

**NT PLANNING COMMISSION HEARING**

**EXCEPTIONAL DEVELOPMENT PERMIT APPLICATION  
PA2025/0413**

Lot 01222 Town of Nightcliff (4 Berry Place, Millner)  
Dwelling-group (6 x 2 bedroom) in 3 buildings

**Agenda Item Number: 3**

**Meeting Date: 3 February 2026**

**Attachment A – Locality Plan and  
Exhibition Material**

**Attachment B – Submissions Received**

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**Madison Harvey**  
Manager, Urban Planning  
Development Assessment Services

# Report to the Planning Commission

This report is prepared under section 22 of the *Planning Act 1999*, and considers the submissions made in relation to the proposal.

## 1. GENERAL INFORMATION

<b>ADDRESS:</b>	Lot 01222 Town of Nightcliff (4 Berry Place, Millner)
<b>AREA:</b>	2200m <sup>2</sup>
<b>CURRENT ZONE:</b>	Zone LR (Low Density Residential)
<b>PROPOSED LAND USE:</b>	Dwelling-group
<b>APPLICANT:</b>	Cat Tatam of Tatam Planning Co on behalf the landowner
<b>LAND OWNER:</b>	Unified Property Group Ltd as trustee for Millner Property Trust

## 2. LEGISLATIVE REQUIREMENTS

The Minister for Lands, Planning and Environment is responsible for determining proposals to grant or vary an Exceptional Development Permit (EDP). The *Planning Act 1999* (the Act) establishes requirements relating to the exhibition, consultation and reporting on proposed Exceptional Development Permits.

Under section 22(6) of the Act, the Planning Commission must hold a hearing if submissions are received during the exhibition period, and the Chairperson is satisfied that a hearing would provide further useful information.

Under section 24 of the Act, the Planning Commission must provide to the Minister for Lands, Planning and Environment, a written report that addresses the issues raised in the submissions; the issues raised at the hearing and during any consultation; and any other matters the Commission considers the Minister should take into account when considering the proposal.

## 3. PROPOSAL

On 12 November 2025, Cat Tatam of Tatam Planning Co on behalf of Unified Property Group Ltd as trustee for Millner Property Trust lodged an application for an EDP to develop Lot 1222 Town of Nightcliff, 4 Berry Place, Millner, (the site) for the purpose of dwelling-group (6 x 2 bedroom) in 3 buildings in Zone LR (Low Density Residential) of the NTPS 2020.

The proposed development comprises:

- 6 x 2 bedroom dwellings, with each dwelling including a main bedroom with ensuite, one other bedroom, a bathroom, a laundry and an open plan kitchen, dining living area that extends to the private open space area.
- One 6m wide crossover from Berry Place that provides access to an undercroft car parking area, comprising 13 car parking spaces, a communal bin storage area, lift and bicycle parking.
- Due to the slope of the land, retaining walls are required along both the northern and south-eastern boundaries. These retaining walls range from 2 – 3.2 m in height above

ground level and in some instances additional 2.4m high boundary fence is proposed on top of the retaining wall.

- 868m<sup>2</sup> of landscaped area comprising a variety of trees, shrubs and grasses and a fenced swimming pool.

The NTPS 2020 prohibits the development of 'dwelling-group' in Zone LR, and therefore the proposal can only be determined through the EDP process.

A copy of the exhibition material, including the application is at **Attachment A**.

Of relevance, EDP14/0015 was approved on 5 September 2014 to use and develop the land for the purpose of 18 x 2 bedroom multiple dwellings in a 4 storey building. EDP14/0015 was issued 2 subsequent extensions of time, amounting to over five years. However, the third extension of time request was refused and EDP14/0015 has subsequently lapsed and is no longer valid.

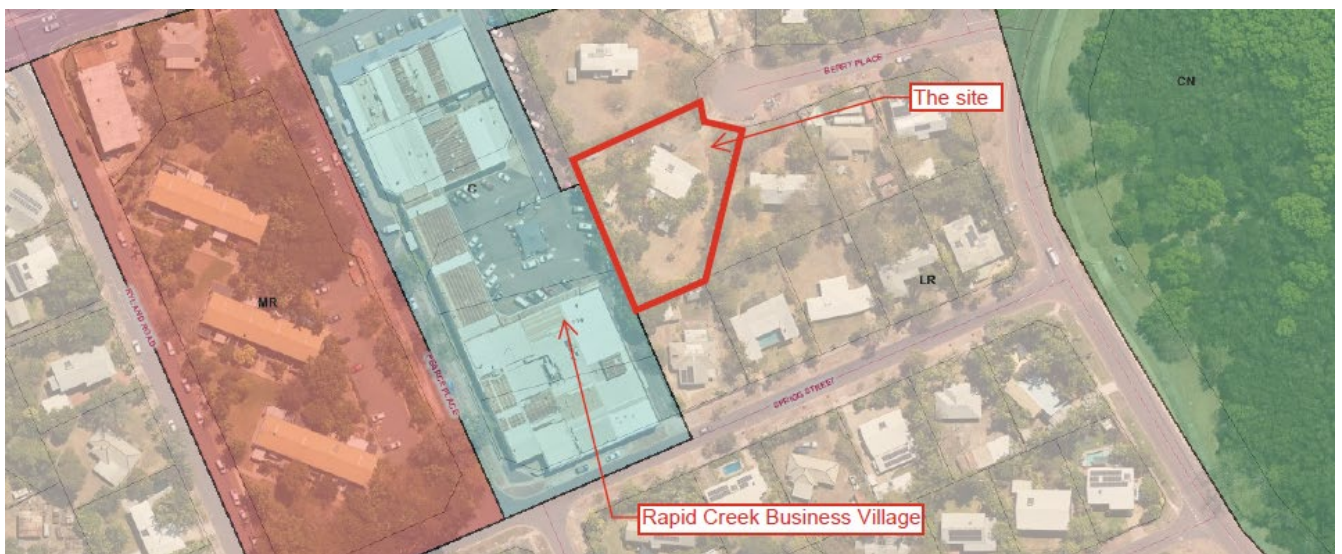
#### 4. SITE AND LOCALITY CONTEXT

The site is located at the western end of Berry Place (a cul-de-sac) in Millner. The site is irregular in shape with an 18.29m frontage to Berry Place and a 53.78m western boundary that partially adjoins Pearce Place (owned by City of Darwin) and lots 4861 and 4862, Town of Nightcliff.

The site is surrounded by other properties in Zone LR to the north, east and south and the Rapid Creek Shopping Village in Zone C (Commercial) to the west. The site gradually slopes down by approximately 2 metres from west to east and is not encumbered by any registered easements.

The site is partially affected by the LSSS - Land Subject to Storm Surge Overlay with the eastern side of the site located in the modelled secondary storm surge areas. It is noted that the site is not located in the modelled primary storm surge areas, however, the eastern side of Berry Place is located in the primary storm surge area. In addition, Darwin Regional Land Use Plan identifies the site for urban land uses and Darwin Mid Suburbs Area Plan identifies the site for Residential - low density.

**Map 1: Showing Site, Surrounds and Zoning**



**5. EXHIBITION OF PROPOSAL**

On 14 November 2025, the delegate for the Minister for Lands, Planning and Environment determined under section 39 of the Act to continue consideration of the proposed amendment by placing it on exhibition.

The proposal was on public exhibition for a period of 28 days and was notified in accordance with the requirements of the Act. The exhibition closing date was 19 December 2025.

**6. SUBMISSIONS**

Below is a summary of the matters raised in the submissions, refer Attachments **B1 – B7**.

**Public Submissions (Attachments B1 to B4)**

Four (4) submissions were received from the public regarding this proposal. A summary of the submissions is below. All of these submissions were template letters.

Submitter	Discussion Points
<p>Ailsa Leibrick (Attachment B1)</p> <p>Sarah Penney (Attachment B2)</p> <p>Fiona Leibrick (Attachment B3)</p> <p>Dennis Bezzant (Attachment B4)</p>	<ul style="list-style-type: none"> <li>• Inconsistent with Zone LR purpose and density.  The application does not identify any site-specific constraint, hardship, or planning anomaly that would prevent reasonable development consistent with the Low-Density Residential (LR) zone. Reliance on proximity to services, transport links, or nearby commercial activity reflects broad strategic considerations applicable to many LR-zoned sites across Darwin and does not constitute “exceptional circumstances” within the meaning of the Planning Act.</li> <li>• Traffic and Parking Impacts on a constrained Cul-de-sac  The proposed development does not provide visitor car parking which may result in overflow parking within Berry Place. In addition, the proposed intensification with the function and design of a cul-de-sac and exacerbates safety, access, and amenity impacts beyond what would occur on a through-street. Berry Place also experiences periodic on-street parking pressure during the established weekend Rapid Creek Markets</li> <li>• Flooding, Stormwater and Environment Risk  Requests additional information to demonstrate post-development runoff volumes and peak flows will not exceed pre-development conditions during significant rainfall events. The proposal does not demonstrate that flood risk will be adequately managed, nor that impacts will not be transferred off-site. Approval in the absence of this information would be inconsistent with a precautionary approach to development in flood-prone catchments.</li> <li>• Amenity, Privacy and Neighbourhood Character  Acknowledges that minimum setbacks have been met, however, raises concerns that given the two-storey form,</li> </ul>

Submitter	Discussion Points
	<p>elevated balconies, constrained site dimensions, and inclusion of communal features such as a pool there is potential for privacy loss, overshadowing, and increased noise (including from daily activities, air conditioners, and the pool area) is significant. Requests shadow diagrams, cross-sections and more detailed analysis to verify impacts on neighbouring properties</p> <ul style="list-style-type: none"> <li>• Failure to Demonstrate Public Interest</li> </ul> <p>Raises concerns that the proposal will have adverse impacts on amenity, environmental risk, and zone integrity that will be borne by existing residents and the broader community. The claimed benefits of infill efficiency, design quality, and sustainability are not substantiated by evidence and largely serve private interests and the proposal does not demonstrate it will deliver a public benefit.</p>

### Service Authority Submissions (Attachments B5 to B6)

Submissions received from Service Authorities are summarised in the table below.

Service Authority	Comments
Power and Water Corporation (Power) <b>(Attachment B5)</b>	<ul style="list-style-type: none"> <li>• This property is provided with limited capacity of power supply and three phase power service with sufficient capacity shall be required for the proposed 6 dwellings development.</li> <li>• The landowner shall engage a licensed electrician to prepare an overall maximum power demand calculation of the proposed dwellings-group and apply for a Negotiated Connection application under Australian Energy Regulator (AER) compliance process for PWC's assessment on power supply capacity upgrade requirements.</li> <li>• The engaged electrician shall install internal electricity reticulation in accordance with PWC's current NP018 Service and Installation Rules 2024 and NP010 Meter Manual and shall carry out suitable installation of three phase service from the low voltage Distribution Pillar P077MR to Lot 1222.</li> </ul>
Power and Water Corporation (Water) <b>(Attachment B6)</b>	<ul style="list-style-type: none"> <li>• The developer may need to upgrade the existing water and sewer service and should contact Services Development prior to start of construction.</li> <li>• The developer is required to install approximately 88 metres of new DN150 water main in Berry Place. The Developer is required to engage a suitably qualified hydraulic professional to confirm this design.</li> </ul>

	<ul style="list-style-type: none"> <li>The developer must contact Power and Water to discuss alternative multi-metering water services for developments larger than 12 units or 6 units for residential and commercial respectively.</li> </ul>
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### Local Authority Submissions (Attachment B7)

City of Darwin	Comments
(Attachment B7)	<ul style="list-style-type: none"> <li>Pursuant to Section 22 (1) of the NT Planning Act 1999 (the Act), City of Darwin submits that this application should be refused for the following reasons: <ul style="list-style-type: none"> <li>Despite the proposed residential development being in Zone LR, it will be developed at a much higher density, which is inconsistent with the existing pattern of development.</li> <li>The proposal is inconsistent with the NT Compact Urban Growth Policy (CUGP) for the following reasons: <ul style="list-style-type: none"> <li>As the proposal will not transition density appropriately with surrounding lower density neighbourhood character, it conflicts with Performance Criterion: 4.2 Neighbourhood Character – Key Performance Indicator 3.</li> <li>As there is no reticulated stormwater system in the area and the application does not consider stormwater impact, there may be inadequate infrastructure capacity to support increased density, which conflicts with Performance Criterion 4.4 Service Infrastructure – Key Performance Indicator 1.</li> <li>As the proposal will result in a higher density of dwellings (6 instead of 1) than those in the adjacent area, the proposal is inconsistent with Performance Criterion 4.2 Neighbourhood Character – Key Performance Indicator 1(a).</li> <li>As the Darwin Mid Suburbs Area Plan (DISAP) does not identify the site as being in a ‘Potential area for change’, the proposal is inconsistent Performance Criterion 4.2 Neighbourhood Character – Key Performance Indicator 2.</li> <li>As the proposal fails to demonstrate compliance with (CUGP) performance indicators, it is inconsistent with Performance Criterion 3.2.</li> </ul> </li> <li>The proposal is inconsistent with the Darwin Regional Land Use Plan 2015 (DRLUP) for the following reasons: <ul style="list-style-type: none"> <li>The application has not provided sufficient information to demonstrate that the development is compatible with</li> </ul> </li> </ul> </li> </ul>

	<p>the road network and traffic or land capability, flooding and drainage constraints.</p> <ul style="list-style-type: none"> <li>▪ The increased density is not aligned with sequencing priorities for infrastructure delivery.</li> </ul> <ul style="list-style-type: none"> <li>○ The application does not clearly demonstrate any benefits to the broader community or improved amenity to justify a departure from the NTPS and the Darwin Mid Suburbs Area Plan (DMSAP), which undermines the Act's objective to promote the good design of buildings and other works that respects the amenity of the locality. Nor does it address any infrastructure costs to the broader community.</li> <li>○ The application does not contain sufficient information to fully consider the requirements of the CUGP, DRLUP or DMSAP, which means through this process that residents in the area have not been provided the opportunity to consider the proposal against the planning scheme's Strategic Framework or strategic intent of the Darwin Mid Suburbs Area Plan (DMSAP). This weakness in the EDP application undermines the effectiveness of the DMSAP and conflicts with the Act's objectives to: <ul style="list-style-type: none"> <li>▪ ensure strategic planning reflects the wishes and needs of the community.</li> <li>▪ respect and encourage fair and open decision making and public access to processes for review of planning related decisions.</li> </ul> </li> <li>○ If approved, the EDP would likely set an undesirable precedent of unplanned increased densities in zone LR, which may increase the potential for future development in the area to bypass existing planning controls. This could result in increasing densities without increasing infrastructure capacity and would erode the character of the area with development that is more suited to a well-planned higher density zone, which undermines the Act's objectives to: <ul style="list-style-type: none"> <li>▪ to assist the provision of public utilities, infrastructure and facilities for the benefit of the community.</li> <li>▪ promote the good design of buildings and other works that respects the amenity of the locality.</li> <li>▪ respect and encourage fair and open decision making and public access to processes for review of planning related decisions.</li> </ul> </li> </ul>
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## 7. RECOMMENDATION

That under section 24 of the Act, the Planning Commission report to the Minister for Lands, Planning and Environment on the issues raised in submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the proposal.