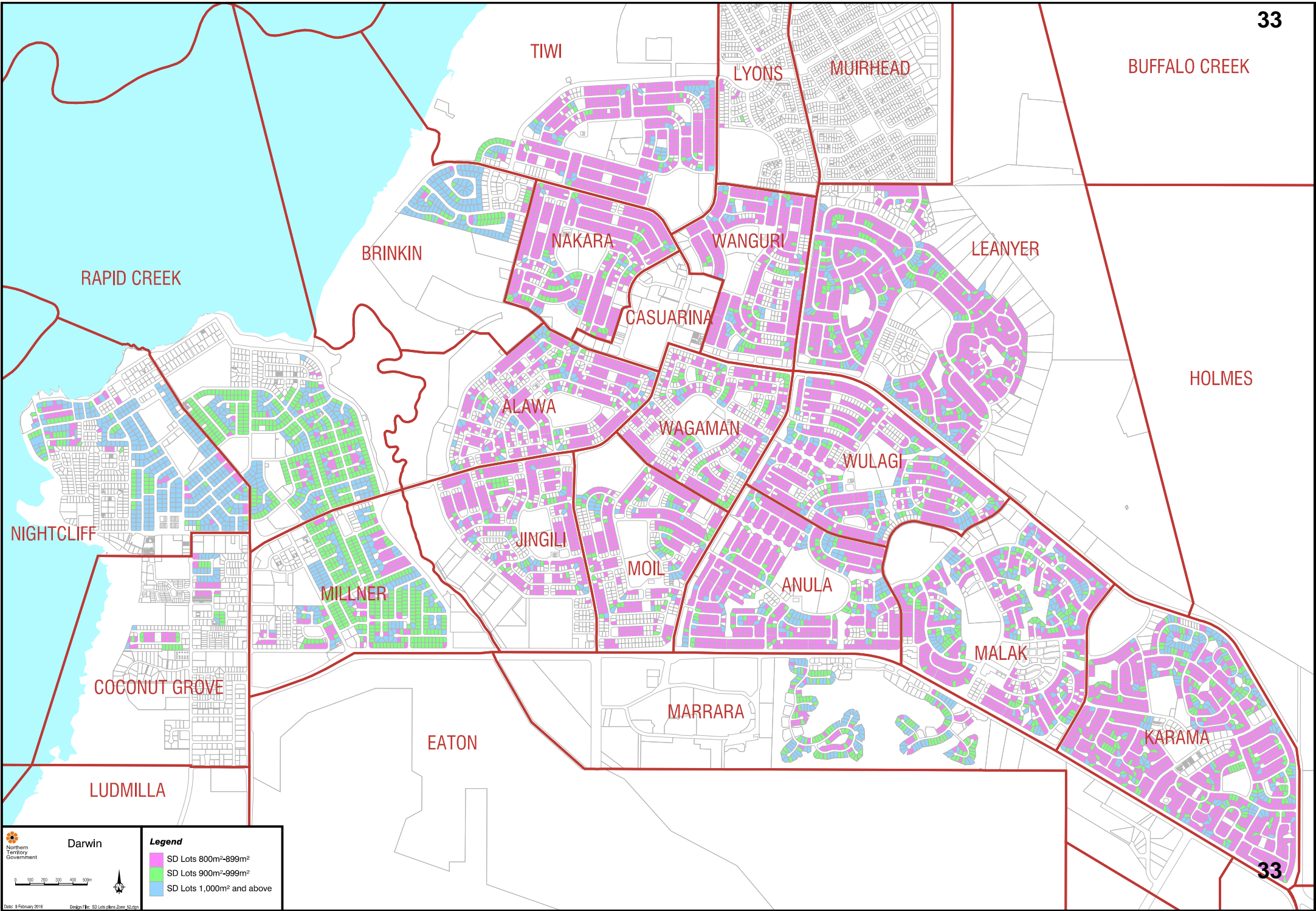



Darwin
Northern Territory Government

Legend


- SD Lots 800m²-899m²
- SD Lots 900m²-999m²
- SD Lots 1,000m² and above

Date: 9 February 2016 Design File: SD Lots (plus) Zone_62.dgn






 Darwin

0 100 200 300 400 500m



Date: 9 February 2016 Design: SD Lots (Zone 62).dgn

Legend

	SD Lots 800m ² -899m ²
	SD Lots 900m ² -999m ²
	SD Lots 1,000m ² and above

10 June 2016

Please quote: 3245500 NS:hd

Your reference: PA2016/0290

Mr Michael Holmes
Acting Director Lands Planning
Department of Lands, Planning and Environment
GPO Box 1680
DARWIN NT 0801

Dear Mr Holmes

Proposal for Dual Occupancy in Zone SD (Single Dwelling Residential)

Thank you for your recent correspondence requesting commentary on the proposed *Northern Territory Planning Scheme* (the Scheme) Amendment to allow dual occupancy development in Zone SD (Single Dwelling Residential).

Council recently provided a detailed response, strongly objecting to the Northern Territory Planning Commission (the Commission) in response to the *Dual Occupancy in Zone SD (Single Dwelling Residential) - Discussion Paper*. Council's detailed response is provided as an attachment for your reference.

Given that there are no significant changes from the previous proposal, Council's strong objection to dual occupancy in its current form remains, for reasons outlined below:

Strategic context:

Council strongly encourages and acknowledges the need for urban densification in brownfield areas and with a growing population comes the need to plan strategically for this growth and the future needs of the community.

Council considers that the; *Darwin Regional Land Use Plan 2015* (Land Use Plan), *Darwin Inner Suburbs Area Plan* (Inner Area Plan), *Darwin Mid Suburbs Area Plan* (Mid Area Plan) and *Compact Urban Growth Policy* (CUG Policy) all provide a clear direction on where urban growth can be accommodated and highlights the need to focus density around activity centres and transport corridors, for the efficient use of services and social and physical infrastructure that support land uses and the need for a connected and diverse community. Council considers that these documents have been developed in response to good planning principles.

Social and physical infrastructure and funding mechanisms:

If development beyond that identified by the Inner Area Plan and the Mid Area Plan occurs as the result of the dual occupancy proposal, it will be difficult for Council to properly plan for social and physical infrastructure to meet future demand and prepare funding mechanisms when it is not understood where the majority of the growth will occur, given the extent of land in excess of 1,000m² across the municipality.

For service authorities, it is the cumulative impact that increased density has on infrastructure, rather than one individual development that is important. Statutory and strategic planning shifts should be at the benefit of the community, rather than at its detriment.

Site coverage, stormwater drainage and increased impervious surfaces:

Council acknowledges that the proposed provision *Clause 6.4.2, Site Coverage*, has considered the potential impacts that increased development has on stormwater drainage and increased impervious surfaces. However, Council will expect that the proposed provisions are strictly applied to dual occupancy development proposals rather than allowing for amendments.

In considering the above, it is requested that (if approved), the proposed wording of *Clause 6.4.2* is strengthened to include wording that does not allow for variations to the provisions so to ensure that development of a site is restricted to a maximum of 60% of the site.

Streetscape and tropical amenity/character:

Council considers that the retention of the established tropical landscape character and the traditional housing styles unique to Darwin are integral to its identity. Given the extent of lots of 1,000m² and greater there is potential to broadly impact existing areas, rather than areas that have been clearly identified for potential change through the Area Plans.

Lot Size:

The proposed amendment has addressed some of Council's concerns/questions particularly in relation to lot size and the extent that the previous amendment would have impacted on the City of Darwin. However, allowing dual occupancy in the proposed format essentially is allowing 'spot rezoning's' to occur without formally rezoning the land.

To address this, Council again recommends that if dual occupancy mechanisms are to be pursued, that dual occupancy proposals be a discretionary use and assessed against the performance criteria of the CUG Policy, rather than the size of the lot being the sole determinant as per the previous and current proposals.

Subdivision:

Council previously identified in responding to the Discussion Paper, that there are implications for either subdividing or not subdividing (refer to the attached letter).

Council recommends, if it is considered appropriate to approve the amendment, that it would be suitable for dual occupancy developments to be applied for, exhibited, decided upon and developed with a subdivision application and conditions that require the two to occur concurrently.

Constrained land:

To reduce impact to persons and property, Council recommends that urban densification be restricted where land is constrained by any of the following:

- odour buffers, to ensure that existing and future planned services do not result in conflicting land uses;
- Primary Storm Surge Areas (PSSA) and Secondary Storm Surge Areas (SSSA), which is understood to be the intent of the amendment.

The explanation of the proposed amendment relies upon the existing provisions of *Clause 6.14* of the Scheme. However, the current provisions of the Scheme (pursuant to *Clause 6.14*), do not prohibit residential uses as suggested by the proposed amendment. However states that residential uses “should be avoided”.

It is suggested that the below wording be added to *Clause 6.14* to address this issue:

“**Multiple dwellings** in Zone SD are prohibited when any part of the site is subject to PSSA or SSSA”; and

- land is affected by biting insects.

Specific Use Zones:

Often, Specific Use Zones rely on the provisions of an existing zone within the Scheme for the assessment criteria (i.e. a single dwelling is to be assessed against Zone SD and related provisions).

It is understood from discussions with the Department that existing Specific Use Zones in Darwin wouldn't allow for dual occupancy development given their wording. The City of Darwin wants to ensure that this is the case given that the social and physical infrastructure within those zones could be impacted upon.

Independent Units:

As Council previously suggested, independent units should be prohibited where dual occupancy has occurred to reduce negative impacts that intensified development would cause on the environment and social and physical infrastructure.

Summary:

For the reasons discussed above, Council again recommends that if dual occupancy mechanisms are to be pursued, that dual occupancy proposals be a discretionary use and assessed against the performance criteria of the CUG Policy, rather than the size of the lot being the sole determinant as per the previous and current proposals.

If the Commission and the Northern Territory Government consider that dual occupancy is an appropriate mechanism to cater for future growth demands in its proposed format, then it would be appropriate for the Land Use Plan, Inner Area Plan, Mid Area Plan and CUG Policy to be amended to reflect the subject proposal to ensure that all statutory and strategic planning documents align with one another and provide clear and consistent guidance.

Furthermore, it may be appropriate for the Department to better understand future housing stock needs prior to deciding upon the proposed amendment. For example, is greater housing density required to cater for the disabled, elderly, first home buyers, empty nesters, singles or young families? To achieve this understanding, the development of a Housing Strategy for the Northern Territory may be appropriate to ensure that deliverables align with needs.

Council thanks you for the opportunity to provide comment on the subject proposal and is interested in furthering discussions to address the issues raised in this response.

If you have any further queries please contact Cindy Robson on 8930 0528 or c.robson@darwin.nt.gov.au.

Yours sincerely

LUCCIO CERCARELLI
GENERAL MANAGER INFRASTRUCTURE

Attachment: Council's previous response, dated 29 April 2016

29 April 2016

Please quote: 3245500 NS:hd

The Hon. Gary Nairn AO
Chairman
Northern Territory Planning Commission
GPO BOX 1680
DARWIN NT 0801

Dear Mr Nairn

Dual Occupancy in Zone SD (Single Dwelling Residential)

Thank you for your recent correspondence requesting commentary in response to the *Dual Occupancy in Zone SD (Single Dwelling Residential) Discussion Paper*.

Council strongly objects to the Dual Occupancy proposal in its current form for reasons outlined below. Council however notes that the exhibited documents are intended to promote discussion and enable feedback across the Northern Territory, where Zone SD applies and for this reason, offers a number of ideas and questions in a strategic and statutory context for the Commissions consideration.

The subject proposal (if adopted) would allow 11,671 of 23,626 (or 49.4%) of all lots within the Darwin municipality to have Dual Occupancy development. Therefore, the outcomes of this proposal have the potential to raise a number of significant issues for Council, given that it affects almost half of the Darwin municipality within the City of Darwin's control.

Strategic context:

Since the establishment of the Northern Territory Planning Commission (the Commission), there has been significant work undertaken in developing a number of strategic documents, which include the following:

- *Darwin Regional Land Use Plan 2015 (Land Use Plan)*;
- *Darwin Inner Suburbs Area Plan (Area Plan)*;
- *Darwin Mid Suburbs Draft Area Plan (Area Plan)*; and
- *Compact Urban Growth Policy (CUG Policy)*.

Council considers that these documents, which are hierarchical in nature, are a positive response to the number of planning issues, developments, population and economic growth pressures that the municipality of Darwin has faced in recent years.

For Council (and fellow service authorities), the Consent Authority and the community, these documents:

- provide a number of clear goals, objectives and performance criteria for development;
- provide a framework to manage growth in anticipation rather than in response and vision;
- provide certainty and guidance for developers, service authorities and the Consent Authority;
- offer reassurance that land uses keep pace with the changing needs of a growing community by identifying areas for potential change in terms of residential, commercial and industrial zonings and development;
- respond to the needs and limitation of constrained land and infrastructure capacities;
- respond (for the most part) to the issues identified through the consultation processes of each strategic documents creation;
- ensure that Essential Services and infrastructure are delivered in a coordinated and timely manner in order to meet the changing needs of the population; and
- highlight the need for efficient use of services and infrastructure that support land uses and the need for a connected and diverse community.

Social and physical infrastructure and funding mechanisms:

Council understands that all of the background studies that formed the development of the Inner and Mid Suburbs Area Plans assessed the capabilities of existing infrastructure to cater for the proposed land use and the final documents responded to this by limiting the areas land use changes. It is considered that the subject proposal would undermine the significant bodies of work undertaken to date as it does not take into account its impacts on the existing social and physical infrastructure in the areas.

Increased growth (beyond expected), will place further pressure on existing and planned infrastructure and make it difficult for Council as a service provider to meet the demand and need for such infrastructure, at a significant cost to the community. If development beyond that identified by the Inner and Mid Suburb Area Plans occurs as the result of the Dual Occupancy proposal, it is difficult for Council to understand whether existing infrastructure will meet demand and how is it to apply funding mechanisms when it is not understood where the majority of the growth will occur, given the disparity of land in excess of 800m² across the municipality?

The exhibited document identifies that “dual occupancy will not always be feasible for all lots over the minimum lot size in all locations, with the practicality of upgrading sewer and water infrastructure a key consideration”. Intensified development places pressures on infrastructure beyond sewer and water,

including but not limited to; roads, stormwater, waste and social infrastructure. For service authorities, it is the cumulative impact that increased density has on infrastructure, rather than one individual development.

Stormwater drainage and increased impervious surfaces:

It is important for the Commission to consider that intensified development increases the total area of hard surfaces, which in turn, increases stormwater runoff volumes, resulting in greater pressures on existing infrastructure. Given the Northern Territory's high annual rainfall intensities there is an increased need for Council to provide stormwater drainage infrastructure that can cater for these increased flows, to mitigate impacts of flooding on life or property.

However, if the Dual Occupancy proposal is to be considered further, mechanisms to limit the extent of impervious surfaces beyond the small lot provisions should be implemented, reducing the amount of stormwater runoff generated and subsequent impact on the stormwater drainage networks.

Streetscape and tropical amenity/character:

A number of the above mentioned strategic documents, encourage development to:

- "Limit the impact of new single dwelling development on the established neighbourhood character" and limit change in the built form;
- protect the "tropical character currently enjoyed in the surrounding locality";
- "Facilitate a diversity of housing choices by ensuring new dwellings respect the character of existing residential areas"; and
- be of a density "compatible with the existing and planned provision of reticulated services and community facilities which will service the area".

Through the consultation processes for the *Darwin Mid Suburbs Draft Area Plan*, "a strong sentiment expressed by the community was the gradual demise of Darwin's traditional lifestyle in terms of housing typologies. Frustration was also pointed towards a lack in consideration for Darwin's tropical climate with relation to the design and construction of recent development. Part of this problem has been attributed to rigid building controls suited to southern conditions".

Council considers that the retention of the established tropical landscape character and the traditional housing styles unique to Darwin are integral to its identity.

The minimum 400m² areas per occupancy (smaller than that required by the recent small lot provisions) will have a significant impact on the following:

- existing landscaped character unique to the established communities. Given that increased development will require the removal of mature vegetation,

resulting in reduced shade and weather protection therefore development becoming the predominate landscape character;

- existing streetscape character given the potential for reduced setbacks to front, side and rear property boundaries and therefore altering the single dwelling built form and mass;
- ability for breezes to penetrate through and between buildings, given the increased built form and reduced boundary setbacks; and
- quality and dynamics of private open space for adjoining development, given the increased development in typically rear yards.

Subdivision:

The exhibited documents do not provide clear guidance as to whether or not the proposed Dual Occupancy provisions would encourage freehold subdivision. Council considers that there are implications either way, which include:

- If subdivided:
 - A dwelling is a permissible use subsequently planning consent would not be required for a single dwelling on a lot. Therefore, there would be no planning considerations made in regard to: overlooking of private open space; tropical landscape character; streetscape character; built form and mass; prevailing breezes etc.;
 - Increased crossovers reduce opportunities to retain and plant vegetation within the road reserve; and
 - It presents the opportunity for battle-axe arrangements and therefore two crossovers, which is a highly undesirable outcome for the streetscape.
- If not subdivided:
 - Council's policies only allow for one crossover per lot;
 - It makes it difficult for Council to rate the property accordingly; and
 - It makes it difficult for Council to capture the need for additional waste services given that services rely on the property rating system.

Lot size:

Within the *Darwin Inner Suburbs Area Plan* it states that "for many local residents, it was felt that a key component in achieving a "tropical character" is retaining larger lot sizes. Comments from the community were mixed in regard to allowing for the subdivision of larger lots in the inner suburbs, however many agreed that a tropical character could be maintained on lots 500 – 600m² in size. It was felt that allowing subdivisions of larger blocks could alleviate the housing pressure, without needing to build higher density unit developments".

The proposed Dual Occupancy requirements would allow for a minimum area of 400m² per dwelling, however the recent small lot provisions in Zone SD (within the Scheme) require lots of no less than 450m² in area, with the subdivision having an average lot size of 600m².

Prior Dual Occupancy proposals have required a minimum of 1,000m² in area for two dwellings (i.e. 500m² per dwelling) with a maximum of two dwellings per lot with no dependant units (now referred to as Independent Units).

It is understood through discussions between City of Darwin staff and officers from the Commission and the Northern Territory Government (NTG) that progressive development of a site could occur for example if a lot was a minimum of 1,200m², essentially three dual occupancy dwellings could be developed in the future, rather than limiting it to two dwellings as per prior considerations this would place further pressures on social and physical infrastructure.

In considering the above (community consultation outcome, existing small lot provisions and prior considerations), and particularly given that 83.9% of the Zone SD lots within the Darwin municipality could achieve Dual Occupancy, it is questioned why the proposed documents indicate a minimum lot size of 800m² (i.e. 400m² minimum per dual occupancy).

Allowing Dual Occupancy on lots of 800m² or greater would effectively halve the required size of Zone SD lots and create SD lots that are only 100m² larger than MD lots and 50m² smaller than the new lot provisions for developing Greenfield areas (as per current Scheme provisions).

Other considerations:

Below are some further issues for the Commission to consider/clarify:

- It was unclear from discussions with the Commission and the NTG, whether or not Independent Units would be restricted where a Dual Occupancy development and subsequent subdivision may occur.

If for example, where Dual Occupancy could occur, essentially a total of 6 dwellings (including Independent Units) could potentially be developed on a lot with a minimum lot size of 1,200m², which pursuant to current Scheme provisions could only achieve one dwelling in infill areas.

Council offers that Independent Units should be prohibited where Dual Occupancy has occurred to reduce negative impacts that intensify development (for example) of a 1,200m² lot into six dwellings would cause.

- Provisions relating to restricting development in areas constrained by Storm Surge and Australian Noise Exposure Forecast (ANEF) Contours of value 20 and greater are supported.

However, Council questions whether or not consideration has been given to limiting intensified development in areas that are constrained by biting insects to reduce health risks for the community.

- The principles of the *Darwin Inner Suburbs Area Plan* related to Essential Services, identify that residential development should not be constructed within areas where odour buffers occur. Council encourages such provisions being implemented for Dual Occupancy proposals to ensure that existing and future planned services do not result in conflicting land uses.

Discrepancy in figures:

It is understood from discussions with staff from the Commission, that the figures provided for the number of lots in Zone SD are from mid-late 2015. Council provides the more recent figures, to further your assessment. There are only slight variances to the figures provided by yourselves and those obtained from Council records.

Please note, that all figures referred to in Council's response relate to the below data subset, which is a summary of the Zone SD lots within the municipality, according to their lot size.

Minimum lot size (m ²)	Maximum lot size (m ²)	Number of Zone SD lots	%
1,200	4,720	839	6.0
1,000	1,199	1,721	12.4
900	999	1,998	14.4
800	899	7,113	51.1
0	799	2,241	16.1
TOTAL:		13,912	100%

Summary:

With a growing population comes the need to plan strategically for this growth and the future needs of the community, which Council strongly encourages.

Council however, considers that the Dual Occupancy proposal seriously undermines the strategic guidance that the: *Darwin Regional Land Use Plan*; *Darwin Inner Suburbs Area Plan*; *Darwin Mid Suburbs Draft Area Plan*; and *Compact Urban Growth Policy* provides for development within the municipality.

For the reasons outlined above, Council strongly objects to the subject proposal in its current form, particularly given that if there was a significant uptake, this has the potential to seriously alter the tropical amenity, streetscape character, living environment and subsequent impacts on social and physical infrastructure.

If such a strategic shift is considered appropriate by the Commission and the NTG, funding mechanisms should be established prior to any implementation to ensure that communities and the relevant Council are not disadvantaged.

If the Dual Occupancy proposal is adopted, Council considers that (for future assessment purposes), it may be appropriate to apply Dual Occupancy specific provisions in the Scheme, rather than applying existing small lot provisions referred to within the Scheme. Considerations should address at minimum, the issues discussed above.

In response to your question "do you think a minimum lot size of 800m² will help to ensure a more even distribution of dual occupancy developments across the urban areas of the NT"; Council considers that the ability for development to address the above would be a key determinant for appropriate lot sizes and it is therefore suggested that further modelling be undertaken, to in particular address the above issues, before Council offers an appropriate lot size.

The CUG Policy provides a clear direction on where urban growth can be accommodated and highlights the need for the efficient use of services and infrastructure that support land uses and the need for a connected and diverse community. For this reason, Council suggests that if Dual Occupancy mechanisms are to be pursued, Council encourages that Dual Occupancy proposals would be a discretionary use in areas that comply with the performance criteria of the CUG Policy, rather than the size of the lot being the sole determinant.

Council thanks you for the opportunity to provide comment on the subject proposal and is interested in furthering discussions to address the issues raised in this response, if the Commission and the NTG see fit to progress the proposal.

If you have any further queries please contact Cindy Robson on 8930 0528 or c.robson@darwin.nt.gov.au.

Yours sincerely



LUCCIO CERCARELLI
GENERAL MANAGER INFRASTRUCTURE

ENCL: TOWN PLANNING COMMITTEE/OPEN **AGENDA ITEM:** 10.1.2
YES

LOW RISK/LOW IMPACT DEVELOPMENT AMENDMENT - PA2016/0169

REPORT No.: 16TS0109 NS:hd **COMMON No.:** 3232274 **DATE:** 07/06/2016

Presenter: Manager Design, Planning & Projects, Drosso Lelekis

Approved: General Manager Infrastructure, Luccio Cercarelli

PURPOSE

The purpose of this report is to refer to the Town Planning Committee for comment, Pursuant to Section 19 of the *Planning Act*, the following development application: Low Risk/Low Impact Development Amendment - PA2016/0169.

LINK TO STRATEGIC PLAN

The issues addressed in this Report are in accordance with the following Goals/Strategies of the City of Darwin 2012 – 2016 as outlined in the 'Evolving Darwin Towards 2020 Strategic Plan':-

Goal

1. Collaborative, Inclusive and Connected Community

Outcome

1.4 Improved relations with all levels of government and significant stakeholders

Key Strategies

1.4.2 Play an active role in strategic and statutory planning processes

KEY ISSUES

- The proposed amendment intends to streamline the planning consent processes by:
 - reducing the number of minor or ancillary applications that require consent, and
 - increasing the flexibility in some development provisions to reduce the number of variations requiring consent.
- To achieve the purpose of the amendment, 13 clauses within the *Northern Territory Planning Scheme* (the Scheme) are being altered and two new clauses are being introduced.
- Amendments are proposed for provisions that relate to development in residential, commercial and industrial areas.
- The main purpose of the amendments is “avoiding duplication, simplifying application against particular land uses, and a number of other minor changes centring on clarity of language”.
- A review of the proposed provisions is provided for Council’s consideration.

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RECOMMENDATIONS

THAT the Committee resolve under delegated authority:-

- A. THAT Report Number 16TS0109 NS:hd entitled Low Risk/Low Impact Development Amendment - PA2016/0169 be received and noted.
- B. THAT the Committee endorse the draft submission supporting the proposed Northern Territory Planning Scheme Amendment with some suggested modifications, dated 10 June 2016, to the Reporting Body within **Attachment C** to Report Number 16TS0109 NS:hd entitled Low Risk/Low Impact Development Amendment - PA2016/0169.

BACKGROUND

The Northern Territory Government has advised that “development approval statistics across the whole of the NT for the three most recent financial years have shown that the largest number of development permits issued on an annual basis as relating to developments in Zone SD, despite the generally exempt nature of such development in this zone. A reasonably high number of applications were also received for minor and low value additions to residential and commercial uses that had no bearing on the intent or purpose of the original development or the potential amenity impact on the local area. Consequently, the majority of the proposed changes are designed to address the triggers that require such proposals to be subject to an approval in the first place. This includes a review of a limited number of the standards and exemption provisions in the Scheme.

DISCUSSION

Current Proposal

In summary, the “proposed amendment is intended to streamline the planning consent process by:

- reducing the number of minor or ancillary developments that require consent, and
- increasing flexibility in some development provisions to reduce the number of minor variations requiring consent”.

“The amendments primarily affect high volume / small scale / low risk development types, many of which relate to extensions for low density residential developments”.

The amendment has been developed in “response to a review of the effectiveness of the Northern Territory Planning Scheme (NTPS) in delivering good planning outcomes, as influenced by the consent requirements and associated matters. The objective was to identify areas for reform that would achieve immediate efficiencies in the planning consent process without impacting on the quality of planning outcomes or community involvement in the process. Recommendations achieve this through a reduction in the scope of minor or ancillary development that requires planning consent, and where consent is required, in providing increased flexibility in the standards that apply. A number of other Scheme standards have also been

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looked at to improve interpretation, clarity, intent and elimination of identified anomalies”.

“The primary focus is on improving the timeliness of determination of applications where consent is required”.

Refer to **Attachment A** for further information and a comparison to the existing and proposed scheme provisions. Note: to demonstrate the changes to the scheme, the proposed changes have been highlighted in red.

Brief notes on the proposed amendments are included in **Attachment B**:

Summary

In summary, it is recommended that Council support the proposed amendments given that they provide clarity and reduce the need for assessing minor applications that are unlikely to have amenity issues.

The letter at **Attachment C**, for Council endorsement, requests some suggestions or improvements to the proposed provisions.

CONSULTATION PROCESS

In preparing this report, the following City of Darwin officers were consulted:

- Town Planner
- Strategic Town Planner
- Planning Officer
- Team Leader Development

In preparing this report, the following External Parties were consulted:

- Development Assessment Services, Northern Territory Government
- Building Advisory Services, Northern Territory Government

POLICY IMPLICATIONS

Not assessed.

BUDGET AND RESOURCE IMPLICATIONS

Not assessed.

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RISK/LEGAL/LEGISLATIVE IMPLICATIONS

Not assessed.

ENVIRONMENTAL IMPLICATIONS

Environmental considerations in regards to the physical and built environment were considered and are discussed within each of the proposed amendments where it was considered that the changes to the Scheme could detrimentally impact the environment.

COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

DROSSO LELEKIS
MANAGER DESIGN, PLANNING &
PROJECTS

LUCCIO CERCARELLI
GENERAL MANAGER
INFRASTRUCTURE

For enquiries, please contact Cindy Robson on 8930 0528 or email:
c.robson@darwin.nt.gov.au.

Attachments:

- Attachment A:** Development Application, Low Risk/Low Impact Development Amendment - PA2016/0169.
Attachment B: City of Darwin assessment of the proposed provisions.
Attachment C: City of Darwin, draft letter of response to Reporting Body, dated 10 June 2016.

NORTHERN TERRITORY OF AUSTRALIA
PROPOSAL TO AMEND NT PLANNING SCHEME
PA2016/0169

The Minister for Lands and Planning is seeking comments on a proposal to amend the Northern Territory Planning Scheme to address low risk, low impact development.

The proposed amendment is intended to streamline the planning consent process by:

- reducing the number of minor or ancillary developments that require consent; and
- increasing flexibility in some development provisions to reduce the number of minor variations requiring consent.

The amendments primarily affect high volume / small scale / low risk development types, many of which relate to extensions for low density residential developments.

The proposed NT Planning Scheme Amendment will:

- i. introduce the following clause:
 - clause 7.3.4 (Reduced Setbacks for Single Dwellings on Lots of 600m² or Greater);
- ii. alter the following existing clauses:
 - clause 1.3 (Exceptions);
 - clause 3.0 (Definitions);
 - clause 5.13 (Zone DV - Development);
 - clause 5.21 (Zone CP – Community Purposes);
 - clause 6.1 (General Height Control);
 - clause 6.2 (Height Control in Alice Springs);
 - clause 7.1.2 (Residential Height Limitations);
 - clause 7.3 (Building Setbacks of Residential Buildings);
 - clause 7.3.2 (Distance between Residential Buildings on One Site);
 - clause 8.1.2 (Offices, Restaurants and Shops in Zones CB and C);
 - clause 8.1.5 (Child Care Centres);
 - clause 8.3 (Setbacks for Commercial Uses Adjacent to Land in Zones SD, MD, MR or HR);
- iii. remove the following existing clauses:
 - clause 2.10 (Carports, Pergolas and shade sails over existing car parking in multiple dwelling developments); and
 - clause 6.11 (Garages and Sheds).

An explanation of the proposed changes can be found in this document on page 2 onwards.

Period of Exhibition and Lodging a Submission

The exhibition period is from Friday 13 May 2016 to Friday 10 June 2016.

Written submissions about the proposed planning scheme amendment are to be received by 11:59pm on Friday 10 June 2016 and made to:

Director
Lands Planning
Department of Lands, Planning and the Environment
GPO Box 1680
DARWIN NT 0801; or

Email: planning@nt.gov.au; or

Fax: (08) 8999 7189; or

Hand delivered to First Floor, Arnhemica House, 16 Parap Road, Parap.

For more information please telephone (08) 8999 8963.

Low risk / low impact development amendment

Review of development classifications and requirements for planning consent:

Explanatory document

Background/ Introduction

This explanatory document provides an overview of a number of amendments proposed to the NT Planning Scheme (NTPS) in response to a review of the effectiveness of the NTPS in delivering good planning outcomes, as influenced by the consent requirements and associated matters. The objective was to identify areas for reform that would achieve immediate efficiencies in the planning consent process without impacting on the quality of planning outcomes or community involvement in the process. Recommendations achieve this through a reduction in the scope of minor or ancillary development that requires planning consent, and where consent is required, in providing increased flexibility in the standards that apply. A number of other scheme standards have also been looked at to improve interpretation, clarity of intent and elimination of identified anomalies.

The primary focus is on improving the timeliness of determination of applications where consent is required. Such applications are inherently high volume / low risk, and generally relate to low density residential additions and extensions. A number of changes are also proposed to commercial clauses to clarify permit requirements, allow for flexibility and minor additions that take place over time. The proposed changes for high volume processes have the potential to result in industry and government reductions in administration, statutory planning and general resources required in the planning process.

Development approval statistics across the whole of the NT for the three most recent financial years have shown that the largest number of development permits issued on an annual basis as relating to developments in Zone SD, despite the generally exempt nature of such development in this zone. A reasonably high number of applications were also received for minor and low value additions to residential and commercial uses that had no bearing on the intent or purpose of the original development or the potential amenity impact on the local area. Consequently, the majority of the proposed changes are designed to address the triggers that require such proposals to be subject to an approval in the first place. This includes a review of a limited number of the standards and exemption provisions in the NTPS.

Consultation with a range of industry groups, consultants, builders and local government bodies has been undertaken. The groups targeted for consultation prior to public exhibition were identified as having the most involvement and understanding of the types of applications to be most affected by this amendment.

Following this initial round of consultation, the proposed changes were then drafted and are subsequently set out and explained through this document.

Summary of proposal

The proposed amendment seeks to review a total of 13 clauses and introduce two new clauses in the NT Planning Scheme. The primary focus of the amendment is on small scale/ high volume additions in residential, commercial and industrial areas, with further amendments proposed for the purpose of avoiding duplication, simplifying application against particular land uses, and a number of other minor changes centring on clarity of language. All changes have undergone a level of consultation and are deemed to be positive introductions due to their encouragement of a more flexible approach to planning controls and be of little consequence in relation to amenity.

The amended provisions are discussed below:

AMENDED SUBDIVISION PROVISIONS OF THE NT PLANNING SCHEME

Current Planning Scheme text is shown in **black**.
Proposed changes are shown in **red**.

1. Clause 1.3 (Exceptions) subclause 2(k)

Discussion

This subclause currently allows for residential sheds to be exempt for any requirement for a development permit when they meet certain specific standards. Notwithstanding this, there are regular applications for sheds on residential properties that are minor in scale and are assessed as not having an amenity impact. While there will always be a need for an approval process for sheds that are relatively large or outside standard setback requirements, the number of these applications could be reduced with a marginal increase in the maximum roofed area for exempt sheds.

Explanation of amendment

The proposed increase has been based on an assessment of readily available 'modular' sheds and provides for the maximum roofed area of an exempt shed to be increased from 11m² to 15m². The secondary street setback control has been updated to reflect the proposed change to Table to Clause 7.3. No change is proposed in respect of the maximum height of an exempt shed.

1.3 Exceptions

1. Unless specified, other than for a subdivision or consolidation or by virtue of an Interim Development Control Order, this Planning Scheme does not prevent the use or development of land that is not zoned.
2. Unless specified, this Planning Scheme does not prevent any of the following:
 - (k) the erection of **a one or more sheds** in Zones other than H, A, RR, RL and R that:
 - i. is 6m or more from the **primary street and 1.5m 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;**
 - ii. has a **cumulative roofed floor** area of **15m²** or less;
 - iii. is 2.5m or less in height;
 - iv. has no openings in walls that are less than 1.5m from a lot or unit title boundary; and
 - v. does not discharge rainwater on an adjacent lot or unit title.

2. Clause 1.3 (Exceptions) new subclauses 2(u), 2(v) and 2(w)

Discussion

Where a class of development requires an approval under the NTPS in one of the industrial or commercial zones, a minor addition, extension or modification to that use or development then also requires a development consent irrespective of the minor nature of that proposal. This results in a number of applications for very minor developments that clearly have no planning implications or outcomes. To overcome this issue without changing the status of the development under the zoning table, which could give rise to an adverse outcome in respect to a new development or more substantial extension, requires the introduction of an exemption for minor such additions and extensions.

Explanation of amendment

Exemptions are proposed for additions and expansions of a limited scale to existing discretionary uses in respect to industrial uses in Zones LI and GI, and in respect to commercial uses in Zones CB, C, SC and TC. The exemptions are subject to a strict series of requirements that ensure that the scale of the development is limited and clearly ancillary to the existing use, that it does not contravene a standard of the Scheme and that it meets other standard development requirements. Where a development proposal does not meet these requirements, it will still be subject to an application through the development permit process.

The exemption may only have limited application but is aimed at that those very minor classes of application, such as internal reconfigurations and additions, which likely raise no issues of concern. The performance requirements of the subclauses are self explanatory and are set out below. The application of these clauses is also to be limited to sites that do not abut residential zones, avoiding interface issues.

An exemption is also proposed for shade sails of 30m² or less in all non-residential zones to match that given in the Building Code of Australia (BCA).

1.3 Exceptions

1. Unless specified, other than for a subdivision or consolidation or by virtue of an Interim Development Control Order, this Planning Scheme does not prevent the use or development of land that is not zoned.
2. Unless specified, this Planning Scheme does not prevent any of the following:
 - (u) a shade sail of 30m² or less for all non-residential zones.
 - (v) the use or development of land in the LI and GI zones for the purpose of expansion of an existing use that is not a prohibited use and where the proposed use or development:
 - i. complies with the standards of Part 4 and 5 of this Planning Scheme;
 - ii. is a maximum of 200m² or 15% of the area of the site;
 - iii. is not located over a registered easement;
 - iv. is not located over a lot boundary, including over a road reserve;
 - v. will not inhibit vehicular access to the lot, parking on the lot, or loading and unloading on or from the lot;
 - vi. will not reduce the area of land or buildings allocated to waste management or service vehicle access thereto;
 - vii. is not a demountable structure or a residential building; and
 - viii. is not located on a lot that abuts land that is in Zone SD, MD, MR or HR.

1.3 Exceptions

1. Unless specified, other than for a subdivision or consolidation or by virtue of an Interim Development Control Order, this Planning Scheme does not prevent the use or development of land that is not zoned.
2. Unless specified, this Planning Scheme does not prevent any of the following:
 - (w) the use or development of land in the CB, C, SC and TC zones for the purpose of expansion of an existing use that is not a prohibited use and where that use or development:
 - i. complies with the standards of Part 4 and 5 of this Planning Scheme;
 - ii. is a maximum of 100m² or 15% of the area of the site;
 - iii. is not located over a registered easement;
 - iv. is not located over a lot boundary, including over a road reserve;
 - v. will not inhibit vehicular access to the lot, parking on the lot, or loading and unloading on or from the lot;
 - vi. will not reduce the area of land or buildings allocated to waste management or service vehicle access thereto;
 - vii. is not a **demountable structure** or a **residential building**;
 - viii. will not reduce the area of clear glass or level of transparency of the façade of the existing premises as viewed from the **primary street**;
 - ix. will not reduce the level of accessibility for people with disabilities; and
 - x. will not increase the height of the existing premises.

3. Clause 1.3 (Exceptions) new subclause 2(x)

Discussion

Multiple dwellings are classified as a discretionary use in Zones MD, MR and HR, the result being that any addition, extension or proposal to construct an ancillary residential building to a multiple dwelling development requires a development permit. This results in a significant number of applications for development that is compliant with the standards in the NTPS and yet still subject to a full consent process. There is a concern that such minor developments are paying little attention to the controls in the NTPS due to the application of the planning process regardless of compliance.

Explanation of amendment

The exemptions that currently exist under this clause for carports, pergolas and shade sails will still exist. The scope of the clause has been expanded to cater for ancillary structures, which are often at the rear of a multiple dwelling development and have no impact on the streetscape. Subclause (x)(iv) ensures that there will be no change to the view from the street.

1.3 Exceptions

1. Unless specified, other than for a subdivision or consolidation or by virtue of an Interim Development Control Order, this Planning Scheme does not prevent the use or development of land that is not zoned.
2. Unless specified, this Planning Scheme does not prevent any of the following:
 - (x) Where it is proposed to construct an extension, ancillary outbuilding, carport, pergola or a shade sail in association with one or more dwellings in a multiple dwelling development, consent is not required if it:
 - i. is constructed in accordance with the requirements of this Planning Scheme and will not result in the contravention of any standard set out in Parts 4 or 5 of the Planning Scheme;
 - ii. is contained wholly within the respective unit title and is not on or over a registered easement; and
 - iii. will not result in an additional storey or an increase in the maximum height of the development.

4. Clause 2.10 (Carports, Pergolas and Shade Sails over Existing Car Parking in Multiple Dwelling Developments)

Discussion

The transfer of this clause to Clause 1.3(2)(x), with all other development exceptions, is more logical for those using the NTPS.

Explanation of amendment

Inclusion of Clause 1.3(2)(x) makes the existing clause, at 2.10 of the Planning Scheme, redundant, and it is therefore, to be removed.

See discussion above, against Clause 1.3(2)(x) for greater detail with regard to the expansion of exempted ancillary developments in association with a multiple dwelling development.

~~2.10 — Carports, Pergolas and Shade Sails over Existing Car Parking in Multiple Dwelling Developments~~

- ~~1. Where it is proposed to construct a carport, pergola or a shade sail over existing car parking in a multiple dwelling development, consent is not required if it:

 - (a) is constructed in accordance with the building setback requirements of clause 7.3;
 - (b) is erected over an existing car parking space;
 - (c) does not discharge rainwater on an adjacent lot or unit title; and
 - (d) does not result in non-compliance with the requirements of clause 6.5.3.~~

5. Clause 3.0 (Definitions)

Discussion

The interpretation of the Scheme is assisted by a list of specific definitions for land uses, classes and development related terms. This list of definitions requires review over time to reflect updates in other legislation, amendments to the Scheme and general issues and changes in development trends. A number of new, modified and additional definitions are proposed to assist in the interpretation and implementation of the Scheme, through greater consistency and surety.

Explanation of amendment

The definition of the term '**building setback**' is currently included within several different clauses through the Scheme. Similarly, the definition of '**fully screened**' was previously included within Table B to Clause 7.3, and has now been consolidated without change to the definitions section of the Scheme. A definition of '**major opening**' has been included as this term is proposed to be included to Clause 7.3 as a performance criterion in the determination of a setback for a wall.

The definition of '**secondary street**' has been amended to avoid overlap with '**primary street**', and for the potential under the existing definitions for a street to be neither a primary nor secondary street under some circumstances.

A definition of '**serviced apartments**' has been added to assist in the distinction between this use class and other similar uses that have greater standards applying to them (e.g. multiple dwellings).

The definition of '**supporting accommodation**' has been modified to include greater reference to such a use being provided with day-to-day operation and management by the managing organisation. This should reduce confusion on this use and those of 'group home' and 'supporting accommodation'.

3.0 Definitions

In this document, unless inconsistent with the context or subject matter:

"**Building setback**" means the distance from any lot boundary to a building and shall be measured from all boundaries to:

- the wall of a building;
- the outer surface of the railings of a balcony or a verandah;
- the outer surface of any support column of a ground level verandah; and
- the outer surface of any support column for structures without external walls except that the setback of a shade sail is measured to the outer extremity of the fabric.
- In the event of a site having frontage to more than one street, the **building setback** through the corner truncation is measured from the intersecting point of the **primary street** setback and the **secondary street** setback.
- In the event of a site having frontage to more than one street, the **building setback** through the corner truncation is measured from the intersecting point of the **primary street** setback and the **secondary street** setback.

[Table continued on the following page].

In this document, unless inconsistent with the context or subject matter:

“Fully screened”, in relation to a verandah or balcony, means a permanently fixed durable external screen, designed and coloured to blend in with the development to at least 1.7m above floor level, which is no more than 25% transparent and consists of perforated panels or trellis with a maximum of 25% openings or solid translucent panels or louvered slats, which are only able to be opened to a 45° angle and do not allow direct overlooking into an adjacent residential building.

“Major opening” means a window, door or other opening in the exterior wall of a habitable room that provides an external means of light or view for that room or space, but does not include an opening that:

- in total, does not exceed 1m² in any such wall (providing that adjoining or contiguous windows at the junction of two walls forming an internal angle of 90° or less shall be aggregated); or
- is glazed in an opaque material and not able to be opened;
- has a sill height of 1.6m or greater above floor level.

“Secondary street” means – in the case of a site that has access to more than one public street – the street or streets that are not the primary street;

“Serviced apartment” means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and which is regularly serviced or cleaned by an owner or manager of the building or by an agent of an owner or manager of the building.

“Supporting accommodation” means:

- (a) a convalescent or nursing home, an orphanage, a children’s home, an institution for poor or disadvantaged persons, or a home for the care of aged persons; or
- (b) premises used by people moving from their homes or an institution and living for a short time in shared, supporting or rehabilitating accommodation where day-to-day management and operation of the premises is provided by a community organisation or recognised religious or charitable organisation or a department or institutional establishment of the Crown.

6. Clause 5.13 (Zone DV – Development)

Discussion

The primary purpose of Zone DV is to provide for the development of major strategic activities and to protect the value of infrastructure developed at sites designed to service major development. Notwithstanding this intent, the zone currently lists both **caretaker’s residence** and **home occupation** (which can include home based child care) as permitted development. This has the potential to compromise the value of infrastructure developed in this zone and potential land use conflict.

Explanation of amendment

The zoning table for Zone DV is amended by way of making a **caretaker’s residence** and **home occupation** into discretionary uses, thereby necessitating a development permit before they may proceed. This will provide the opportunity for issues of appropriate location, with respect to existing and potentially significant industrial uses, to be taken into account in the assessment process.

5.13 Zone DV – Development

abattoir	D	6.5.1, 9.1.1, 10.1
agriculture	x	
animal boarding	D	6.5.1, 9.1.1, 10.1
business sign	P	6.7
caravan park	x	
caretaker’s residence	D	6.5.1, 7.3, 7.10.3
car park	D	6.5.3, 9.1.1
child care centre	x	
community centre	x	
domestic livestock	x	
education establishment	D	6.5.1, 9.1.1
fuel depot	D	6.5.1, 9.1.1
general industry	D	6.5.1, 6.6, 9.1.1
group home	x	
home based child care centre	x	
home based contracting	x	
home based visitor accommodation	x	
home occupation	D	7.10.7
horticulture	x	
hospital	x	
hostel	D	6.5.1, 7.3, 7.6, 7.7, 7.8, 9.1.1
hotel	D	6.5.1, 6.6, 9.1.1
independent unit	x	
intensive animal husbandry	D	6.5.1, 9.1.1, 10.1
leisure and recreation	D	6.5.1, 9.1.1
licensed club	D	6.5.1, 6.6, 9.1.1
light industry	D	6.5.1, 6.6, 9.1.1
medical clinic	D	6.5.1, 9.1.1
medical consulting rooms	x	
motel	D	6.5.1, 6.6, 7.3, 9.1.1
motor body works	D	6.5.1, 9.1.1
motor repair station	D	6.5.1, 9.1.1
multiple dwellings	x	
office	D	6.5.1, 6.6, 9.1.1
passenger terminal	D	6.5.1, 9.1.1
place of worship	x	
plant nursery	x	
promotion sign	D	6.7
recycling depot	D	6.5.1, 9.1.1
restaurant	D	6.5.1, 6.6, 9.1.1
retail agricultural stall	x	
rural industry	x	
service station	D	6.5.1, 8.1.4, 9.1.1
shop	D	6.5.1, 6.6, 8.1.1, 9.1.1
showroom sales	D	6.5.1, 6.6, 9.1.1
single dwelling	x	
stables	x	
supporting accommodation	x	
transport terminal	D	6.5.1, 6.6, 9.1.1
vehicle sales and hire	D	6.5.1, 9.1.1
veterinary clinic	x	
warehouse	D	6.5.1, 6.6, 9.1.1

P = Permitted

S = Self Assessable

D = Discretionary

x = Prohibited

7. Clause 5.21 (Zone CP – Community Purposes)

Discussion

The primary purpose of the CP zone is to provide for community services and facilities, and this zone is routinely applied to government and community land set aside for such purposes. The current zoning table however provides that the use class of **supporting accommodation** is a discretionary use. This is considered appropriate as it is a use type that is entirely consistent with the purpose of the zone and is generally subject to its own detailed planning process.

Explanation of amendment

The zoning table for Zone CP is amended to provide for the use class of **supporting accommodation** as a permitted use, thereby allowing for such a development to proceed without the requirement for development consent, subject to full compliance against the standards and provisions of the Scheme.

5.21 Zone CP – Community Purposes

abattoir	x	
agriculture	x	
animal boarding	D	6.1, 6.5.1, 10.1, 10.2
business sign	P	6.7
caravan park	x	
caretaker's residence	P	6.1, 6.5.1, 7.3, 7.10.3
car park	x	
child care centre	P	6.1, 6.5.1, 8.1.5, 8.2, 10.2
community centre	P	6.1, 6.5.1, 8.2, 10.2
domestic livestock	x	
education establishment	P	6.5.1, 8.2, 10.2
fuel depot	x	
general industry	x	
group home	x	
home based child care centre	x	
home based contracting	x	
home based visitor accommodation	x	
home occupation	P	7.10.7
horticulture	x	
hospital	D	6.1, 6.5.1, 6.6, 8.2, 10.2
hostel	x	
hotel	x	
independent unit	x	
intensive animal husbandry	x	
leisure and recreation	D	6.1, 6.5.1, 10.2
licensed club	x	
light industry	x	
medical clinic	D	6.1, 6.5.1, 8.2, 10.2
medical consulting rooms	x	
motel	x	
motor body works	x	
motor repair station	x	
multiple dwellings	x	
office	x	
passenger terminal	D	6.1, 6.5.1, 8.2, 10.2
place of worship	P	6.1, 6.5.1, 8.2, 10.2
plant nursery	D	6.1, 6.5.1, 10.2
promotion sign	D	6.7
recycling depot	D	6.1, 6.5.1, 8.2, 10.2
restaurant	x	
retail agricultural stall	x	
rural industry	x	
service station	x	
shop	x	
showroom sales	x	
single dwelling	x	
stables	x	
supporting accommodation	P	6.1, 6.5.1, 7.3, 7.5, 7.6, 7.7, 7.8, 10.2
transport terminal	x	
vehicle sales and hire	x	
veterinary clinic	D	6.1, 6.5.1, 8.2, 10.2
warehouse	x	

P = Permitted

S = Self Assessable

D = Discretionary

x = Prohibited

8. Clauses 6.1 (General Height Control) and 6.2 (Building Heights in Alice Springs)

Discussion

These clauses provide that the height of buildings developed in a particular zone is consistent with the development provided for within that zone. These clauses currently exempt 'education establishments' from compliance with the performance criteria. It is considered appropriate to also apply this exemption to the use of hospitals, given that these are often significant civic buildings where the efficiency gained from a multiple storey development is consistent with community expectations. Subclause 3 within Clause 6.1, which acts to outline how height is to be measured, is to be reiterated within Clause 6.2 to ensure that cross referencing is not required when assessing against each clause.

Explanation of amendment

Clauses 6.1 and 6.2 are amended to include the use class of hospital within the exemption to compliance with specified height limits.

6.1 General Height Control

1. The purpose of this clause is to ensure that the height of buildings in a zone is consistent with development provided for by that zone.
2. This clause does not apply within Zones CB or DV or TC or to **education establishments or hospitals** within Zones CL or CP or, subject to clause 7.1, Zone C.
3. The height of any point of a building is to be measured from **ground level** vertically below that point and includes the height of a mound specifically provided or made to elevate the building.
4. Unless expressly provided by this Planning Scheme, the height of any part of a building is not to exceed 8.5n above the **ground level**, unless it is:
 - (a) a flag pole, aerial or antenna; or
 - (b) for the housing or equipment relating to the operation of a lift.

6.2 Building Heights in Alice Springs

1. The purpose of this clause is to maintain the low-rise character of development in Alice Springs.
2. Despite anything to the contrary in this Planning Scheme, the height of a building within the Municipality of Alice Springs is not to exceed the height specified in the table to this clause except for **education establishments or hospitals** in Zone CP.
3. The height of any building or structure forming part of an **education establishment** is not to exceed three storeys or 14m above **ground level**.
4. **The height of any point of a building is to be measured from ground level vertically below that point and includes the height of a mound specifically provided or made to elevate the building.**
5. The consent authority must not **consent** to development that is not in accordance with this clause.

9. Clauses 6.11 (Garages and Sheds)

Discussion

Clarification on ancillary structures to residential buildings, including garages and sheds, has meant that this clause is no longer necessary. When not associated with a residential building, or in a non-residential zone, a garage or shed is still an ancillary structure, and should be assessed using setback controls for the related main structure.

Explanation of amendment

The controls listed here are identical to those in Tables A and C to Clause 7.3, the wording of which has been broadened to cover ancillary structures such as garages and sheds.

~~6.11 — Garages and Sheds~~

- ~~1. The purpose of this clause is to ensure that garages and sheds are sited so they do not detract from the streetscape or the amenity of adjoining land.~~
- ~~2. This clause does not apply in Zones LI, GI and DV.~~
- ~~3. Garages and sheds that are not in association with any other use on land in Zone CB or C are prohibited.~~
- ~~4. In this clause a shed except in Zones SD, MD, MR and HR includes a roofed area, whether or not it is enclosed by walls.~~
- ~~5. Garages and sheds are to be set back from lot boundaries in accordance with the table to this clause.~~

10. Clause 7.1.2 (Residential Height Limitations)

Discussion

The purpose of this clause is for residential development to be of a height that is consistent with the character of the locality and to not have an undue effect on the privacy or amenity of adjoining properties. Clause 7.1.2 requires that the height of a building in Zone MR be limited to 3 storeys (as opposed to the standard 4 storeys) when it abuts land in Zone SD or is separated from Zone SD by a road reserve of 18m in width or less. It is considered that the existence of a road reserve already provides adequate separation for the purposes of privacy and character, making additional limitations on height unwarranted. Subclause 5 also imposes additional restrictions, applicable to single dwellings only, which place limits on habitable rooms above 7m. With an existing limitation on single dwellings to a maximum of two storeys and 8.5m above ground level, this subclause has limited application, and has also been found to have raised issues with interpretation and proper implementation.

Explanation of amendment

This amendment will result in the limitation on building height in Zone MR to 3 storeys applying when a site abuts land in Zone SD. Whenever a site in Zone MR does not directly abut land in Zone SD, the standard height limitation of 4 storeys will apply. Other superfluous aspects of the clause that duplicate or complicate existing requirements given in the Table to Clause 7.1.2 are also removed. Subclause 5 is to be deleted in full, with limitations on the height of habitable rooms to rest with the overall limitation on single dwellings of two storeys and 8.5m above ground level. This is not considered to result in any amenity outcomes.

7.1.2 Residential Height Limitations

1. The purpose of this clause is to ensure that residential development is of a height that:
 - (a) is compatible with adjoining or nearby existing development or development reasonably anticipated; and
 - (b) does not unduly overlook adjoining properties.
2. The height of any point of a **residential building** is to be measured from **ground level** vertically below that point and includes the height of a mound specifically provided or made to elevate the building.
3. Subject to clause 6.2, the height of **residential buildings** that may be constructed on a site **is** to be determined in accordance with the table to this clause.
4. A **residential building** in Zone MR that ~~(a)~~ abuts land in Zone SD; ~~or~~
 - ~~(b) has frontage to a street with a reservation width not exceeding 18m on the opposite side of which is land in Zone SD;~~
 - (c) is not to exceed a height of 3 **storeys** above **ground level**; or
 - (d) subject to clause 6.2, in any other circumstance 4 **storeys** above **ground level**.

The consent authority must not **consent** to a development that is not in accordance with this sub-clause.
- ~~5. Single dwellings in Zones SD, MD, CL, CV, RR, RL, FD and T are not to contain any part of a room (habitable or otherwise), verandah or balcony 7m above **ground level** without **consent**. Where a room does not have a horizontal ceiling, a normal ceiling envelop of 2.7m shall be applied to the subject **storey**. Anything above the 2.7m envelop will be considered air space and should not be inhabited, unless **consent** is otherwise granted.~~

11. Clause 7.3 (Building Setbacks of Residential Buildings)

Discussion

There is a clear overlap in the explanation of a number of terms relevant to Clause 7.3 across its three tables (A, B and C). Terms and explanatory statements are now to be consolidated either in the text to Clause 7.3 or in the list of definitions in Clause 3.0, as appropriate. Side and secondary street setbacks for one and two storey residential buildings (i.e. subject to Table A) are also modified to introduce a level of flexibility when amenity impacts are considered minimal.

Explanation of amendment

The bulk of the changes to Clause 7.3 relate purely to a rearrangement of a number of terms to reduce duplication. Set interpretations on how to measure '**building setbacks**' and what is classed as '**fully screened**' are consolidated in Clause 3.0. While the ability for a roof structure to encroach into building setbacks, and clarity around setbacks to inaccessible streets, are now given in subclause 3.

Flexibility is to be provided in respect to side and rear setbacks to reflect the low potential for any amenity impact when a wall is less than 3.5m in height and less than 9m in length (as per the proposed changes to Clause 7.3). All other walls are still required to be set back a minimum of 1.5m from the side and rear boundary in residential zones. Front setbacks to a primary street are not altered. Some explanation has been included to clarify when a setback applies to a structure with an external wall or one without an external wall.

The non-applicability of this clause for industrial zones has been clarified to cover the removal of Clause 6.11.

7.3 Building Setbacks of Residential Buildings and Ancillary Structures

1. The purpose of this clause is to ensure residential buildings and ancillary structures without external walls 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.
2. In this clause, an ancillary structure without external walls includes a carport, garage, pergola, portico, shed and shade sail, and may or may not include external walls.
3. Buildings in Zones LI, GI and DV are to be sited in accordance with the table to Clause 9.1.1 (Industrial Setbacks).
4. Subject to clauses 7.4 and 11.1.2, residential buildings and ancillary structures without external walls are to be set back from lot boundaries in accordance with table A or B or C (as the case requires) to this clause and:
 - (a) 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; and
 - (b) where a lot has a boundary with a public street from which vehicular access to the lot is prohibited, this boundary shall be considered a side or rear lot boundary for the purpose of calculation of the building setback.

TABLE A TO CLAUSE 7.3 MINIMUM BUILDING SETBACKS FOR ONE AND TWO STOREY RESIDENTIAL BUILDINGS AND ASSOCIATED OPEN STRUCTURES IN ZONES OTHER THAN CB, C, H, A, RR, RL AND R	
Lot Boundary	Minimum Setback
Primary street frontage for 1 and 2 storey buildings	6m for residential buildings and ancillary structures with external walls and 4.5m for verandahs, balconies and ancillary structures without external walls or 3m for shade sails, to a maximum height of 2.5m at the minimum setback
Secondary street frontage for 1 and 2 storey buildings	1.5m for residential buildings and 1.5m for verandahs, balconies and ancillary structures without external walls or 0.9m for shade sails, to a maximum height of 2.5m at the setback line
Side and rear lot boundaries for 1 and 2 storey buildings	1.5m, including ancillary structures without external walls or 1m, provided that the area of reduction: <ul style="list-style-type: none"> • does not include any major openings; • does not extend beyond a maximum height of 3.5m; and • does not extend beyond a maximum length of 9m. and 0.9m for shade sails, to a maximum height of 2.5m at the minimum setback
<p>Building setback is measured from all boundaries to:</p> <ul style="list-style-type: none"> • the wall of a residential building; • the outer surface of the railings of a balcony or a verandah; • the outer surface of any support column of a ground level verandah; and • the outer surface of any support column of structures without external walls, except that the setback of a shade sail is measured to the outer extremity of the fabric. <p>No part of the roof structure, including gutters and eaves, is to encroach more than 0.9m into the minimum building setback from the lot boundaries described in Table A to Clause 7.3.</p>	

TABLE B TO CLAUSE 7.3 MINIMUM BUILDING SETBACKS FOR RESIDENTIAL BUILDINGS OVER TWO STOREYS IN HEIGHT AND ASSOCIATED OPEN STRUCTURES IN ZONES OTHER THAN CB, C, H, A, RR, RL AND R	
Lot Boundary	Minimum Setback
Primary street frontage for buildings over two storeys in height	7.5m for residential buildings including verandahs, balconies and ancillary structures with external walls and 4.5m for ancillary structures without external walls or
Secondary street frontage for buildings over two storeys in height	2.5m for residential buildings including verandahs, balconies and ancillary structures with external walls and 1.5m for ancillary structures without external walls
Side and rear lot boundaries for buildings over two storeys in height	1.5m for: <ul style="list-style-type: none"> non-habitable rooms; habitable rooms <u>without</u> windows and/ or doors facing the subject boundary; and verandahs and/ or balconies where the side of the verandah or balcony is fully screened to the subject boundary; and ancillary structures, whether with or without external walls, excluding shade sails. 3m for: <ul style="list-style-type: none"> habitable rooms <u>with</u> windows and/ or doors facing the subject boundary; and verandahs and/ or balconies facing the subject boundary; and shade sails.
<p>The side of the verandah or balcony is considered to be fully screened if there is a permanently fixed external screen to at least 1.7m above floor level that is no more than 25% transparent.</p> <p>Screens used to obscure a view should be:</p> <ul style="list-style-type: none"> perforated panels or trellis with a maximum of 25% openings or solid translucent panels or louvered slats that are only able to be opened to a 45° angle and do not allow direct overlooking into an adjacent residential building. permanent, fixed and durable; and designed and coloured to blend in with the development. <p>Building setback is measured from all boundaries to:</p> <ul style="list-style-type: none"> the wall of a residential building; the outer surface of the railings of a balcony or a verandah; the outer surface of any support column of a ground level verandah; and the outer surface of any support column of structures without external walls, except that the setback of a shade sail is measured to the outer extremity of the fabric. <p>No part of the roof structure, including gutters and eaves, is to encroach more than 0.9m into the minimum building setback from the lot boundaries described in Table B to Clause 7.3.</p>	

TABLE C TO CLAUSE 7.3 MINIMUM BUILDING SETBACKS FOR ONE AND TWO STOREY RESIDENTIAL BUILDINGS AND ASSOCIATED OPEN STRUCTURES IN ZONES H, A, R, RL AND RR	
Lot Boundary	Minimum Setback
Primary street frontage	10m or 7.5m in Zones RR and RL for lots with areas less than 1ha
Secondary street frontage	10m or 5m in Zones RR and RL for lots with areas less than 1ha
Side and rear lot boundaries	10m or 5m in Zones RR and RL for lots with areas less than 1ha

TABLE C TO CLAUSE 7.3 MINIMUM BUILDING SETBACKS FOR ONE AND TWO STOREY RESIDENTIAL BUILDINGS AND ASSOCIATED OPEN STRUCTURES IN ZONES H, A, R, RL AND RR	
Lot Boundary	Minimum Setback
<p>Building setback is measured from all boundaries to:</p> <ul style="list-style-type: none"> • the wall of a residential building; • the outer surface of the railings of a balcony or a verandah; • the outer surface of any support column of a ground level verandah; and • the outer surface of any support column of structures without external walls, except that the setback of a shade sail is measured to the outer extremity of the fabric. <p>No part of the roof structure, including gutters and eaves, is to encroach more than 0.9m into the minimum building setback from the lot boundaries described in Table C to Clause 7.3.</p>	

12. Clause 7.3.2 (Distance between Residential Buildings on One Site)

Discussion

Clause 7.3.2 specifies setback/ separation requirements for when there is more than one residential building on a single lot. With respect to one and two storey residential buildings, as currently worded, the clause can require separation between buildings that is in excess of the separation of buildings on separate lots, and currently also requires that an independent unit be separated from the primary dwelling by 3m or more. Given that independent units are commonly closely associated with the primary dwelling and that the additional accommodation may be required for care, security and safety, this separation is inappropriate and has resulted in a number of applications seeking a waiver to this control.

Explanation of amendment

This clause is to be amended to provide for consistency in controls with those listed in Clause 7.3. The requirement for independent units to be separated by a minimum of 3m has been deleted as independent units are able to be built without separation from the main dwelling, leaving assessment on this matter to the Building Code of Australia (BCA), noting that setbacks from lot boundaries will continue to be determined by Clause 7.3.

7.3.2 Distance between Residential Buildings on One Site

1. Where more than one building comprising one or two storey **residential buildings, other than an independent unit**, is located on a site, the distance between the buildings is to be a ~~minimum of 3m~~ **calculated in accordance with Table A to Clause 7.3 as if there was a boundary between the buildings.**
2. Where more than one building comprising **residential buildings** that exceeds two **storeys** in height is located on a site, the distance between buildings is to be a minimum of:
 - (a) 3m for walls to non-habitable rooms and **habitable rooms** without windows or doors; and
 - (b) 4.5m for walls with windows or doors to **habitable rooms** or to a verandah or balcony.
3. For each **storey** over four **storeys**, the distance between buildings referred to in sub-clause 2 is measured from a straight line that is half the average distance between the walls of the buildings.

13. Clause 7.3.4 (Reduced Setbacks for Single Dwellings on Lots of 600m² or Greater)

Discussion

Clause 7.3 and its associated tables (A, B and C) set out the minimum setbacks for various classes of residential buildings in the residential and rural zones. **Table A** relates to one and two storey residential buildings, **Table B** to residential buildings over two storeys in height, and **Table C** to residential buildings in rural zones.

The proposed new clause is in response to the review of development statistics gathered over the three most recent financial years (from 01.07.2012 to 30.06.2015), which showed that in excess of 30% of development permits issued were for single dwellings and associated ancillary structures in the SD zone, despite such developments being permitted without planning consent (provided full compliance against the controls in the Scheme is achieved). A significant proportion of those permits were for developments proposing a variation to the setbacks for primary dwellings (i.e. Table A to Clause 7.3). This is considered in part to be a reflection of the inflexibility of the standards listed in this table in responding to existing site characteristics, such as when an existing building is at a setback less than that listed in this clause and an extension is proposed on the same alignment.

Changes over time in the average and minimum lot sizes also dictate the need for greater opportunities to maximise the efficiency of development on such lots. This requires an increase in the design options available under the performance criteria listed in the Scheme. Since the Scheme has already introduced the potential for nil setbacks on side boundaries for single dwellings under certain conditions, it is necessary for further flexibility for other single dwelling lots to be introduced as standard.

The lack of flexibility in current setback requirements also limits the appropriate design response to on-site vegetation, lot shape and topography, and fails to consider the position of buildings on adjoining lots (i.e. existing streetscape). The legitimacy of such setback variations as appropriate design responses is further demonstrated by the extremely high level of approval of such applications (see **Figure 1**).

These changes have been proposed as a new clause to avoid unnecessary complication to the existing Clause 7.3 and to follow the logic of Clause 7.3.3, which was introduced on 18.09.2015 and applies to single dwellings on lots of between 300m² and 600m².

Explanation of amendment

The bulk of the controls presented here centre on increased flexibility for setbacks to one and two storey residential buildings on standard residential allotments, with the allowances to encourage articulation and variety to the street. A point is made to exclude garages and other non-habitable structures from this clause to ensure that garages do not dominate the street.

Primary street setbacks have been expanded as follows:

- to allow a dwelling to reflect existing streetscape as established by existing dwellings on neighbouring sites;
- reduction in the setback down to a minimum of 4.5m subject to an equivalent area of open space being provided behind the setback line; and
- retention of the existing setback for structures without external walls and shade sails (to be assessed against clause 7.3).

7.3.4 Reduced Setbacks for Single Dwellings on Lots of 600m² or Greater

1. The purpose of this clause is to allow **residential buildings** on lots of 600m² or greater to provide design responses to site constraints and allow for an articulated built form when viewed from the street.
2. Despite Table A to clause 7.3, a **residential building** on a lot subject to this clause may, in accordance with sub-clause 3 to this clause, have a reduced front setback to **habitable rooms** within a **residential building**. For clarification, the following are subject to assessment against Table A to clause 7.3:
 - (a) garages and other non-habitable structures or elements within a **residential building**; and
 - (b) ancillary structures, whether with or without external walls (e.g. verandahs, balconies, carports and shade sails).
3. An applicable front setback may be reduced to:
 - (a) the average of the setback of the existing dwellings on each adjacent lot fronting the same street, or no closer than 3m under any circumstances; or
 - (b) 4.5m, provided that the area of reduction (i.e. the area of the developed space that is set at a minimum of 4.5m and a maximum of 6m from the front boundary) is compensated by an undeveloped space that is equal in area and which is:
 - i. a minimum of 6m from the front boundary;
 - ii. a minimum of 3m from the nearest side boundary; and
 - iii. a maximum of 12m from the front boundary.

14. Clause 8.1.2 (Interchangeable Use Rights in Zones CB and C)

Discussion

Clause 8.1.2 (Offices, Restaurants and Shops in Zones CB and C) provides for the change between the uses mentioned when compliance with the standards of the Scheme are not affected and when a developer contributions plan for car parking is in place. The reference to a developer contributions plan has limited the application of this clause, and is unnecessary in light of the new use needing to still comply with the car parking standards in the Scheme.

Explanation of amendment

The interchangeable uses permitted through this clause in Zone CB have widened to allow for 'leisure and recreation' and 'licensed club', both of which have identical car parking requirements to those already listed in subclause 2 and which are not considered to result in adverse amenity outcomes, especially considering the context of the CB zone. The wording in both subclauses has changed slightly to clarify direction, providing a clear link to the parking requirements of Clause 6.5.1 of the Scheme. As this clause will now apply to uses beyond offices, restaurants and shops, the title of the clause is recommended to be changed to one that is more generic in nature. The potential for additional on-site car parking to be provided to meet any new requirement has also been included.

8.1.2 ~~Offices, Restaurants and Shops in Zones CB and C~~ Interchangeable Use Rights in Zones CB and C

1. The purpose of this clause is to permit the change between the nominated uses of premises within Zone CB or Zone C without **consent**.
2. Where land is Zoned CB ~~and there is in place a developer contributions plan for car parking under the Planning Act~~, premises that are lawfully used **for the purposes of leisure and recreation, licensed club, office, restaurant or shop** may shift between any of the aforementioned uses without further consent provided that the parking requirement under Clause 6.5 does not increase, or sufficient additional on-site car parking is provided in accordance with Clause 6.5.1 and Clause 6.5.3 to meet any increased requirement.
3. Where land is Zoned C ~~and there is in place a developer contributions plan for car parking under the Planning Act~~, premises that are lawfully used **for the purposes of restaurant, or shop or showroom sales** may shift between any of the aforementioned uses without further consent provided that the parking requirement under Clause 6.5 does not increase, or sufficient additional on-site car parking is provided in accordance with Clause 6.5.1 and Clause 6.5.3 to meet any increased requirement.

15. Clause 8.1.5 (Child Care Centres)

Discussion

Clause 8.1.5 sets out a number of requirements for the development and assessment of child care centres. Clause 8.3 of the Scheme also sets out matters to be addressed for commercial facilities adjacent to land in residential zones. As a child care centre is a commercial facility, the relationship between these clauses is currently unclear. Clarification has been provided on what fits under the term 'residential land'.

Explanation of amendment

This clause is to be amended to give direct reference to the requirements of Clause 8.3 and to ensure consistency and clarity in interpretation of the Scheme. Other requirements given in this clause are not affected. Subclause 3 currently gives requirements for a child care centre that is adjacent to residential land but gives no further explanation as to what 'residential land' may be; this has now been resolved through specific reference to the standard residential zones.

8.1.5 Child Care Centres

1. The purpose of this clause is to ensure that **child care centres** are appropriately and conveniently located, appropriately designed and do not detract from the **amenity** of the area.
2. A child care centre should:
 - (a) be capable of accommodating:
 - i. 7m² of outdoor play space for each child and 3.25m² of indoor play space for each child;
 - ii. associated vehicle access, parking and manoeuvring; and
 - iii. landscaping and any necessary screening;
 - (b) be located:
 - i. adjacent to or within other community facilities such as shopping centres, schools and health services;
 - ii. at or near the entrance to a residential suburb; or
 - iii. in or near employment areas; and
 - (c) have vehicular access from a road other than from an arterial road.
3. If a **child care centre** is located adjacent to **land in Zones SD, MD, MR or HR**:
 - (a) **the development is to be set back and screened in accordance with the requirements of Clause 8.3 the abutting boundary is to be screened to protect privacy;** and
 - (b) the design of the centre is to take account of the noise impact on an adjacent **dwelling** by either locating outdoor play space away from the common boundary or by including appropriate screening.

16. Clause 8.3 (Setbacks for Commercial Uses Adjacent to Land in Zones SD, MD, MR or HR)

Discussion

This clause sets out minimum requirements for the separation of non-residential development from residential zones. This clause has been effective in ensuring adequate separation of commercial uses in the limited circumstances where those uses directly abut lower density residential development, but when those uses are separated by a road reserve, the clause has marginal benefit. There is also the potential for negative streetscape outcomes in conflict with the accepted thinking behind Crime Prevention Through Environmental Design (CPTED) caused by the requirement to include a screen fence. The imposition of a landscaped setback, which may be more than the currently specified 3m, can be imposed through the planning permit process.

Developments in remote towns sometimes face difficulties with regard to access to services. The currently mandatory nature of subclause 5 means that comments from service authorities, which may point to planting being actively discouraged or prohibited, are difficult to implement and unnecessarily burdened by the process.

Explanation of amendment

This clause is amended to remove the requirement for non-residential development to be set back 5m from the road reserve boundary when the residential development in question is already separated from the commercial development by a road reserve in addition to existing setbacks. The requirements of this clause for the separation of commercial developments directly abutting land in a residential zone are unchanged.

Subclause 5 has been expanded to allow the consent authority to exempt a development from its requirements only in very particular circumstances. The controls will remain mandatory within urban settings.

8.3 Setbacks for Commercial Uses Adjacent to Land in Zones SD, MD, MR or HR

1. The purpose of this clause is to protect the visual and acoustic **amenity of residential buildings** where they are adjacent to non-residential buildings.
2. A use or development or proposed use or development that is not a **residential building** and that is on land that is in a zone other than Zones SD, MD, MR or HR and that land ~~either: (a)~~ abuts land in any of those zones; ~~or~~ must provide a setback to the boundary that abuts any of those zones of not less than 5m.
 - ~~(b) has frontage to a street with a reservation width not exceeding 18m on the opposite side of which is land in any of those zones.~~
3. The setback described in sub-clause 2 is to be landscaped to provide a visual screen to the adjacent land Zoned SD, MD, 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 SD, MD, MR or HR.
5. 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 Clause 14.6 (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.

NORTHERN TERRITORY OF AUSTRALIA

Planning Act

**NOTICE OF EXHIBITION OF PROPOSAL
TO AMEND NT PLANNING SCHEME
PA2016/0169**

I, DAVID TOLLNER, give notice under section 17 of the *Planning Act* of the following:

- (a) a proposal to amend the NT Planning Scheme, as described in (e), is to be exhibited;
- (b) the proposed amendment is to be exhibited at the office of the Department of Lands, Planning and the Environment, Ground Floor, Arnhemica House, 16 Parap Road, Parap;
- (c) the period of exhibition is for 28 days, commencing upon first newspaper publication of the notice required by section 17(1);
- (d) written submissions regarding this exhibition should be made to:

Director, Lands Planning
Department of Lands, Planning and the Environment
GPO Box 1680
DARWIN NT 0801 or

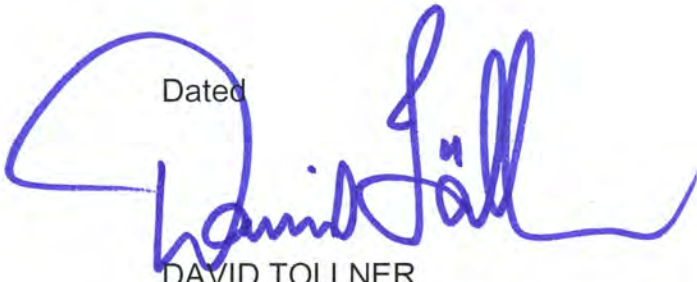
Fax: (08) 8999 7189 or

Email: planning.dlpe@nt.gov.au

- (e) the proposed amendment is to the NT Planning Scheme to:
 - i. introduce the following clause:
 - o Clause 7.3.4 (Reduced Setbacks for Single Dwellings on Lots of 600m² or Greater);
 - ii. alter the following existing clauses:
 - o Clause 1.3 (Exceptions);
 - o Clause 3.0 (Definitions);
 - o Clause 5.13 (Zone DV - Development);
 - o Clause 5.21 (Zone CP – Community Purposes);
 - o Clause 6.1 (General Height Control);
 - o Clause 6.2 (Height Control in Alice Springs);
 - o Clause 7.1.2 (Residential Height Limitations);
 - o Clause 7.3 (Building Setbacks of Residential Buildings);
 - o Clause 7.3.2 (Distance between Residential Buildings on One Site);
 - o Clause 8.1.2 (Offices, Restaurants and Shops in Zones CB and C);

- Clause 8.1.5 (Child Care Centres);
 - Clause 8.3 (Setbacks for Commercial Uses Adjacent to Land in Zones SD, MD, MR or HR);
- iii. remove the following existing clauses:
- Clause 2.10 (Carports, Pergolas and shade sails over existing car parking in multiple dwelling developments); and
 - Clause 6.11 (Garages and Sheds).

Dated



DAVID TOLLNER
Minister for Lands and Planning

29/4/2016.

ATTACHMENT B

City of Darwin Assessment of the Proposed Provisions

1.	<p>Clause 1.3, Exceptions - Subclause 2(k)</p>	<p>Subclause 2(k) currently does not prevent the construction of a shed that is 6m or more from a primary street and 2.5m from a secondary street, provided that it has a maximum height of 2.5m and a maximum roofed area of 11m².</p> <p>The amended provisions propose to decrease the setback from the secondary street to 1.5m and increase the maximum roofed area to 15m².</p> <p>It is considered that this amendment would not result in any issues for Council infrastructure and the amenity of an area would not be materially altered.</p>
2.	<p>Clause 1.3, Exceptions - new subclauses 2(u), 2(v) and 2(w)</p>	<p>“Exemptions are proposed for additions and expansions of a limited scale to existing discretionary uses in respect to industrial uses in Zones LI (Light Industry) and GI (General Industry), and in respect to commercial uses in Zones CB (Central Business), C (Commercial), SC (Service Commercial) and TC (Tourist Commercial).</p> <p>2(u) Proposes that “a shade sail of 30m² or less for all non-residential zones” would not be prevented by the Scheme.</p> <p>It is considered that shade sails would not impact significantly on the amenity of an industrial area. Shade sails provide a positive contribution in an area that is typically dominated by hard surfaces with minimal shade.</p> <p>However, a shade sail in Zone CB should remain discretionary so to ensure that world-class urban design and architecture can be achieved in the Darwin City Centre so that a positive relationship remains between development and the public realm.</p> <p>2(v) Proposes to allow for the expansion of non-prohibited uses in Zones LI and GI, subject to;</p> <ul style="list-style-type: none"> • Compliance with the General Performance Criteria (Clauses such as car parking, setbacks and landscaping); and • Subdivision criteria of the Scheme, to a maximum of 200m² or 15% of the site area, is not impeded by easements, multiple lots or proposed over the road reserve, will not limit waste collections services or service vehicle access, is not a demountable structure or a residential building and does not abut land in Zone SD (Single Dwelling Residential), MD

		<p>(Multiple dwelling Residential), MR (Medium Density Residential) or HR (High Density Residential).</p> <p>Prior to this proposed exemption, if an industrial natured expansion met the above assessment criteria a permit would still have been required given the discretionary nature of uses; it is therefore considered that such exemptions are a positive addition.</p> <p>2(w) Proposes to allow for the expansion of non-prohibited uses in Zones CB, C, SC and TC subject to;</p> <ul style="list-style-type: none"> • Compliance with the General Performance Criteria (Clauses such as car parking, setbacks and landscaping); and • Subdivision criteria of the Scheme, to a maximum of 100m² or 15% of the site area, is not impeded by easements, multiple lots or proposed over the road reserve, will not limit waste collections services or service vehicle access, is not a demountable structure or a residential building, will not reduce the area of clear glass or level of transparency of the façade of the existing premises as viewed from the primary street, will not reduce the level of accessibility for people with disabilities, and will not increase the height of the existing premises. <p>Again, prior to this proposed exemption, if a commercial natured expansion met the above assessment criteria a permit would still have been required given the discretionary nature of uses; it is therefore considered that such exemptions are a positive addition.</p> <p>However, expansion of existing uses in Zone CB should remain discretionary so to ensure that world-class urban design and architecture can be achieved in the Darwin City Centre so that a positive relationship remains between development and the public realm.</p>
3.	<p>Clause 1.3 (Exceptions) new subclause 2(x)</p>	<p>“Multiple dwellings are classified as a discretionary use in Zones MD, MR and HR, the result being that any addition, extension or proposal to construct an ancillary residential building to a multiple dwelling development requires a development permit. This results in a significant number of applications for development that is compliant with the standards of the NTPS, (the Scheme) and yet still subject to a full consent process”.</p>

		<p>Where the construction of an extension, ancillary outbuilding, carport, pergola or a shade sail in association with one or more dwellings in a multiple dwelling development, consent is not required, provided it is constructed in compliance with the;</p> <ul style="list-style-type: none"> • General Performance Criteria (Clauses such as car parking, setbacks and landscaping); and • Subdivision criteria of the Scheme, is contained wholly within the respective unit title and not over an easement and will not result in an additional storey or an increase in the maximum height of the development. <p>Having considered the above, it is considered that such exemptions are a positive addition and should be supported.</p>
4.	<p>Clause 2.10 (Carports, Pergolas and Shade Sails over Existing Car Parking in Multiple Dwelling Developments)</p>	<p><i>Clause 2.10</i>, currently provides provisions on when carports, pergolas and shade sails over existing car parking areas in multiple dwellings do not require consent.</p> <p>The amendment proposes to delete the existing <i>Clause 2.10</i>. The addition of subclause 2(x) to <i>Clause 1.3, Exceptions</i> consolidates the provisions in one consistent area of the Scheme and <i>Clause 2.10</i> is therefore no longer required.</p>
5.	<p>Clause 3.0, Definitions</p>	<p>“A number of new, modified and additional definitions are proposed to assist in the interpretation and implementation of the Scheme, through greater consistency and surety”. New, modified and additional definitions include:</p> <p>Building Setback (modified) – The proposed definition includes being measured from more than just the lot boundary and carries across existing provisions that are linked with the existing <i>Clause 7.3, Building Setbacks of Residential Buildings</i>.</p> <p>The modified provisions now include consideration of truncated boundaries and intersecting primary and secondary streets, this inclusion will provide clarity, especially for those interpreting and applying the provisions of the Scheme.</p> <p>Fully screened (new) – there are a number of existing clauses within the Scheme that provide a definition of fully screened. The intent of existing Clauses within the Scheme is consistent with the proposed definition. Including the one definition in <i>Clause 3.0</i> reduces repetition within the Scheme.</p> <p>Major opening (new) – is defined as being a window, door or other opening in the exterior wall of a habitable room that</p>

	<p>provides an external means of light or view for that room or space, but does not include an opening that; does not exceed 1m², is glazed/opaque or has a sill height of 1.6m or greater above floor level. This definition provides further amenity and overlooking considerations within the Scheme.</p> <p>Secondary street (modified) – the modified provision relies upon the secondary street being the opposite to the existing definition of the primary street. The modified definition provides clarity for those interpreting and applying the provisions of the Scheme.</p> <p>Serviced apartments (new) – the proposed definition includes “a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and which is regularly serviced or cleaned by an owner or manager of the building or by an agent of an owner or manager of the building”.</p> <p>A report is yet to be tabled to the Town Planning Committee in relation to assessment criteria and definition for serviced apartments, however some initial work has been undertaken to date, which has concluded that serviced apartments should be added to <i>Part 3, Index of Zones</i> of the Scheme and accordingly refer to assessment criteria appropriate to serviced apartments. Currently the only reference to serviced apartments within the Scheme is in <i>Clause 6.5.1, Parking Requirements</i>.</p> <p>Currently, when an application for serviced apartments is received, assessments are made against multiple dwellings, which isn't necessarily an accurate representation of the use, which is considered to be short-term accommodation rather than the permanent accommodation that multiple dwellings provide. It is therefore recommended that specific provisions be developed for the assessment of future development applications. Considerations, should include but not limited to; landscaping, communal open space, loading bays, amenity, privacy, design etc.</p> <p>Initial research undertaken by staff has indicated the:</p> <ul style="list-style-type: none"> • City of Melbourne defines a residential hotel as, “land used to provide accommodation in serviced rooms for persons away from their normal place of residence”; and • Cairns Regional Council defines short-term accommodation as being a; “premises used to provide short-term accommodation for tourists or travellers for a temporary period of time (typically not exceeding three consecutive months) and may be self-contained”.
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		<p>In considering the proposed definition to be included in the <i>Northern Territory Planning Scheme</i> and the examples provided in Melbourne and Cairns, it would appear that the definition needs to be strengthened to capture what should be a ‘temporary’ natured use.</p> <p>Supporting accommodation (modified) – allows for accommodation that provides aid to those in need, being the aged, disadvantaged, disabled etc. The modified provisions include supporting services being provided by community organisations, recognised religious or charitable organisations or a department or institutional establishment of the Crown. These provisions aid flexibility in the service provider.</p>
6.	Clause 5.13 (Zone DV – Development)	<p>“The primary purpose of Zone DV is to provide for the development of major strategic activities and to protect the value of infrastructure developed at sites designed to service major development. Notwithstanding this intent, the zone currently lists both caretaker’s residence and home occupation” as a permitted use.</p> <p>Such uses should be located in areas more amenable for the occupants, rather than in areas for more strategic based industries, it is recommended that this amendment is supported to ensure that conflicting land uses don’t occur.</p>
7.	Clause 5.21 (Zone CP – Community Purposes)	<p>“The primary purpose of the CP zone is to provide for community services and facilities, and this zone is routinely applied to government and community land set aside for such purposes. The current zoning table however provides that the use class of supporting accommodation is a discretionary use”.</p> <p>“The zoning table for Zone CP is amended to provide for the use class of supporting accommodation as a permitted use, thereby allowing for such a development to proceed without the requirement for development consent, subject to full compliance against the standards and provisions of the Scheme”.</p>
8.	Clause 6.1 (General Height Control)	<p>“The purpose of this clause is to ensure that the height of buildings in a zone is consistent with development provided for by that zone”. This clause currently does not apply to education establishments in Zones CL (Community Living), or CP (Community Purposes). The proposed amendment intends to include hospitals “given that these are often significant civic buildings where the efficiency gained from a multiple storey development is consistent with community expectations”.</p> <p>Hospitals are a prohibited use in Zone CL and are a discretionary use in Zone CP, therefore an assessment</p>

		<p>would still be required as well as a formal exhibition period.</p> <p>Note: the amendment also includes modifications to specific provisions related to Alice Springs.</p>
9.	Clauses 6.11 (Garages and Sheds)	<p>It is proposed to delete <i>Clause 6.11</i> of the Scheme on the basis that the existing provisions are repeated in the existing <i>Clause 7.3, Building Setbacks of Residential Buildings</i> provisions.</p> <p>Note: “when not associated with a residential building, or in a non-residential zone, a garage or shed is still an ancillary structure, and should be assessed using setback controls for the related main structure”.</p>
10.	Clause 7.1.2 (Residential Height Limitations)	<p>Zone MR allows development to four storeys (with no specific height provision), whilst Zone SD allows development to a height of 8.5m and to a maximum of two storeys.</p> <p>The current provisions of <i>Clause 7.1.2</i> restrict development in Zone MR to three storeys where Zone SD is on the opposite side of the road and the road reservation width does not exceed 18.0m. The proposed provisions delete such reference.</p> <p>It is considered that this proposed amendment would provide amenity impacts to development in Zone SD particularly in relation to bulk and scale of development, given the potential disparity in heights and size of the lot, which will exacerbate any amenity issues. It is therefore suggested that the provisions include wording, such as:</p> <p>“Where Zone MR and Zone SD land is separated by a road reservation of less than 18 metres in width, development is stepped, restricting development to three storeys where it directly adjoins the road reserve”.</p> <p>Such a provision would allow for Zone MR to achieve densification whilst providing larger development to the rear, subject to compliance with the existing side and rear setback requirements of the Scheme and other related provisions of the Clause.</p> <p>Note: The existing provision that restricts development in Zone MR to three storeys where it directly adjoins (lot boundary to lot boundary) development in Zone SD is to remain.</p>

11.	Clause 7.3 of (Building Setbacks Residential Buildings)	<p>Clause 7.3 currently has three tables which provide setback criteria for one and two storey residential buildings and associated open structures in certain zones, residential buildings and associated open structures over two storeys in certain zones and residential buildings and associated open structures in rural zones.</p> <p>Each table has repetitive information regarding where building setbacks are measured from and definition regarding fully screened. “Terms and explanatory statements are now to be consolidated either in the text to <i>Clause 7.3</i> or in the list of definitions in <i>Clause 3.0</i>”. This is consistent with other amendments discussed above.</p> <p>Changes to <i>Clause 7.3</i> also include revised setbacks to secondary street frontages and side and rear boundaries for one and two storey residential buildings and associated open structures in certain zones. These variations can be summarised as follows:</p>
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	Current	Proposed
Primary street frontage	6.0m <u>and</u> 4.5m for verandahs, balconies and structures without external walls	6.0m for residential buildings and ancillary structures with external walls <u>and</u> 4.5m for verandahs, balconies and ancillary structures without external walls <u>or</u> 3.0m for shade sails, to a maximum height of 2.5m at the minimum setback
Secondary street frontage	2.5m <u>and</u> 1.5m for verandahs, balconies and structures without external walls	1.5m for residential buildings <u>and</u> 1.5m for verandahs, balconies and ancillary structures <u>or</u> 0.9m for shade sails, to a maximum height of 2.5m at the setback line
Side and rear lot boundaries	1.5m including structures without external walls <u>and</u> 0.9m for shade sails	1.5m, including ancillary structures <u>or</u> 1m, provided that the area of reduction: <ul style="list-style-type: none"> • does not include any major openings; • does not extend beyond a maximum height of 3.5m; and • does not extend beyond a maximum length of 9.0m. <u>and</u> 0.9m for shade sails, to a maximum height of 2.5m at the minimum setback.

	<p>Clause (Building Setbacks Residential Buildings) cont...</p> <p>7.3 of</p>	<p>Clause 7.3 (current and proposed) includes the following provision; “no part of the roof structure including gutters and eaves, is to encroach more than 0.9m into the minimum building setbacks”.</p> <p>Given that the current provisions allow a side/rear setback to be 1.5m from the boundary, the roof structure must be no less than 0.6m from the boundary. The 1.0m setback proposed provision will allow the roof structure to be no less than 0.1m from the boundary. Such an amendment to the Scheme is not supported as it provides the opportunity for stormwater to sheet flow into the neighbouring property.</p> <p>Given that this provision aims to support reduced setbacks without the need to obtain planning consent, this eliminates the opportunity for Council to ensure that stormwater is in accordance with Council’s requirements and that it doesn’t cause civil issues in the future.</p> <p>Building Certifiers would be more concerned with the requirements of the National Construction Code (Building Code of Australia), assessment of stormwater is not a consideration of the Code.</p> <p>It is therefore strongly recommended that the provision for side and rear setbacks remain at 1.5m as per the current provisions.</p> <p>Note: there are no setback variations proposed for residential buildings and associated open structures over two storeys in certain zones and residential buildings and associated open structures in rural zones.</p>
12.	<p>Clause (Distance between Residential Buildings One Site)</p> <p>7.3.2 on</p>	<p>“Clause 7.3.2 specifies setback/separation requirements for when there is more than one residential building on a single lot. With respect to one and two storey residential buildings, as currently worded, the clause can require separation between buildings that is in excess of the separation of buildings on separate lots, and currently also requires that an independent unit be separated from the primary dwelling by 3.0m or more. Given that independent units are commonly closely associated with the primary dwelling and that the additional accommodation may be required for care, security and safety, this separation is inappropriate and has resulted in a number of applications seeking a waiver to this control”.</p>

		This is considered reasonable and if any issues were to arise as a result of the reduced separation, these would be internal to the site, rather than impacting the street.
13.	Clause 7.3.4 (Reduced Setbacks for Single Dwellings on Lots of 600m² or Greater)	<p><i>Clause 7.3.3</i> introduced as part of the small lot provisions last year provided reduced setback provisions for single dwellings on lots less than 600m² but not less than 300m².</p> <p>The proposed introduction of <i>Clause 7.3.4</i> is to provide “increased flexibility for setbacks to one and two storey residential buildings on standard residential allotments, with the allowances to encourage articulation and variety to the street”, consistent with the intent of <i>Clause 7.3.3</i>.</p> <p>“Primary street setbacks have been expanded as follows:</p> <ul style="list-style-type: none"> • to allow a dwelling to reflect to reflect existing streetscape as established by existing dwellings on neighbouring sites; • reduction in the setback down to a minimum of 4.5m subject to an equivalent area of open space being provided behind the setback line; and • retention of the existing setback for structures without external walls and shade sails (to be assessed against clause 7.3)”. <p>These proposed provisions are intended for development to respond to site constraints and allow for an articulated built form when viewed from the street and ensure that garages and non-habitable structures are not the dominate feature when viewed from the street.</p>
14.	Clause 8.1.2 (Interchangeable Use Rights in Zones CB and C)	<p>“The purpose of this clause is to permit the change between the nominated uses of premises within Zone CB or Zone C without consent”. Currently the interchangeable uses listed by the clause are restricted to offices, restaurants and shops.</p> <p>The Clause has been expanded upon to include:</p> <ul style="list-style-type: none"> • leisure and recreation and licensed club to the interchangeable uses in Zone CB given that all five uses require 3 car parks for every 100m² of net floor area; and • showroom sales to the interchangeable uses in Zone C along with a restaurant and shop. Showroom sales requires less car parks than a restaurant and shop in Zone C, however there is a provision included which states that the uses may shift “without further consent provided that the parking requirement under Clause 6.5 does not increase, or sufficient additional on-site car parking is provided in accordance with Clause 6.5.1 and

		<p>Clause 6.5.3 to meet any increased requirement”.</p> <p>These additions to the provisions would not cause any issues for the City of Darwin.</p>
15.	Clause 8.1.5 (Child Care Centres)	<p>Child Care Centres are considered to be a commercial entity, the existing <i>Clause 8.1.5</i> provisions intend to ensure that the amenity of residential development is protected where a Child Care Centre is adjoining.</p> <p>The proposed provisions strengthen this intent and define what ‘residential land’ is by including the specific residential zones in the amended Clause. In addition, <i>Clause 8.3, Setbacks for Commercial Uses Adjacent to Land in Zones SD, MD, MR or HR</i> is called upon.</p>
16.	Clause 8.3 (Setbacks for Commercial Uses Adjacent to Land in Zones SD, MD, MR or HR)	<p>Currently <i>Clause 8.3</i> requires a 5.0m setback where Zone SD, MD, MR or HR is on the opposite side of the road and the reservation width does not exceed 18.0m. It is proposed to delete this provision.</p> <p>While appropriate setbacks are supported between commercial and residential uses, it may be more appropriate to include flexible considerations regarding design elements that encourage active street frontages, awnings and passive surveillance (for example). Commercial use and development should not be at the cost of amenity impacts that may result in noise, light spill for adjoining residential uses.</p>

10 June 2016

Please quote: 3232274 NS:hd
Your reference: PA2016/0169

Mr Michael Holmes
Acting Director of Lands and Planning
Department of Lands, Planning and Environment
GPO Box 1680
DARWIN NT 0801

Dear Mr Holmes

Proposal to amend the Northern Territory Planning Scheme to address low risk, low impact development

Thank you for your recent correspondence requesting commentary in response to the proposed *Northern Territory Planning Scheme* (the Scheme) Amendment in relation to low risk/low impact development.

The Council supports the proposed amendments given that they provide clarity and reduce the need for assessing minor applications that are unlikely to cause significant amenity issues. Council however requests improvements to some of the proposed provisions. Council submits the following suggestions/improvements in the order of the revised amendments; as follows:

2. Clause 1.3, Exceptions – new subclauses 2(u), 2(v) and 2(w):

Generally the proposed exceptions, being 2(u) and 2(w), and how they will affect most industrial and commercial zones are supported. It is however recommended that shade sails and the expansion of existing uses in Zone CB should remain discretionary, to ensure that a better standard of urban design and architecture can be achieved in the Darwin City Centre.

5. Clause 3.0, Definitions:

Council consider that further specific assessment criteria could be provided in the Scheme for serviced apartments.

Currently, when an application for serviced apartments is received, assessments are made against multiple dwellings, given that serviced apartments are not included in *Part 3, Index of Zones* within the Scheme. Assessment of serviced apartments against multiple dwelling criteria isn't

necessarily an accurate representation of the use, which is considered to be short-term accommodation rather than the permanent accommodation provided by multiple dwellings.

Initial research undertaken has indicated that the:

- City of Melbourne defines a residential hotel as, “land used to provide accommodation in serviced rooms for persons away from their normal place of residence”; and
- Cairns Regional Council defines short-term accommodation as being a; “premises used to provide short-term accommodation for tourists or travellers for a temporary period of time (typically not exceeding three consecutive months) and may be self-contained”.

The proposed serviced apartment definition includes “a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and which is regularly serviced or cleaned by an owner or manager of the building or by an agent of an owner or manager of the building”.

It is therefore recommended that:

- Serviced apartments should be added to *Part 3, Index of Zones* of the Scheme and accordingly refer to the assessment criteria appropriate to serviced apartments. Currently the only reference to serviced apartments within the Scheme is in *Clause 6.5.1, Parking Requirements*; and
- Specific provisions be developed for the assessment of future development applications. Considerations should include but not be limited to; landscaping, communal open space, loading bays, amenity, privacy, design etc.; and
- The definition be strengthened to capture what is a temporary use.

10. Clause 7.1.2 (Residential Height Limitations):

The current provisions of *Clause 7.1.2* restrict development in Zone MR to three storeys where Zone SD is on the opposite side of the road and the road reservation width does not exceed 18.0m. The proposed provisions delete such a reference.

It is considered that this proposed amendment may result in amenity impacts to development in Zone SD, particularly in relation to bulk and scale of development, given the potential disparity in heights. It is therefore suggested that the provisions include wording, such as:

“Where Zone MR and Zone SD land is separated by a road reservation of less than 18 metres in width, development is stepped, restricting development to three storeys where it directly adjoins the road reserve”.

Such a provision would allow for Zone MR to achieve greater heights to the rear, subject to compliance with the existing side and rear setback requirements of the Scheme and other related provisions of the Clause.

11. Clause 7.3 (Building Setbacks of Residential Buildings):

Clause 7.3 (current and proposed) includes the following provision; “no part of the roof structure including gutters and eaves, is to encroach more than 0.9m into the minimum building setbacks”.

Given that the current provisions allow a side/rear setback to be 1.5m from the boundary, the roof structure must be no less than 0.6m from the boundary. The 1.0m setback proposed provision will allow the roof structure to be no less than 0.1m from the boundary. Such an amendment to the Scheme is not supported as it provides the opportunity for stormwater to sheet flow from the roof directly into the neighbouring property.

Given that this provision aims to support reduced setbacks without the need to obtain planning consent, this eliminates the opportunity for Council to ensure that stormwater drainage is in accordance with Council’s requirements and that it doesn’t cause civil issues in the future.

It is unlikely that building certifiers would consistently address this issue through the building certification process alone.

It is therefore strongly recommended that the provision for side and rear setbacks remain at 1.5m as per the current provisions.

Council’s objection to this amendment in no way reflects its support or objection to side setback variations, which it has previously supported where amenity and stormwater drainage issues have been adequately addressed.

16. Clause 8.3 (Setbacks for Commercial Uses Adjacent to Land in Zones SD, MD, MR or HR):

Currently *Clause 8.3* requires a 5.0m setback where Zone SD, MD, MR or HR is on the opposite side of the road and the reservation width does not exceed 18.0m. It is proposed to delete this provision.

While appropriate setbacks are supported between commercial and residential uses, it may be more appropriate to include flexible considerations regarding design elements that encourage active street frontages, awnings and passive surveillance (for example). Commercial use and development should not be at the cost of amenity impacts that may result in noise or light spill for adjoining residential uses.

Council thanks you for the opportunity to provide comment on the subject proposal and is interested in furthering discussions to address the issues raised in this response.

In considering this application, the Development Consent Authority is requested to take into account any implications of the *Disability Discrimination Act* (Cth) or the *Anti-Discrimination Act* (NT) with regard to access for the disabled.

If you require any further discussion in relation to this application please feel free to contact me on 8930 0528.

Yours faithfully

CINDY ROBSON
STRATEGIC TOWN PLANNER

OPEN SECTION

TP06/7

Town Planning Committee Meeting – Tuesday, 7 June 2016

10.2 OFFICERS REPORTS (RECEIVE & NOTE)

ENCL: TOWN PLANNING COMMITTEE/OPEN
NO

AGENDA ITEM: 10.2.1

STRATEGIC PLANNING ISSUES - JUNE 2016

REPORT No.: 16TS0074 BS:hd COMMON No.: 2481144

DATE:07/06/2016

Presenter: Manager Design, Planning & Projects, Drosso Lelekis

Approved: General Manager Infrastructure, Luccio Cercarelli

PURPOSE

The purpose of this report is to provide an updated schedule of identified Strategic Town Planning matters for referral to Town Planning Committee meetings.

LINK TO STRATEGIC PLAN

The issues addressed in this Report are in accordance with the following Goals/Strategies of the City of Darwin 2012 – 2016 as outlined in the 'Evolving Darwin Towards 2020 Strategic Plan':-

Goal

1. Collaborative, Inclusive and Connected Community

Outcome

1.4 Improved relations with all levels of government and significant stakeholders

Key Strategies

1.4.2 Play an active role in strategic and statutory planning processes

KEY ISSUES

- The Town Planning Committee primarily focuses on strategic town planning issues.
- This report presents an updated schedule of previously identified and known strategic matters.
- The schedule includes known current issues and will be influenced by unforeseen strategic matters requiring consideration either directly raised by Council or via external parties such as the Northern Territory Planning Commission.
- Progress and updating of the schedule will be reported on at Town Planning Committee meetings.

RECOMMENDATIONS

THAT the Committee resolve under delegated authority:

THAT Report Number 16TS0074 BS:hd entitled Strategic Planning Issues – June 2016, be received and noted.

PAGE: 2
 REPORT NUMBER: 16TS0074 BS:hd
 SUBJECT: STRATEGIC PLANNING ISSUES – JUNE 2016

BACKGROUND

Council resolved that the Town Planning Committee Meeting will be held once every two months, with a primary focus on strategic town planning matters.

This report provides an updated schedule of identified strategic town planning matters and expected time frames for addressing these matters.

DISCUSSION

The following table provides the status of strategic planning issues identified that are yet to be considered by the Town Planning Committee:

Subject	Council Decision No.	Expected Report Date
Funding for Social Infrastructure and Open Space Identify the specific process, studies required, and associated costs to develop a social infrastructure model for the Municipality of Darwin.	Decision No.21\4277	August 2016
Building elements over the City of Darwin road reserve	Decision No.21\3739	August 2016
Tree Planting in car park areas with a view to increasing the amount of shaded land area and improving public amenity and air purification taking into account the requirements of the Planning Scheme in relation to shading parking areas.	Decision No.21\3387	August 2016
Assessment criteria and definition for Serviced Apartments in the Northern Territory Planning Scheme	Decision No.21\3135	October 2016
Car parking on the podium level		October 2016

In addition to the above, the City of Darwin are actively progressing issues as they arise, some of which are in conjunction with the Northern Territory Planning Commission, Department of Lands, Planning and the Environment and the Department of Transport. Issues include, but are not limited to; review of the Outdoor

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REPORT NUMBER: 16TS0074 BS:hd
SUBJECT: STRATEGIC PLANNING ISSUES – JUNE 2016

Advertising Signs Code, rezoning applications and planning scheme amendments as they arise.

CONSULTATION PROCESS

In preparing this report, the following City of Darwin officers were consulted:

- Strategic Town Planner
- Town Planner
- Planning officer

POLICY IMPLICATIONS

There are considered to be no policy implications for this report.

BUDGET AND RESOURCE IMPLICATIONS

Resources are in accordance with approved Council budgets.

RISK/LEGAL/LEGISLATIVE IMPLICATIONS

There are no risk/legal/legislative implications for this report.

ENVIRONMENTAL IMPLICATIONS

There are considered to be no environmental implications for this report.

COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

DROSSO LELEKIS
MANAGER DESIGN, PLANNING
& PROJECTS

LUCCIO CERCARELLI
GENERAL MANAGER
INFRASTRUCTURE

For enquiries, please contact Cindy Robson on 8930 0528 or email:
c.robson@darwin.nt.gov.au .

OPEN SECTION

TP06/8

Town Planning Committee Meeting – Tuesday, 7 June 2016

11. INFORMATION ITEMS

11.1 Universal Design and the Development of an Age Friendly City (07/06/2016) Common No. 1181168

*The letter from the Deputy Chief Minister and Minister for Senior Territorians regarding Universal Design and the Development of an Age Friendly City is **Attachment A**.*



DEPUTY CHIEF MINISTER
MINISTER FOR SENIOR TERRITORIANS



Parliament House
State Square
Darwin NT 0800
minister.styles@nt.gov.au

GPO Box 3146
Darwin NT 0801
Telephone: 08 8928 6547
Facsimile: 08 8928 6621

The Right Worshipful the Lord Mayor
Katrina Fong Lim
City of Darwin
GPO Box 84
Darwin NT 0801

Your ref: 1181168 NS:hd

Dear Lord Mayor

Thank you for your letter of 14 April 2016 in which you have outlined a request for support for strengthening the minimum requirements considerations in regard to Universal Design and the development of an Age Friendly City.

The Northern Territory Government in partnership with the Minister's Advisory Council for Senior Territorians is currently finalising a Seniors Participation Framework, which acknowledges the importance of the World Health Organisation's Age Friendly Communities in planning for an ageing population.

In addition, at the most recent Minister's Advisory Council for Senior Territorians meeting it was suggested that the Department of Lands, Planning and the Environment be approached regarding embedding these principles into new developments.

As the Minister for Senior Territorians, I support your suggestion and I look forward to supporting progressing this initiative.

Please contact Ms Tania Roberts on 8999 3861 or tania.roberts@nt.gov.au for further information.

Yours sincerely

PETER STYLES

21 MAY 2016

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12. GENERAL BUSINESS

13. CLOSURE OF MEETING