

DEVELOPMENT CONSENT AUTHORITY SUBMISSION

TO: Development Consent Authority (DCA)

FROM: PPlan: the Planning Action Network Inc.

DATE: 28 August 2026

SUBJECT: Formal Objection to Development Application for Lot 359 Progress Drive, Nightcliff (Rooming Accommodation & Commercial Tenancies)

1. Overview

PPlan: the Planning Action Network Inc. lodges this formal objection regarding the proposed mixed-use development at Lot 359 Progress Drive, Nightcliff. While PPlan supports the high-level planning objectives of infill development, active commercial frontages, and passive street surveillance within Zone C (Commercial) in the Nightcliff Village precinct, these strategic merits appear to be undermined by the proposal's physical execution. The applicant seems to utilise broad strategic rhetoric to obscure 360-degree non-compliances across building setbacks, vegetative interface buffers, visual bulk, weather protection, loading infrastructure, and parking.

Strategic Merit	PPlan assessment
1. Appropriate Type & Scale	Mixed-use commercial and residential activity is an appropriate land use in Zone C, but placing 40 occupants onto a 1,000 m ² lot while eroding setbacks across all four property boundaries may represent overdevelopment.
2. Efficient Infill & Aesthetics	Infill on long-vacant sites is supported in principle, but efficiency does not justify ignoring Darwin Mid Suburbs Area Plan (DMSAP) site-consolidation goals, nor does an unbroken 19.4m concrete wall improve street aesthetics.
3. Active Frontage & Awnings	Active ground-floor commercial tenancies are welcomed, but the proposed awning fails to deliver required shelter—it is 40% narrower than the mandatory 3.0m code width and leaves a 6m unroofed gap over the driveway.
4. Passive Surveillance	Street-facing windows and upper balconies align with CPTED principles, but passive surveillance can be achieved without

Strategic Merit	PLan assessment
	projecting upper balconies into required 5.0m Zone LR residential boundary buffers.

2. Summary of Key Non-Compliances

The application seeks a large package of variations that would appear to treat baseline Northern Territory Planning Scheme 2020 (NTPS) interface protections as flexible design space to maximize built volume:

NTPS Clause	Standard Requirement	Proposed Provision	Summary
5.2.5 (Loading Bay)	4.0m vertical clearance throughout access	3.2m access clearance under Level 1 floor plate	0.8m reduction in entry clearance; restricts standard servicing trucks.
5.2.7 (Zone LR Setbacks)	3.0m landscape screening depth along Zone LR boundaries	Partial 1.5m rear depth; 0m buffer along east driveway	Eliminates required acoustic/visual vegetative buffer along adjacent residential land.
5.3.7 (End-of-Trip)	Weather-protected bike spaces & 1 locker per space	Uncovered rear bike racks (28 spaces); 5 lockers provided	Lacks overhead weather protection; 23-locker deficit for non-resident staff.
5.4.3 (Building Setbacks)	Front: 3.0m; Rear/East: 5.0m; West: 3.0m	Front: 1.5m; Rear/East: 3.8m to balconies; West: 1.8m	Simultaneous 360-degree encroachments on all four property boundaries.

NTPS Clause	Standard Requirement	Proposed Provision	Summary
5.4.17 (Articulation)	1m×1m physical step/recess every 15m of wall length	19.4m continuous wall length on North & South facades	Omission of required physical slab recesses on front and rear elevations.
5.5.15 / 5.5.17 (Awnings)	Full boundary length coverage; minimum 3.0m width	1.8m width across 21m (18.4m active) of 27.43m frontage	1.2m narrower and >6m shorter than baseline statutory standard.

3. Detailed Grounds

3.1 360-Degree Setback & Landscape Buffer Erosion

- **Systemic Encroachments:** Rather than seeking a minor relaxation on a constrained edge, the proposal requests simultaneous setback reductions across all four property boundaries (Front, Rear, East, and West).
- **High Density vs. Reduced Buffers:** Rooming accommodation introduces high-density occupancy (40 residents) onto a 1,000 m² lot. Planning schemes mandate 5.0m building setbacks (Clause 5.4.3) and 3.0m continuous landscape buffers (Clause 5.2.7) specifically to insulate Low-Density Residential (Zone LR) neighbours from high-intensity uses. The developer is increasing human density while shrinking physical separation buffers.
- **Double-Dipping on the Zone LR Interface:** On the North and East residential interfaces, the design triggers a double failure:
 - **Upper Level:** 20 elevated balconies project into required 5.0m residential setbacks (reduced to 3.8m), creating direct overlooking risks onto single-storey homes.
 - **Ground Level:** The mandatory 3.0m planted screening buffer is cut down to 1.5m at the rear and completely eliminated along the eastern driveway.

- **Unscreened Driveway Noise:** Running a bare access driveway directly against a Zone LR residential boundary without a 3.0m landscape buffer directly transfers vehicle noise and headlight glare onto adjoining homes.
- **Flawed Privacy Defence:** The applicant relies on off-site vegetation on neighbouring properties and future tree growth to justify reduced residential setbacks. The applicant has no legal control over off-site trees, and relying on future plant growth leaves neighbours exposed to direct overlooking from day one of occupation.

3.2 Compounding Visual Bulk & Articulation Failure (Clause 5.4.17)

- **Omission of Physical Recesses:** The proposal incorporates 19.4m continuous concrete wall runs on the North and South elevations without the mandatory 1m×1m physical step/recess required every 15m under Clause 5.4.17.
- **Cosmetic Masking:** To justify this omission, the applicant relies strictly on superficial elements—planter boxes, curved roof overhangs, paint finishes, and glass shopfronts. Cosmetic treatments do not alter the physical slab mass, failing to meet the ventilation and bulk-reduction mandates of the scheme.

3.3 Unacknowledged Awning Deficits (Clauses 5.5.15 & 5.5.17)

- **Unstated Non-Compliance:** Clause 5.5.15(17) and Clause 5.5.17(6) mandate continuous street awnings that cover the full frontage length and extend to a minimum width of 3.0m. The applicant proposes a 1.8m wide awning over 21m (18.4m active) of the 27.43m frontage, leaving over 23% (>6m) of the street edge unroofed.
- **Procedural Flaw:** The applicant failed to formally request a variation for this awning deficit in the application's summary table, framing it instead as a statement of fact. Under Section 46(3)(a) of the *Planning Act 1999* (NT), the DCA cannot grant an implied variation without formal justification.

3.4 Inadequate Parking, Shift-Worker Contradictions & Deferred OMP

If it is reasonable to assume that if there is not enough parking then there will be spill over in the surrounding areas.

- **Unsubstantiated Student Car-Ownership Premise:** The applicant relies on speculation—unsupported by local empirical data, Charles Darwin University (CDU) student transport surveys, or Darwin modal split figures—that rooming accommodation occupants are low-vehicle-owning "students" who will rely almost exclusively on public transport and active travel. Broad demographic generalizations do not satisfy the legal burden of proof under Section 46(3) of the *Planning Act 1999* (NT). Furthermore, using bicycles as a year-round transport

substitute overlooks Darwin's tropical monsoonal climate, an argument further dismantled by the proposal's failure to provide overhead weather protection for its bicycle racks.

- **The Parking Deficit:** The layout provides only 16 car parking spaces to service 40 residents and 3 ground-floor commercial tenancies (185 m² NFA). During business hours, commercial staff will absorb at least 5 spaces, leaving just 11 bays for 40 residents.
- **Contradictory Occupancy Claims:** To defend the low parking supply, the Statement of Effect asserts that occupants will be car-less students. However, the applicant's Architectural Statement explicitly claims the rooms will house "essential workers". Shift workers (nurses, police, hospitality staff) routinely rely on private vehicles for commutes outside public transport hours, destroying the developer's car-less premise.
- **Lack of Legal Enforceability:** "Rooming accommodation" under Schedule 2 of the NTPS 2020 is defined by tenure structure, not student or worker status. There is no legal mechanism or deed capping rents or restricting tenancies to car-less students.
- **Improper Deferred OMP:** Deferring the Operational Management Plan (OMP)—which governs car allocation, noise curfews, and resident conduct—to a post-approval condition deprives the public and the DCA of assessing amenity impacts upfront under Section 46(3)(h) of the Act.

3.5 Deficient End-of-Trip Facilities & Setback Catch-22 (Clause 5.3.7)

- **Uncovered Bike Parking:** Clause 5.3.7(3)(e) requires secure bicycle parking to be weather-protected. All 28 proposed bike racks are placed outdoors without overhead shelter, rendering them impractical during Darwin's wet season.
- **Self-Engineered Setback Conflict:** The applicant placed the bike racks inside the mandatory rear/side Zone LR boundary buffer. Adding an overhead roof to satisfy weather protection rules would erect a permanent building structure inside the buffer, causing a major structural setback breach under Clause 5.2.7.
- **Locker Shortfall:** Clause 5.3.7(4) requires 1 locker per bike space, but only 5 lockers are provided for 28 spaces (a 23-locker deficit), failing non-resident commercial office staff.
- Lockers in End-of-Trip facilities serve a distinct functional purpose beyond basic personal storage: they provide secure, dedicated housing for helmets, wet-season rain gear, cycling apparel, and e-bike batteries while commuting or working, keeping damp and bulky equipment out of professional work areas. The applicant's defence that private upstairs student bedrooms eliminate the need

for lockers ignores non-resident commercial office staff and visitors who have zero access to residential units. Providing only 5 lockers for 28 bicycle spaces leaves a 23-locker deficit that fails to support active transport for ground-floor workers, directly departing from the statutory intent of Clause 5.3.7.

3.6 Loading Bay, Servicing & Traffic Risks (Clauses 5.2.5)

- **Restricted Vertical Clearance:** The loading bay clearance is capped at 3.2m under the Level 1 floor plate, failing the mandatory 4.0m code standard under Clause 5.2.5. Standard heavy rigid waste and delivery vehicles will not fit underneath.
- **Roundabout Bottleneck:** The internal crossover sits directly adjacent to the busy Progress Drive and Dick Ward Drive roundabout. Without a formal Traffic Impact Assessment (TIA) or heavy vehicle sweep-path analysis, turning movements and kerbside servicing risk creating severe traffic congestion.

3.7 Strategic Gateway Failure & Equitable Boundary Principles

- **Piecemeal Development:** The Darwin Mid Suburbs Area Plan (DMSAP) and Clause 5.9.6.2 designate this corner as a "Gateway Location" intended for consolidated master-planning. Conceding an inability to consolidate with adjacent lots (Lots 360/361) delivers a fragmented, single-lot response.
- **Prejudicial Western Boundary Burden:** Shrinking western upper balcony setbacks to 1.8m (instead of 3.0m) shifts the burden onto the adjacent western site. Force-fitting a 1.8m setback forces future redevelopers of adjacent land to build further back or construct solid fire walls, destroying equitable boundary principles.

4. Conclusion & Requested DCA Action

The proposed development represents significant overdevelopment that relies on broad strategic policy claims to mask physical non-compliances across every property line.

PLan: the Planning Action Network Inc. respectfully requests that the Development Consent Authority refuse Development Application PA2026/0014 under Section 51(a) of the *Planning Act 1999* (NT). Alternatively, the DCA should defer determination under Section 53 until the applicant submits a fully compliant design that respects Zone LR interface buffers, satisfies baseline awning and articulation standards, provides full weather-protected End-of-Trip facilities, and supplies a complete Operational Management Plan and Traffic Impact Assessment for public review.

Nick Kirlew

Convener, PLan: the Planning Action Network Inc.