

## SUBMISSION OF OBJECTION

TO: The Chairman, Development Consent Authority (Darwin Division)

VIA EMAIL: das.ntg@nt.gov.au

FROM: Nicholas Kirlaw Convener, PAn: the Planning Action Network Inc.

DATE: 19 February 2026

RE: PA2026/0014 – Lot 1462 (4) Lindsay Street, Town of Darwin

PROPOSAL: 75 x Serviced Apartments in a 9-Storey Building

### **Introduction and Grounds for Objection**

PAn: the Planning Action Network Inc. formally lodges this objection to the proposed development at 4 Lindsay Street. While we acknowledge the long-standing vacancy of this site, the current proposal represents a significant "planning retreat."

The proponent is seeking an excessive number of variations to the Northern Territory Planning Scheme 2020, essentially attempting to resurrect a decade-old, lapsed design that is incompatible with contemporary standards for safety, amenity, and tropical urban form.

Our objection is centered on the principle that "economic expediency"—specifically the developer's desire to utilize structural footings poured under a 2014 permit—does not constitute a valid planning justification for bypassing 2020 safety and liveability requirements.

### **Variation to Clause 5.2.4.4: Driveway Width and Access**

The Proposed Exemption:

The applicant seeks a variation to reduce the internal driveway width to 4.72m–5.12m, falling significantly short of the 6m minimum required for safe two-way traffic flow.

### **The Proponent's Justification:**

The applicant relies on structural constraints from columns poured under a lapsed 2014 permit (DP14/0490). They argue that the existing "bones" of the building make compliance impossible and that the "serviced apartment" use allows for manageable traffic.

### **The PAn Technical Rebuttal (Performance Outcome Failure):**

The Northern Territory Planning Scheme 2020 is performance-based; a variation must still meet the **Purpose** of Clause 5.2.4, which is to ensure "safe and convenient access." This proposal fails fundamentally:

- **Hazardous Reversing Maneuvers:** A driveway width of ~4.7m is insufficient for two vehicles to pass. When an entering vehicle encounters an exiting vehicle, one is forced to wait or reverse. Given the depth of the site, common sense and traffic safety principles dictate that vehicles will be forced to **reverse back into Lindsay Street** to clear the way. Lindsay Street is a high-activity CBD corridor near a primary school; forcing vehicles to reverse blindly into this traffic is an unacceptable safety risk that no "management plan" can mitigate.
- **Failure to Prevent "Vehicle Queuing":** The Scheme requires access to be arranged so that no queuing occurs on the public road. By failing to provide a 6m two-way thoroughfare, the developer is effectively moving their internal traffic management problems onto the public street, causing congestion and increasing the risk of rear-end collisions.
- **Irrelevance of Lapsed Permits:** The proponent's "constraint" is self-inflicted. Relying on footings from a permit that expired years ago does not override the current **2020 safety standards**. The DCA is tasked with protecting the public interest under the current Scheme, not accommodating a developer's legacy structural errors at the expense of community safety.

**The Proposed Exemption:** The applicant seeks a significant variation to the bicycle parking requirements, proposing only **10 spaces** instead of the **25 spaces** required by the Planning Scheme—a shortfall of 60%. Furthermore, they seek to omit the mandatory **locker facilities**.

**The Proponent's Justification:** The proponent argues that "serviced apartments" have a different user profile than permanent dwellings, suggesting guests will prefer in-suite facilities. Critically, they justify the parking shortfall by pointing to the proximity of the **"Dragonfly" public car park** (approx. 50m away) as a viable alternative for guests.

**The Plan Technical Rebuttal (Public Interest & Operational Failure):** The proposal fails to meet the **Purpose** of Clause 5.3.7, which is to "enable active travel choices." Furthermore, the reliance on third-party public infrastructure is logically and operationally flawed:

- **The "Dragonfly" Fallacy (Operational Lock-out):** Relying on the Dragonfly car park is a failure of orderly planning. The facility is physically locked at **8:00 PM** most nights (10:00 PM on weekends). This creates a "parking curfew" entirely incompatible with the 24/7 nature of serviced apartments. A guest arriving after-

hours is denied access, while a guest needing an early departure (e.g., for a 6:00 AM tour or flight) finds their vehicle trapped until 7:00 AM.

- **Punitive Costs and Safety:** In an emergency, a resident must pay a **\$135 after-hours release fee** to access a vehicle from the Dragonfly. It is a failure of the DCA's duty to approve a development that makes a resident's basic mobility contingent on third-party security call-outs and exorbitant fees. This is an unacceptable "cost-shifting" exercise from the developer to the public realm.
- **Undermining Active Transport:** Darwin's strategic goal is to become a "walkable, tropical city." By providing 60% fewer bike parks than required, this development locks in car-dependency for decades. Common sense dictates that if secure, convenient parking and lockers are not provided, guests and staff will not choose cycling.
- **Locker and Security Failure:** The claim that guests will use in-suite showers ignores the primary purpose of lockers: the secure storage of specialized gear (helmets, wet weather gear, e-bike batteries). Forcing guests to haul bulky, often dirty cycling equipment through the lobby and up to the 9th floor is a deterrent to the "active travel" the Scheme seeks to promote.

**The Proposed Exemptions:** The applicant seeks significant reductions across both private and communal amenities:

- **Private Open Space (POS):** Most balconies for the 1 and 2-bedroom suites do not meet the minimum **12m<sup>2</sup> area** or the **2.8m minimum width** requirement. One 1-bedroom studio on Level 1 has no balcony at all.
- **Communal Open Space (COS):** The proposal provides **115.6m<sup>2</sup>** (approx. 12% of the site), failing the mandatory **15% (141.6m<sup>2</sup>)** requirement.

**The Proponent's Justification:** The proponent argues that "serviced apartments" do not require the same level of amenity as permanent dwellings because guests are "short-stay." They claim the shortfall in COS is offset by Darwin's public park network, such as the Esplanade, and that the reduced balcony sizes are sufficient for transient visitors.

**The Plan Technical Rebuttal (Failure of Amenity and the "Trojan Horse" Risk):** These variations represent a combined "race to the bottom" regarding resident amenity. The proposal fails to meet the **Purpose** of Clauses 5.4.6 and 5.4.7, which is to ensure functional outdoor living areas:

- **The "Short-Stay" Fallacy:** The Planning Scheme does not provide a "discount" on amenity based on the duration of a person's stay. The requirement for a functional balcony (min. 2.8m width) is based on the physical space needed for a table, chairs, and movement. By providing "balconies" as narrow as 1.2m, the

developer is delivering useless architectural ledges rather than "outdoor living" areas.

- **Inappropriate Reliance on Public Assets:** Just as with the car parking argument, the developer is attempting to "externalize" their requirements onto public land. Darwin's public parks are a community resource, not a subsidy for high-density private developments that refuse to provide adequate on-site open space.
- **The "Trojan Horse" Strategy:** Historical data across Australian capital cities indicates that approximately **25% to 30%** of stock originally approved as "serviced apartments" eventually transitions to permanent residential use over a 30-year lifecycle. We have already seen this "Hotel-to-Home" transition locally with the **Darwin Esplanade Central Apartment Hotel** (formerly Mantra on the Esplanade).
- **Creation of "Vertical Slums":** By allowing variations for 1.2m wide balconies and omitting lockers now, the DCA is essentially approving **sub-standard permanent housing by stealth**. Once the "serviced" business model reaches the end of its commercial life, Darwin will be left with 75 apartments that fail every modern liveability benchmark, creating a permanent liability for the city's housing quality.
- **Failure of Adaptability:** Clause 5.9.2.1 of the Planning Scheme requires buildings to be designed for "adaptability." A building with "un-liveable" private open space is the antithesis of an adaptable building; it is a rigid, sub-standard product that bypasses residential standards today at the expense of Darwin's future.

#### **4. Variations to Clause 5.9.2.2 (Volumetric Control) and Clause 5.4.17 (Building Articulation)**

**The Proposed Exemptions:** The applicant seeks several critical variations to the building's massing and interface:

- **Podium Height (Clause 5.9.2.2):** The building reaches a height of approximately **28m**, exceeding the **25m podium height limit** for the Darwin City Centre.
- **Setbacks (Clause 5.9.2.2):** A portion of the Level 8 balconies fails to meet the mandatory **6m setback** from side boundaries.
- **Building Articulation (Clause 5.4.17):** The proposal lacks the required **1m x 1m recesses** every 15m for the front and rear building lengths.

- **Awning Width (Clause 5.5.15):** The proposed awning on Lindsay Street is only **2.2m wide**, failing to meet the standard **3m** minimum requirement for pedestrian shelter.

**The Proponent's Justification:** The proponent argues that the height over 25m only relates to the roof structure and Level 8 balcony tops. They claim that because the building uses "generous" front and rear setbacks (approx. 5.2m and 12.5m respectively), the overall bulk is mitigated. They also state that the lack of side setbacks is acceptable because no windows are proposed on those side boundaries.

**The P<sub>LAN</sub> Technical Rebuttal (Failure of Urban Form and Microclimate):** The proposal fails to achieve the **Purpose** of the Volumetric Control and Articulation clauses, which are designed to ensure breeze circulation, daylight penetration, and appropriate urban scale:

- **The "Vertical Wall" Effect:** By building within **0.4m–0.5m** of both side boundaries to a height of 28m, the developer is creating a massive "vertical wall". This creates a "canyon effect" that severely restricts breeze circulation—a critical factor for Darwin's tropical microclimate—and blocks potential view corridors to the Harbour.
- **Failure of Articulation:** The omission of mandatory 1m x 1m recesses is a failure to mitigate the **perception of building mass**. Without these, the ~28m wide building front presents a monolithic and imposing face to Lindsay Street, directly contradicting the **Zone CB Outcome** of creating an "attractive mixed-use environment".
- **"Borrowing" Amenity from Neighbors:** The proponent's reliance on a lack of side windows to justify a 0.5m setback is a flawed planning argument. The 6m setback rule exists to ensure a **12m total separation** between towers. By ignoring this, the proponent is effectively "stealing" their neighbor's future "air rights" and breeze access, forcing any future development on adjacent lots to bear the entire burden of providing separation.
- **Inadequate Pedestrian Protection:** Providing an awning that is only **2.2m wide** (failing the 3m standard) is common-sense proof of the project's attempt to cut costs at the expense of public comfort. In Darwin's tropical climate, full-width protection from sun and rain is a basic requirement for a "Priority Activated Frontage".

## **Conclusion and Statement on the Planning Process**

In summary, P<sub>LAN</sub>: the Planning Action Network Inc. urges the Development Consent Authority to **refuse** this application in its current form. A development of this scale on a constrained 944m<sup>2</sup> site must be held to the highest standard of the 2020 Planning

Scheme. Allowing a "short-stay" label to excuse sub-standard balconies, inadequate parking, and hazardous access is a failure of orderly development that Darwin will be forced to live with for the next fifty years.

**A Note on Community Participation:** Finally, we wish to record our ongoing concern regarding the barriers to genuine community consultation in the Northern Territory.

Participating in this process is increasingly difficult for the average citizen. With public exhibition periods often overlapping with holiday periods and **DCA meetings held exclusively during working hours**, the system effectively disenfranchises the very community members most affected by these decisions. Most working people cannot sacrifice their livelihood to attend a mid-morning hearing to defend their street's safety or amenity.

This lack of accessibility places a heavy burden on volunteer advocacy groups and makes it even more imperative that the Authority acts as a rigorous gatekeeper of the Planning Scheme. We request the opportunity to be heard should this matter proceed to a hearing, and we trust that the DCA will prioritize the long-term public interest and tropical liveability of Darwin over the short-term financial convenience of the proponent.

Yours Sincerely,

**Nicholas Kirlew** Convener, PPlan: the Planning Action Network Inc.