

30 January 2026



Northern Territory Planning Commission (NTPC)
GPO Box 1680
DARWIN NT 0801

Attn: Mark Coffey, Chair NTPC
Via Email: ntpc@nt.gov.au
CC: Karen McGuigan - karen.mcguigan@nt.gov.au
CC: Madison Harvey - Madison.Harvey@nt.gov.au

Dear Chair,

REF: PA2025/0413 – SUBMISSION AND SERVICE AUTHORITY REFERRAL RESPONSE LETTER – 4 BERRY PLACE, MILLNER – PROPOSED EXCEPTIONAL DEVELOPMENT PERMIT FOR GROUPED DWELLING DEVELOPMENT

Background

The proposal PA2025/0413 is for an Exceptional Development Permit (EDP) to facilitate six (6) 'Dwelling – Group' at Lot 1222 Town of Nightcliff (4 Berry Place, Millner). The proposal was exhibited from 21 November to 19 December 2025.

Response to Submissions

Four (4) public submissions were received during the exhibition period. The submissions were all identical (excepting the signatories), and raised the following matters (summarised):

1. **Inconsistency with Zone LR Purpose & Density** - The submitters contend that six grouped dwellings are inconsistent with the Low Density Residential (LR) zone intent, reflect a density more akin to Zone LMR, and that no exceptional circumstances exist to justify an EDP.
2. **Traffic, Parking & Cul-de-sac Impacts** - Concern is raised regarding increased traffic, lack of visitor parking, cul-de-sac constraints, market-related parking pressure, and safety impacts.
3. **Flooding, Stormwater & Environmental Risk** - The site's proximity to Rapid Creek and mapped flood extents should necessitate detailed flood modelling, as increased impervious area may exacerbate flooding.
4. **Amenity, Privacy & Neighbourhood Character** - Concerns raised regarding overlooking, overshadowing, noise, and incompatibility with the established character of Berry Place.
5. **Public Interest & Exceptional Circumstances** - The submitters assert that the proposal delivers private benefit only and fails the public interest test required for an EDP.

The matters raised in the objections are addressed individually below.

1. **Inconsistency with Zone LR Purpose & Density**

It is acknowledged that a 'Dwelling – Group' is a prohibited use in Zone LR and that the proposal exceeds the standard density outcome for the zone. This is explicitly recognised in the application and is the precise reason an Exceptional Development Permit has been sought under section 38(2)(a) of the Planning Act.

The Planning Act does not require an EDP proposal to comply with all standard Planning Scheme

requirements. Instead, Section 40 of the Act requires the consent authority to be satisfied (in relation to an EDP application) that it is preferable to grant a site-specific permit rather than amend the planning scheme (through rezoning or otherwise), as well as the matters specified in sections 51(1)(d), (h), (j), (k), (m), (n), (p), (pa), (r), (s) and (t).

The EDP report for 4 Berry Place, Millner demonstrates that it is preferable to grant a site-specific permit as a result of site-specific circumstances, including:

- ➔ The large lot size (2,200 m²) relative to standard LR allotments;
- ➔ The site's direct interface with the Rapid Creek Business Village, a commercial activity node;
- ➔ Immediate proximity to public transport, services, employment and open space;
- ➔ A substantial reduction in scale compared to the previously approved EDP (18 dwellings in four storeys), resulting in a neighbourhood-appropriate, low-rise, two-storey built form; and
- ➔ A design response that consolidates development internally while maintaining compliant setbacks, landscaping and open space.

The EDP report acknowledges and explains why a site-specific EDP, rather than rezoning, is the appropriate statutory mechanism, as well as addressing all relevant parts of the Act as required. Approval would not amend the zone nor establish a general precedent, as each EDP is assessed on its individual merits.

Lastly, in regard to density itself, the NT Government recently released a discussion paper on infill development and subdivision in Zone LR. Whilst this discussion paper has no statutory weight, it is nonetheless a viable, tangible example of how governments across Australia and here in the NT are reviewing planning provisions and density in order to address housing choice, housing supply and housing affordability.

This discussion paper proposed a raft of measures aimed at increasing density and encouraging infill development in Zone LR – a very low density zone with large minimum lot sizes. Whilst Zone LR and lot sizes of 800m²+ is typical in older residential suburbs, there is a shift towards more affordable and sustainable smaller lots.

The discussion paper proposed a possible reduction to minimum lot size in Zone LR from 800m² to 450m², and a similar shift in density from 1 dwelling per 800m² to one dwelling per 450m², with grouped dwellings being able to be considered (should this discussion paper move forward into statutory application under the Scheme). At a minimum density of 1 per 450m², the site subject to this EDP would be capable of close to 5 dwellings without an EDP application or rezoning being necessary.

Notwithstanding, the proposal for six (6) dwellings is not considered to be 'overdevelopment' or 'overdensification'. The built form has been carefully considered, and the proposal leverages the location-appropriate site for the proposed density.

2. Traffic, Parking & Cul-de-sac Impacts

First and foremost, as a result of traffic matters raised, local traffic engineering company ARCCOS have been engaged to undertake a detailed Traffic Impact Assessment (TIA). This work is underway, and should be finalized in the next two (2) weeks.

Preliminary advice from ARCCOS does not indicate any concerns in regard to traffic volumes, or road hierarchies at this stage, although final modelling is still being completed on nearby signalized intersections and queue times to ensure no impacts are likely to occur from the proposal. This TIA will be submitted to the NT Planning Commission and distributed to all submitters as soon as it has been finalised.

The proposed development provides 13 on-site car parking spaces for six (6) dwellings, exceeding the minimum parking requirement under Clause 5.2.4 of the Planning Scheme. All parking is provided on site, with a single 6.0 m wide driveway enabling safe two-way access and forward entry and exit. There should be no parking of residents vehicles on the street, given the compliance with parking requirements.

Whilst it is understood that Berry Place is an existing residential cul-de-sac, existing developments within Berry Place and street parking for Rapid Creek Markets is likely the cause of any existing parking concerns. Again, the proposal is compliant with parking requirements on site, and should not increase utilisation of on-street parking.

Parking pressure associated with the Rapid Creek Markets is an existing, intermittent condition unrelated to the proposal. The development does not rely on on-street parking to function and therefore does not exacerbate that condition in any material way.

The EDP report demonstrates that the proposal complies with parking layout, access, sightline and manoeuvring requirements under Clause 5.2.4.4, ensuring safe operation within the constrained street environment. The forthcoming TIA is expected to confirm that no parking issues or traffic issues will arise as a result of the proposal.

3. Flooding Stormwater & Environmental Risk

As noted in the EDP report, the site is partially affected by the Land Subject to Storm Surge (LSSS) overlay, with the Secondary Storm Surge mapping affecting a very small portion of the front of the site only. This constraint is expressly addressed in the EDP report, with all habitable floors elevated above the mapped secondary storm surge level, ensuring occupant safety and flood resilience.

The proposal includes:

- ➔ On-site stormwater infiltration measures;
- ➔ Connection to existing municipal drainage infrastructure to the rear of the site (Rapid Creek Shops) and kerb adaptor discharge to Berry Place; and
- ➔ Landscaped areas comprising approximately 39% of the site, exceeding planning scheme minimums and assisting stormwater management on site.

In regard to stormwater concerns, the subject site stormwater (inc. roofwater) is fully contained and controlled within the property, with no adverse stormwater flows to adjoining private properties. The subject site is proposed to be filled with retaining walls along the adjoining property boundaries. This fill has subsoil drainage to mitigate any possible stormwater seepage to adjoining lots.

Under existing conditions there are significant overland flows to Lot 1223, which has been negated under the development proposal. Post-development discharge flows to Berry Place are actually significantly less than current pre-development flows (by more than 50%). This is as the bulk of the onsite stormwater discharge post-development is directed to the rear of the site to an existing side entry pit on Pearce Place. These pre-and post development flows/volumes are shown on civil and stormwater plans submitted with the application and available to the public.

Given the modest scale of development, the redevelopment of an already urbanised site, and compliance with stormwater and civil design requirements, the proposal is not anticipated to worsen stormwater catchments on adjoining land or within the Rapid Creek catchment. Detailed civil design certification can be secured through conditions if considered necessary by the consent authority, consistent with standard practice.

In regard to broader flooding concerns, the following is noted: Under existing conditions, all the site stormwater traverses directly to the north, northeast direction towards Rapid Creek. The proposal mitigates flooding concerns or exacerbation to flood levels within Rapid Creek, as the majority of the site stormwater (inc. roofwater) is to discharge into Pearce Place (towards the west) stormwater system. Under varying storm events this stormwater would be conveyed via piped systems and roadway profiles towards Trower Road then towards Rapid Creek.

The overall stormwater travel time (time of concentration) for these flows would be substantially longer than the existing scenario, hence there is a measurable lessening of flood impact (stormwater flows) for all storm events from the subject site into Rapid Creek.

Further, it is noted that the NTG's implementation of the Rapid Creek Flood Response Overlay, as well as ongoing works to capacity of the Rapid Creek catchment and detention basin, will reduce the impact of flooding on downstream properties. There have been detailed flood studies undertaken by NTG as part of this overlay, and no further flood mapping is considered necessary for the proposal.

4. Amenity, Privacy & Neighbourhood Character

The proposed development has been assessed against all relevant built-form provisions of the Planning Scheme and is compliant with height, setbacks, building separation, private open space, communal open space and landscaping requirements. .

Key design responses include:

- ➔ Two-storey built form within the 8.5 m height limit;
- ➔ Generous setbacks exceeding minimum requirements;
- ➔ Separation distances between buildings greater than those required under clause 5.4.3.2;
- ➔ 1.8 m good-neighbour fencing and screening to protect privacy;
- ➔ Orientation and layout that minimise overlooking of adjoining properties; and
- ➔ Extensive landscaping to soften visual impact and enhance streetscape presentation.

While the proposal introduces additional dwellings over and above the single dwelling that exists on site, it remains low-rise and residential in character, representing a moderate and carefully designed infill outcome rather than an overdevelopment of the site.

5. Public Interest & Exceptional Circumstances

The submitters contend that the proposal "*does not constitute 'exceptional circumstances' within the meaning of the Planning Act*". However, there is no specific definition of exceptional circumstances within the Act, with the Minister able to exercise discretion under specific parts of the Act to consider the acceptability of the proposal within a specific context.

When considering an EDP, the Minister (as the consent authority) must consider specific parts of the Act, outlined in Section 42 of the Act. These items have all been addressed in detail in the EDP Report, but ultimately it is up to the Minister to consider these items and whether they have been adequately addressed.

In regard to the 'exceptional' nature of the application - Australia is currently experiencing a well-documented housing supply shortfall, including in Darwin, characterised by:

- ➔ Low rental vacancy rates;
- ➔ Rising housing costs; and
- ➔ Limited availability of smaller, more attainable dwellings in established suburbs.

The proposal contributes to the overall housing supply in a well-located, fully serviced urban area, which is a recognised public interest outcome in contemporary planning decision-making.

The proposal delivers six new dwellings within an established suburb; provides two-bedroom dwellings that are generally more accessible to singles, couples, downsizers and key workers than large detached housing; and increases housing diversity in a locality dominated by large-lot, single dwellings.

The subject site is located within a fully serviced urban area, in close proximity to employment opportunities; retail and community facilities; and public transport networks.

From a planning perspective, increasing housing supply in appropriate inner- and middle-ring locations is widely recognised as a necessary component of addressing housing affordability pressures over time. The Planning Act does not require that public interest benefits be limited to direct provision of public infrastructure or subsidised housing, and thus, the provision of well-designed, well-located dwellings can be argued to be of a broader public benefit in and of itself.

Redevelopment of an existing residential lot to accommodate additional dwellings represents an efficient and responsible use of land and infrastructure, consistent with the objectives of the Planning Act to promote sustainable development and limit unnecessary urban expansion.

From a public interest perspective, accommodating additional housing demand within established areas reduces reliance on greenfield development, which carries higher infrastructure costs, environmental impacts and long-term servicing burdens for the broader community.

The submissions assert that adverse impacts outweigh any claimed benefits. However, the proposal has been designed to mitigate impacts through:

- Low-rise built form;
- Compliant setbacks and building separation;
- Substantial landscaping (approximately 39% of the site);
- On-site parking provision exceeding minimum requirements; and
- Internalised communal spaces that limit impacts on adjoining properties.

When assessed cumulatively, the alleged impacts identified by submitters are localised and manageable, and do not outweigh the broader public interest benefits associated with:

- Increased housing supply;
- Improved housing choice;
- Efficient land use; and
- Support for compact urban development in a well-serviced location.

Public interest under the Planning Act is not limited to preserving existing conditions, but includes responding to evolving housing needs, making efficient use of urban land, and supporting sustainable city growth.

In this context, the proposal:

- demonstrates site-specific exceptional circumstances;
- delivers a net public interest benefit; and
- represents a measured and proportionate response to contemporary housing demand within an established suburb.

The opposing submissions are respectfully noted but the concerns raised have been comprehensively addressed through planning documentation. Further, it is considered that the assessment has demonstrated that the proposal is in compliance with all requirements under Part 5 (Development Requirements) of the NT Planning Scheme 2020, other than the proposed density, which has been extensively justified.

On this basis, we submit that there are sound planning grounds for approval of Exceptional Development Permit PA2025/0413. We remain available to provide further information if requested by the NTPC.

Response to Service Authority Referrals

1. The comments from Power and Water Corporation (Power Networks) are noted, and we have no concerns with any comments.
2. The comments from Power and Water Corporation (Water Services) are noted, and we have no concerns with any comments.
3. The comments from City of Darwin are understood to be an objection under Section 22(1) of the NT Planning Act. City of Darwin has recommended refusal of the proposed Exceptional Development Permit (EDP) on the basis of alleged inconsistency with the planning framework, neighbourhood character, infrastructure capacity and public interest considerations.

City of Darwin's concerns have been carefully considered, noting their similarities to the public submissions received and the employment of submitter Ailsa Leibrick at City of Darwin.

Tatam Planning Co. met with City of Darwin General Manager of Innovation Alice Percy, and Manager of Planning & Place Doug Fotheringham via Teams on 29 January 2026 to discuss matters raised in the City's submission under Section 22(1) of the Act. The following response addresses each issue raised in the CoD submission.

1. Alleged Inconsistency with Zone LR and Existing Development Pattern

City of Darwin's submission contends that the proposal introduces a density significantly higher than the surrounding LR development pattern and conflicts with established neighbourhood character.

It is acknowledged that the proposed development exceeds the standard density outcome anticipated for Zone LR. This is explicitly recognised and addressed through the EDP pathway, which exists to assess site-specific departures where statutory tests are met.

This has been addressed in responses to public submissions above, however City of Darwin's position in relation to ongoing advocacy for the need for new policies or revised strategic frameworks to facilitate infill development in a timely and appropriate manner is noted, as is their desire to meet the principles of the City of Darwin's Place & Liveability Plan 2050.

We believe that the proposal for six (6) well-designed grouped dwellings in an appropriate location serviced by infrastructure, schools, recreation spaces and public transport is capable of meeting the principles of the Place & Liveability Plan.

2. NT Compact Urban Growth Policy (CUGP)

City of Darwin contends that the proposal conflicts with multiple CUGP performance criteria relating to neighbourhood character, infrastructure capacity, transition, and identification of "areas for change".

The CUGP is a strategic policy document intended to guide interpretation of the Planning Scheme; it does not operate as a prohibition framework. Importantly, Clause 2.2 of the NT Planning Scheme establishes that strategic documents guide interpretation where flexibility is required, including through EDP assessment.

Having regard to specific clauses of the CUGP that City of Darwin has identified alleged non-compliances:

Neighbourhood character and transition (PC 4.2):

The proposal achieves transition through:

- Low-rise built form consistent with surrounding building heights;
- Compliant setbacks, building separation and landscaping;
- Consolidation of development internally rather than at boundaries; and
- Retention of a single access point and residential streetscape interface.

The presence of grouped dwellings does not, of itself, equate to an unacceptable character outcome where built form, scale and amenity are appropriately managed.

Infrastructure capacity (PC 4.4):

The site is located within an established, fully serviced urban area. The EDP report demonstrates that:

- Water, sewer and road infrastructure are already in place;
- Stormwater is managed on site through infiltration and lawful point-of-discharge connections; and
- The proposal will trigger new trunk infrastructure as identified by PWC, and this has been factored into applicable development costs and feasibility.

The absence of a reticulated stormwater system to Berry Place is characteristic of many established Darwin suburbs and does not preclude modest infill where impacts are managed through conditioned design. Further discussion around pre-and-post stormwater flows is provided above, noting that post-development stormwater flows to Berry Place are actually less than existing pre-development flows.

Potential area for change:

The CUGP does not require development to be located within a formally identified “area for change” to be supported via an EDP. The Planning Act expressly contemplates site-specific approvals where broader rezoning is not warranted.

3. Darwin Mid Suburbs Area Plan (DMSAP)

The City of Darwin notes that site is not identified as a “potential area for change”, and the proposal undermines the effectiveness of the DMSAP. The EDP report acknowledges that the proposal does not strictly align with the “Residential – Low Density” designation under the DMSAP - this is not disputed.

However; (a) the DMSAP is a strategic guidance document, not a statutory prohibition; (b) the Planning Act specifically provides for EDPs where a planning scheme amendment (including that of policy changes to Area Plans) is not warranted; and (c) approval of an EDP does not amend the DMSAP nor weaken its broader strategic intent.

The proposal responds to unique site characteristics and does not undermine the DMSAP’s effectiveness across the wider area. Strategic planning integrity is preserved by containing the outcome to a single, clearly justified site, notwithstanding the broader need for urgent updates to the existing aged strategic framework to respond to current housing demand and affordability issues.

4. Infrastructure, Traffic, Flooding and Drainage Information

The City of Darwin alleges insufficient technical information has been provided to assess cumulative impacts on infrastructure, traffic, flooding and drainage.

The application includes:

- Civil plans, including detailed stormwater pre-and-pot-development flows;
- Storm surge overlay assessment;
- Compliant car parking and access design; and
- Landscaping and infiltration measures exceeding Planning Scheme minimums.

It is also noted that a Traffic Impact Assessment (TIA) has been commissioned, and is nearing completion. Tatam Planning Co. has communicated to the City of Darwin that the TIA would be shared as soon as possible, to allow for review by the CoD infrastructure team. This report should be available within two (2) weeks of this submission.

For the development of six (6) dwellings, the level of information that has already been provided (or is intended to be provided in a timely manner) is proportionate to scale and consistent with typical EDP practice. Where necessary, detailed design and certification can be secured through permit conditions. This approach is consistent with standard planning assessment practice and does not prejudice City of Darwin's ability to manage infrastructure outcomes.

In regard to alleged parking concerns, the City of Darwin submission states that *'The proposal is likely to introduce 12–18 new residents in six dwellings, generating 9–12 resident cars, supported by 13 on-site bays, with occasional demand for 1–2 visitor cars spilling onto Berry Place'*.

Typically, two-bedroom households have only 1-2 persons residing in the home, making it likely that six (6) x 2-bed dwellings would likely house no more than 12 persons (noting that household size has further reduced since the last census, based on national data trends from Grattan Institute). Therefore, if 6-12 resident cars is the demand, along with 1-2 visitor bays, then the site has sufficient parking off-street to cater for this demand. Further it is noted that the proposed parking exceeds minimum standards set by the NT Planning Scheme, and is compliant.

In regard to Berry Place, and the existing road capacity, the City of Darwin alleges that the cul-de-sac has only been designed for 8 single residential dwellings. However, road reserves are designed for vehicle movements, not number of residential dwellings (although a correlation between the two is noted). It is anticipated that the forthcoming TIA will address existing and anticipated traffic movements on Berry Place, and nearby signalised intersections, to confirm capacity/non-capacity (excluding events such as Rapid Creek Markets, which is beyond the scope of this application).

It is acknowledged that Berry Place is subject to Primary & Secondary Storm Surge impact with this road and adjoining Arterial Roads (Rapid Creek Road & Trower Road) being non-trafficable. It is noted that pedestrian access to the site (especially emergency vehicles) during periods of Storm Surge or Creek flooding can be attained via Pearce Place to the west.

The TIA has been commissioned by qualified local traffic engineers. This will be provided in due course once finalised.

5. Public Interest and Community Benefit

The City of Darwin alleges that the proposal does not demonstrate sufficient public benefit to justify departure from the Planning Scheme 2020 and may erode public trust.

This has been addressed extensively both within the EDP report and in response to public submissions above. However, it is noted that the EDP process itself is a transparent statutory mechanism, including public exhibition and referral. Approval in accordance with an established EDP process does not erode public trust; rather, it demonstrates lawful and reasoned application of planning discretion by the consent authority (being the Minister for Lands, Planning & Environment in this instance).

More broadly, should the City of Darwin not support the EDP process as a planning mechanism, then liaison with the Department of Lands, Planning & Environment to review how and when this planning process is utilised is encouraged.

6. Precedent Concerns

City of Darwin's submission indicates that approval would set an undesirable precedent for increased densities in Zone LR.

Exceptional Development Permits are inherently non-precedent-setting. Each application must independently satisfy the statutory tests under the Planning Act, to the satisfaction of the consent authority (in this instance, the Minister for Lands, Planning & Environment).

For the reasons outlined above, it is submitted that:

- ➔ The proposal satisfies the statutory requirements for an Exceptional Development Permit;
- ➔ Identified inconsistencies with strategic documents are appropriately addressed through the EDP mechanism; and
- ➔ Impacts relating to amenity, infrastructure and character are manageable and proportionate to scale.

It is requested that the NT Planning Commission consider the responses provided to each of the concerns raised by the City of Darwin, noting that discussions around compliant parking, high-quality proposed built form, appropriate stormwater and flooding mitigation measures, and a forthcoming Traffic Impact Assessment were undertaken with City of Darwin following their submission.

Conclusion

It is considered that the submitter concerns have been adequately addressed within the application and this response contained herein. It is considered that concerns raised by the City of Darwin have been adequately addressed also, noting the overlap of issues between submitters and the City of Darwin, and discussions undertaken with City of Darwin – specifically in relation to stormwater, flooding, car parking, traffic and built form.

It is understood that the Northern Territory Planning Commission will consider the application at a NTPC Hearing on 3 February 2026. We ask that this response be tabled at the meeting and provided to all submitters and service authorities in attendance.

If you have any queries, please do not hesitate to contact me on 0415 933 635.

Regards,



Catriona Tatam, MPIA
Director
Tatam Planning Co.