

NORTHERN TERRITORY OF AUSTRALIA

Planning Act 1999 – section 41

REASONS FOR DECISION EXCEPTIONAL DEVELOPMENT PERMIT EDP2025/0413

The decision to grant an Exceptional Development Permit for Lot 01222 (4) Berry Place, Millner, Town of Nightcliff for the purpose of dwelling-group (6 x 2 bedroom) in 3 buildings was made pursuant to section 40(2)(a) of the *Planning Act 1999* for the following reasons:

1. Pursuant to section 40(1) of the *Planning Act 1999*, it is considered preferable to grant consent to an Exceptional Development Permit (EDP) than to amend the NT Planning Scheme 2020 (NTPS2020). An amendment to the NTPS2020 is not considered preferable as the current Zone LR (Low Density Residential) is consistent with the Darwin Mid Suburbs Area Plan and rezoning to facilitate the development would enable a higher density than is proposed in the application. An EDP is preferable as it provides a degree of certainty for nearby residents and relevant development specific conditions of consent can be applied as an appropriate mechanism to manage the development in its specific context.
2. Pursuant to sections 42(1) and 51(j) of the *Planning Act 1999*, the Minister must take into account the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

The site is not affected by Australian Noise Exposure Forecast (ANEF) 20-unit value or greater contour line and gradually slopes down by approximately 2m from west to east with retaining walls proposed along both the northern and south-eastern boundaries, to create a generally flat area for the proposed dwellings and car parking area.

A small portion of the eastern front corner of the site is located in the modelled secondary storm surge area. The secondary storm surge inundation level is 6.96 mAHD and the proposed development has been designed with spilt levels so that all habitable areas have a finished floor level of 9.2 mAHD, which is above the inundation level. Only non-habitable areas including the car parking area, bin storage and substation have finished floor levels below the inundation level at 6 mAHD. Whilst the site is not located in the modelled primary storm surge areas, the eastern side of Berry Place is located in the primary storm surge area. In the case of a 1,000 year storm surge event, emergency vehicular access is not provided, however, emergency pedestrian access is provided to the rear of the site via Pearce Place which has immunity to a 1% AEP flood event.

The application was circulated to NT Fire and Emergency Services who advised there are no objections to the proposed development. The site is connected to reticulated power, water, sewerage and stormwater. In relation to power, water and sewerage, it was acknowledged that upgrades to services may be required, however, no objections were raised from the Power and Water Corporation (Water Services and Power Services) subject to application of standard conditions on the permit. In relation to stormwater management, a standard condition requiring a stormwater management plan to the requirements of the City of Darwin is applied to the permit.

As outlined above, standard conditions in relation to servicing requirements are applied to the permit and as such, the land is reasonably considered capable of supporting the proposed development.

Additionally, the Development Coordination (who are responsible for coordinating responses across various divisions of the Department of Lands, Planning and Environment) did not identify or raise any issues of concern in relation to land capability.

3. Pursuant to sections 42(1) and 51(n) of the *Planning Act 1999*, the Minister must take into account the potential impact on the existing and future amenity of the area in which the land is situated.

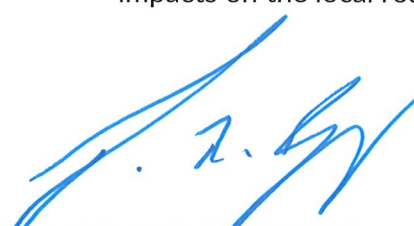
Amenity is defined in the *Planning Act 1999* as 'in relation to a locality or building, any quality, condition or factor that makes or contributes to making the locality or building harmonious, pleasant or enjoyable'.

Submissions received during the public exhibition of the application raised a number of issues including: inconsistency with Zone LR purpose and density; traffic and parking impact on a constrained cul-de-sac; flooding, stormwater and environment risk; amenity, privacy and neighbourhood character; failure to demonstrate public interest; insufficient evidence to justify the granting of an EDP; precedent effect of the EDP; non-compliance with the Area Plan and insufficient capacity of existing infrastructure.

The proposed development is considered unlikely to unreasonably impact on the existing and future amenity of the locality and on nearby residential land uses for the following reasons:

- The proposed building is well-articulated through building expression as well as a mix of materials and colours providing visual amenity and reducing the perceived bulk and scale of the development when viewed from the streetscape.
- The proposed development maintains mostly compliant landscaped setbacks to the side and rear boundaries that minimise the visual mass of the building when viewed from adjoining land, and facilitate breeze penetration around the site and between the dwelling and neighbouring buildings.

- Each dwelling is provided with adequate private open spaces (including covered areas) and a generous communal open space area, enhancing the function of the dwellings. The dwellings are setback and designed to avoid internal overlooking, and 1.8m high screen fencing is provided along the side and rear boundaries and elevated balconies are screened, to avoid overlooking of adjoining properties.
- Sufficient on-site car parking and appropriately designed accessways are provided in accordance with the requirements of Clause 5.2.4 (Car Parking) of the NTPS2020. In addition, a general condition is applied to the permit requiring and all recommendations of the traffic impact assessment to be implemented, to the requirements of the City of Darwin, ensuring that the development mitigates any adverse impacts on the local road network.



JOSHUA ROLAND BURGOYNE
Minister for Lands, Planning and Environment

5 /10/2026

NORTHERN TERRITORY OF AUSTRALIA

Planning Act 1999

NOTICE OF DECISION EXCEPTIONAL DEVELOPMENT PERMIT EDP2025/0413

I, JOSHUA ROLAND BURGOYNE, the Minister for Lands, Planning and Environment, in pursuance of section 40(6) of the *Planning Act 1999*, give notice that –

- (a) I have, in pursuance of section 40(2)(a), granted an Exceptional Development Permit for Lot 01222 (4) Berry Place, Millner, Town of Nightcliff;
- (b) The Exceptional Development Permit has been granted for the purpose of dwelling-group (6 x 2 bedroom) in 3 buildings;
- (c) The land is within Zone LR (Low Density Residential) of the NT Planning Scheme 2020, and the development proposes dwelling-group, which would otherwise be prohibited;
- (d) Copies of the Exceptional Development Permit and the Reasons for the Decision are available online at <https://nt.gov.au/property/land-planning-and-development/our-planning-system/exceptional-development-permit-decisions>.



JOSHUA ROLAND BURGOYNE
Minister for Lands, Planning and Environment