

NT PLANNING COMMISSION HEARING

EXCEPTIONAL DEVELOPMENT PERMIT APPLICATION PA2026/0046

Lot 1212 Town of Darwin (159) Mitchell St, Larrakeyah
Child care centre in 1 x 2 storey building

Agenda Item Number: **1**

Meeting Date: 07 May 2026

Attachment A1 – Locality Plan
Attachment A2 – Exhibition Material
Attachment A4 – Submissions



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Samay Chandhiok
Senior Planner

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

ADDRESS:	Lot 1212 Town of Darwin (159) Mitchell St, Larrakeyah
AREA:	1200 m ²
CURRENT ZONE:	LMR (Low-Medium Density Residential)
PROPOSED LAND USE:	Child care centre
APPLICANT:	Cat Tatam of Tatam Planning Co on behalf the landowner
LAND OWNER:	Halah Investments Pty Ltd as trustee for the Halah Investments Family 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* establishes requirements relating to the exhibition, consultation and reporting on proposed Exceptional Development Permits.

Under section 22(6), 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 2 March 2026, Cat Tatam of Tatam Planning Co on behalf of Halah Investments Pty Ltd as trustee for the Halah Investments Family Trust (the landowner) lodged an application for an EDP to develop Lot 01212 Town of Darwin, 159 Mitchell Street, Larrakeyah (the site) for the purpose of a child care centre in Zone LMR (Low Medium Density Residential) of the NTPS 2020.

The proposed development comprises:

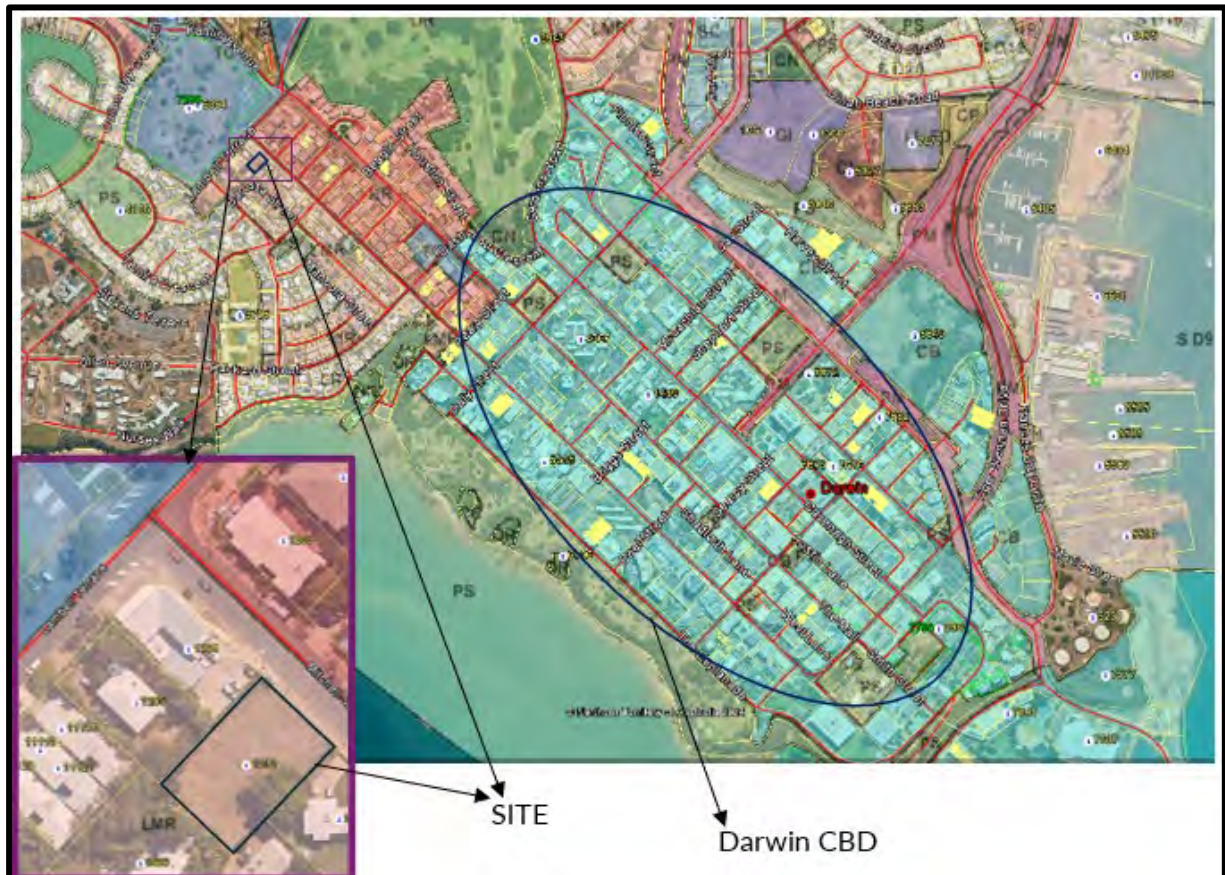
- A two-storey building with an overall height of 8.5 metres and a total building floor area of approximately 316.9m², including indoor facilities such as learning rooms, staff offices, kitchen, laundry, amenities, lift and stair access.
- Outdoor play areas provided at ground level to the northern and western sides, and at first-floor level above the proposed driveway.
- Landscaping provided within outdoor areas and along the north-western side setback.
- Provision of 17 on-site car parking spaces and 2 bicycle parking spaces.
- Perimeter fencing and gated access.

- Vehicle and pedestrian access via a new crossover from Mitchell Street, including the relocation of existing kerb ramps and bus stop / bus stop line marking within the road reserve by approximately 2 m towards Lambell Terrace.

The NTPS 2020 prohibits the development of ‘Child care centre’ in Zone LMR, and therefore the proposal can only be determined through the EDP process.

A copy of the Locality Plan and exhibition material, including the application is at **Attachment A1** and **A2**.

4. SITE AND LOCALITY CONTEXT



Map 1: Showing Site, Surrounds and Zoning

The site is located on the south-western side of Mitchell Street, is rectangular in configuration measuring approximately 42.83 m by 28.04 m and not affected by any registered easements. The site slopes down approximately 400 mm from north-east to the south-west and is currently vacant.

The site immediately surrounded by land zoned LMR (Low-Medium Density Residential) to the north-west, south-west and south-east. To the north-east, on the opposite side of Mitchell Street, land is zoned HR (High Density Residential). The surrounding locality is characterised by a mix of low to medium density residential development, with emerging higher density residential uses along Mitchell Street, reflecting its proximity to the Darwin CBD.

The site benefits from direct access to Mitchell Street, which functions as a local connector road providing access to surrounding residential areas and the broader Darwin CBD. The locality is well serviced by existing infrastructure, including reticulated services, public transport routes and established pedestrian networks.

5. EXHIBITION OF PROPOSAL

The proposal was on public exhibition for a period of 28 days and was notified in accordance with the requirements of the *Planning Act 1999*.

The exhibition closing date was 17 April 2026.

6. SUBMISSIONS

Below is a summary of the matters raised in the submissions, refer Attachment A4.

Public Submissions (Attachments A4-1)

Submitter	Discussion Points
<p>David Anthony (Attachment A4-1)</p>	<p><u>Inconsistent with Zone LMR and misuse of EDP pathway</u> The proposal is for a prohibited use within Zone LMR and does not meet the statutory threshold for an Exceptional Development Permit. The proper planning pathway is to justify that position through a rezoning process, or to pursue the use on land already carrying an appropriate zone. An EDP should not become a substitute for rezoning.</p> <p><u>Proposal is not “exceptional” in planning terms</u> The proposal seeks to introduce a child care centre use into a residential zone, contrary to the existing land use structure and planning framework. The exceptional feature here is not the land use. It is the attempt to locate that use on an LMR residential site where it is prohibited. The title material also records that an earlier application to rezone the site to MR was refused.</p> <p><u>Suitability of design not adequately demonstrated</u> The building design does not clearly demonstrate suitability for an 80-place child care centre, particularly in relation to compliance with regulatory requirements.</p> <ul style="list-style-type: none"> ○ Indoor unencumbered space Indoor unencumbered space is only marginally compliant and does not clearly demonstrate that required minimum areas are achieved once encumbrances are excluded. ○ Outdoor unencumbered space Outdoor play areas provide only minimal compliance with required space standards and rely on limited margins. Concerns are raised that calculations include unusable areas and do not demonstrate functional outdoor space. ○ First-floor play area and reliance on ground-floor space The proposal relies on ground floor outdoor space to compensate for limitations of upper-level areas, with no clear direct access between levels, raising safety and operational concerns. Reliance on external ground-level areas for upper-level children introduces risks in emergency situations, including evacuation and supervision challenges. The applicant should first obtain written preliminary advice from the NT regulatory authority before this EDP is determined

Submitter	Discussion Points
	<ul style="list-style-type: none"> • Functional layout, reception and pedestrian access The reception and arrival area is not clearly resolved, and pedestrian access relies on a shared driveway with vehicles, which is considered unsafe and not appropriate for a development of this scale. • Important matters are being left to the later licensing stage Operational and compliance matters are deferred to the licensing stage, including layout, supervision, and safety considerations, rather than being resolved at planning stage. • Need and public benefit have not been adequately evidenced The proposal relies on general claims of community need without providing site-specific evidence. No independent demographic or demand analysis has been provided to justify the development. <p><u>Requested outcome</u> The submission seeks refusal of the application, or alternatively provision of the following:</p> <ul style="list-style-type: none"> • a properly certified unencumbered indoor and outdoor space assessment • revised plans clearly showing a functional reception layout and safe pedestrian access • written preliminary advice from the NT regulatory authority on the suitability of the multistorey design, including the first-floor play area and any reliance on ground-floor outdoor space for upstairs children • an independent demographic, demand and workforce report supporting the claimed need for the service.

Service Authority Submissions (Attachments A4-2 – A4-5)

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

Service Authority	Comments
Power and Water Corporation – Power (PWC Power) (Attachment A4-2)	PWC Power advised: <ul style="list-style-type: none"> • That the site does not currently have sufficient power service capacity to accommodate the proposed child care centre development. Appropriate 11kV underground power cable extension and the establishment of a suitable package substation to service the development. • That applicant is required to engage a licensed electrical consultant to: <ul style="list-style-type: none"> ○ apply for a Negotiated Connection

Service Authority	Comments
	<ul style="list-style-type: none"> ○ submit detailed electrical design drawings ○ provide an AS3000 maximum demand calculation; and ○ to install the internal electrical reticulation.
<p>Power and Water Corporation – Water (PWC Water)</p> <p>(Attachment A4-3)</p>	<p>PWC (Water) advised:</p> <ul style="list-style-type: none"> • That the developer may be required to upgrade the existing water and sewer services to accommodate the proposed development. The applicant is required to engage a suitably qualified hydraulic consultant to confirm servicing requirements. • The developer must ensure: <ul style="list-style-type: none"> ○ backflow prevention is installed in accordance with AS/NZS 3500.1; ○ testing and maintenance of testable devices is undertaken in accordance with AS/NZS 2845.3; and ○ internal firefighting requirements are confirmed with PWC to ensure adequate flow capacity. • The developer must obtain Trade Waste approval or exclusion prior to construction and secure the relevant licence prior to discharge and contact PWC Water and Sewer Services prior to commencement of works.
<p>Land Resources Division (DLPE)</p> <p>(Attachment A4-4)</p>	<p>Lands and Planning Division <u>Building Advisory Services</u> Building Advisory Services advised:</p> <ul style="list-style-type: none"> • The proposed development is required to comply with the Building Act 1993 and Building Regulations 1993, with a building permit to be obtained prior to commencement of works. • The proposed child care centre is classified as a Class 9b building under the National Construction Code (NCC) and is considered a high-risk building due to the nature of occupants. <p>Concerns were raised regarding fire safety compliance, including:</p> <ul style="list-style-type: none"> • the need for external walls near boundaries to achieve appropriate fire resistance levels, noting the presence of openings requiring additional fire protection measures; • the requirement for occupiable outdoor areas to be adequately protected from fire exposure from adjoining properties; • travel distance compliance from upper-level outdoor areas to exits; • provision of compliant egress paths from outdoor play areas to a roadway; • adequacy of exit arrangements, including doorways forming part of evacuation paths; and • the need for fire hydrant coverage.

Service Authority	Comments
	<p>Environmental Regulation Division The Environmental Regulation Division advised that the proposal does not trigger a requirement for an Environment Protection Approval under the <i>Waste Management and Pollution Control Act 1998</i> (WMPC Act); however, the proponent remains responsible for ensuring compliance with obligations under the WMPC Act.</p> <p>The proponent is advised to take notice of this non-exhaustive list of environmental issues that should be considered to help satisfy General Environmental Duty including management of dust, noise, erosion and sediment control, storage, site contamination, waste management, odour emissions, and stormwater quality, with appropriate mitigation measures to be implemented during construction and operation.</p> <p>Environmental and Heritage Division – Heritage Branch The Heritage Branch advised that no declared or recorded heritage or archaeological sites are identified within or in close proximity to the subject site. However, in the event that any archaeological material is discovered during works, appropriate measures must be undertaken, including cessation of works and notification to the relevant authority.</p> <p>General advice was provided regarding obligations under the <i>Heritage Act 2011</i>.</p>
Passenger Transport (DLI) (Attachment A4-5)	Passenger Transport (DLI) recommended that pedestrian access be provided as a separate pathway from the driveway, as the current design does not include separation between pedestrians and reversing vehicles. The shared use of the driveway by pedestrians and delivery vehicles is considered to present potential safety risks.

Local Authority Submissions (Attachment B2)

City of Darwin	Comments
(Attachment A4-6)	<p>Pursuant to Section 22(1) of the <i>Planning Act 1999</i> (the Act), the City of Darwin provided an interim response dated 17 April 2026, followed by a final submission dated 29 April 2026 after consideration at its Ordinary Council Meeting held on 28 April 2026.</p> <p>In its interim response, the City of Darwin identified a number of preliminary concerns and indicated that further assessment would be required through a Road Safety Audit, including consideration of:</p> <ul style="list-style-type: none"> • sightlines and visibility, including the presence of buses and parked vehicles; • potential conflicts between driveways, bus stops, pedestrians and cyclists; • turning movements and vehicle queuing; • driver decision-making under constrained conditions; • risks to vulnerable road users; and

City of Darwin	Comments
	<ul style="list-style-type: none"> • safety implications associated with the proposed relocation of the bus stop. <p>Following formal consideration of the application, the City of Darwin resolved to object to the proposal, outlining the following concerns in its final submission:</p> <ul style="list-style-type: none"> • The City is not satisfied that sufficient justification has been demonstrated to support reliance on an Exceptional Development Permit. The proposal raises strategic land use, amenity and infrastructure considerations that would be more appropriately assessed through an amendment to the Northern Territory Planning Scheme 2020, allowing for broader strategic consideration and community input. • In relation to landscaping and neighbourhood amenity, the City noted that the proposed development involves variations to landscaping requirements along site boundaries, limiting opportunities for deep soil planting and canopy tree provision. This was considered to undermine neighbourhood amenity and not align with the City of Darwin’s Place and Liveability Plan and Greening Strategy objectives relating to urban cooling and greening outcomes. • In relation to traffic and transport, the Local Authority identified deficiencies in the submitted Traffic Impact Statement, noting that it assesses the development in isolation and does not consider cumulative impacts arising from surrounding land uses. In particular, the presence of an adjacent general store/café, which generates high levels of vehicle and pedestrian activity during peak periods, was not adequately addressed. The city considered that this omission undermines the reliability of the traffic and safety conclusions. • The City of Darwin further expressed concern regarding the potential for increased pressure on kerbside parking along Mitchell Street during peak drop-off and pick-up periods and advised that Mitchell Street is not supported as a suitable environment for child care drop-off activities due to traffic and road safety considerations. • In addition, the City of Darwin’s technical services identified unresolved access design and road safety matters, reiterating the need for a comprehensive Road Safety Audit to confirm the safe operation of the proposed development. These concerns include same as conveyed through interim response dated 17 April 2026.

7. RECOMMENDATION

That under section 24 of the *Planning Act 1999*, 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.