



21 November 2019

NT Planning Commission
Department of Infrastructure, Planning and Logistics
GPO Box 1680
Darwin NT 0801

Planning Reform Stage 3

Thank you for the request for comments on Stage 3 Planning Reform, specifically the Draft Bill of Amendments to the NT Planning Act 1999.

Council commends the NTPC on the work completed to date on Planning Reform and the compilation of the proposed changes to the Planning Act.

Council has reviewed the Draft Bill of Amendments to the NT Planning Act 1999 and has prepared the attached table detailing Council's comments on the changes proposed.

Should you wish to discuss the attached comments, please contact **Litchfield Council's Planning and Development division** on 08 8983 0600 and you will be directed to the appropriate officer to address your query.

Yours faithfully

Nadine Nilon
Director Infrastructure and Operations

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 2A Purpose and Objectives	Replacement of Section 2A Objects	Expands on purpose of Act	Gives better direction on intent and objectives	-Can be supported -Object that previous item (e) on amenity has been removed and revised text has no reference to amenity. Effect on amenity of existing residents is a key consideration of best practice planning. -Recommend including (e) or similar version – “minimising adverse impacts of development on existing amenity and, wherever possible, ensuring that amenity is enhanced as a result of development”
Section 5A Application of Criminal Code	New	Criminal code applies to an offence against the Act	Clarification	Can be supported
Section 6A Persons and Bodies Performing Functions under Act	New	Clarifies responsibilities of different people/bodies	Clarification	Can be supported
Sections 9, 9A-9C Planning Scheme	Revision	Replaces and adds more info on planning scheme content, strategic framework	Describes layout of proposed new planning scheme	Can be supported. The focus on strategic policy framework gives clearer guidance for NTPS. Specifications on overlays gives clarity to applicants. Zones (and development requirements) will both benefit from stronger focus on purpose and intent.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 13 Planning Scheme Amendment (PSA)/Exceptional Development Permit (EDP) request	Revision	Provides more information on what a PSA request must include	Gives some direction where before there was little to none; however, some areas remain vague/unclear	<p>-Unclear what “benefits the Planning Scheme” is intended to mean. Not sure general public would understand the requirement; recommend being more specific on what is required or what is meant by “benefits”.</p> <p>-This could be an opportunity to note what types of applications require assessment of issues such as traffic or land suitability, so that the applicant’s investment required to undertake such studies is understood up front.</p> <p>-Cannot support until clarification is provided in text of Act</p>
Section 13AA Northern Territory Planning Commission (NTPC) Views on PSA/EDP	New	Minister may request view of NTPC on an application	Additional review of application is provided	<p>-Unclear how NTPC would input planning advice to Minister when only one member is required to be a planner. Understood that Lands Planning staffs the NTPC for planning advice; this could be more clearly stated in Act or in NTPC information in Act.</p> <p>-As noted in previous Council comments on NTPC advice and application reporting, the independence of NTPC (and Lands Planning) is questioned when NTPC has proposed the amendment on which the Minister is seeking advice.</p> <p>-Cannot support until further clarification or changes provided</p>

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 13AB, 30S Minister's consideration of Request and Decision on PSA/EDP	New	Items Minister must consider when assessing PSA	Clarification	Can be supported
Section 16, Section 30J (Notices/Signs)	Same	Replaces "notice" with "sign" and clarifies location of sign and offence	Clarification	Can be supported
Section 19(3) How Council can Make Comment on PSA/EDP	New	Councils may make formal submissions or may make a comment/view	Will allow Consent authority to not invite Council to a hearing unless submission is made or comment/view objects to application	Object. See comments on Section 22 below for more information.
Section 22 (PSA and EDP), Section 30H, 30M (Council comment concurrent) Submissions and Hearings	Revision	<ul style="list-style-type: none"> -Clarifies what a submission must include (name/contact details etc) -If Council makes a "submission", Council must be invited to an NTPC hearing if NTPC "is satisfied that a hearing would provide further useful information". -If Council makes a "comment/view", or provides no comments, and no public submissions received, no NTPC hearing required to be held. 	Limits hearings, concern limits consideration of Council comments and Council's ability to be aware of all community comments (both in support of and against applications)	<ul style="list-style-type: none"> -Object to this change. -For Council, if comments are not considered a "submission", there will be no requirement for a hearing -For PSA and EDP, if a hearing is held, must invite Council even if Council did not make submission; recommend add to 30N text from 22(6) -It is unclear from wording in Act how it would be determined that a hearing would not provide further useful information. In several recent hearings, Council has been able to revise comments based on new understanding of the amendment proposed revealed during the hearing and revise comments

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
		-If Council makes a "comment/view" or provides no comments and public submissions received, no NTPC meeting required to be held NTPC "is satisfied that a hearing would provide further useful information".		based on community views. Holding a hearing also gives opportunity for all submitters to understand other concerns for and against proposal. Not holding a hearing decreases transparency. -While it is understood that at times all submitters support the application, or at times hearings are held with no submitters attending, a potential opportunity could be to amend (b) such that, if all attendees decline, in writing, to attend a hearing, a hearing is not held. If worried about getting no response, request could be phrased such that if no response is received from submitter in a certain time frame, it will be assumed submitter does not want to attend hearing. Transparency has been a leading theme throughout the Planning Reform process, and while it is not believed that the intent of this provision is to withhold transparency, that could be the effect of the provision. The minimal administrative time required to confirm a desire to attend a hearing would be preferred by Council over a lack of transparency for all on why the NTPC felt a hearing would not provide useful information.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
				-For PSAs and EDPs, Act states that Local Authority must be invited to any hearing held, but this is not the case for concurrent and development applications before DCA. Can information be provided as to why the local authority would not be invited? If it is the intent that the local authority would be invited in practice, Council requests that this be enshrined in the Act, to preserve that intent in the future.
Section 24(2) NTPC Reports to Minister on Application	New	Report required even if no hearing held	Covers what to do if no hearing held, which is a new opportunity	-Support in principle, provided that the report in Section 24 is available to the public, for transparency, and to provide submitter with opportunity to ensure their comments are accurately understood and represented

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 25 Minister's Action on PSA/EDP	Revision	<ul style="list-style-type: none"> -Details what Minister must consider in making decision -Adds timeframe in which Minister must make decision after receiving NTPC report -Adds that Minister may request further information from applicant 	Provides some greater certainty on criteria for decision-making and timeframes	<ul style="list-style-type: none"> -Good changes; can be supported. -To ensure timeframes and give certainty to applicants and allow them to make appropriate plans for the future, it is recommended that timeframes be added 1) in which a hearing must be held after submissions received and 2) in which NTPC must provide report to Minister. Council has previously experienced that the delay in Ministerial decision is with the NTPC report being prepared for Minister's decision. Council is not recommending any particular timeframe, as that is most appropriately set by those preparing the reports; however, having no timeframe could mean the application process is drawn out for the applicant with no clear ability to make plans for the future.
Section 30W(3)(6) Concurrent Application Determination of Development Proposal	Revision	Minor revisions to text	Clarification	Can be supported.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 30W(5) Concurrent Application Determination of Development Proposal	New	Consent authority may request Minister approve development contrary to strategic planning framework if “(a) the development was not foreseen by the strategic framework” or “(b) there are unusual or exigent circumstances that make the development appropriate”	Allows DCA to make decision contrary to strategic planning documents	-Provision (b) can be supported. -Cannot support (a) as written. Council has concern with how (a) would be able to be administered. How will one be able to tell what was previously considered or not by the strategic framework? How would one be able to determine what was previously considered and rejected? It would need to be a requirement of consultation documentation to note all points of view and for that information to remain publicly available for this to be a fair provision.
Section 37(A)(B) Existing Use Rights	New	-May apply to consent authority for certificate certifying extent of existing land use/building/work -Consent authority may issue certificate or not	Allows owners to have certainty related to existing use rights	Can be supported
42A Duration of Permit and 42B Extension of Period of Permit and 43D Certification of Compliance EDP	New	Details length of permit, ability to request extension of permit, ability to certify compliance with permit	Clarification as previously not specified	Can be supported
46(3A) Development Application Requirements	New	Regulations may prescribe types of applications that may only contain some of reports or information specified in 46(3)	Intent is for applications to only have to address clauses relevant to the request	Can support concept in principle, but cannot give full support to provision until Regulations are available for comment

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
46(5), (6), (7), (8), (9) Request for More Info/Deferral for Development Applications	New	-Must notify applicant of request for more info, deferral, reasons why and/or reasons for refusal -Sets timeframes and extensions for provision of additional information requested -Allows consent authority to reject application if additional info not provided	Gives more certainty to applicant on what is required, gives timeframes so application is not sitting idle indefinitely	Can be supported
Section 47 Public Notice of Development Application	New	-May charge applicant -Sets minimum period for application submissions and allows for some applications to be open for submissions for 28 days	Allows for longer exhibition for some application types, to be set later by regulation	Can be supported in principle; full support cannot be provided until Regulations are available for comment. Full support depends on which types of applications are included for longer submissions. When considering which types of applications have longer submissions, the complexity of the application is more key than the type of proposal. For example, a small lot subdivision application can seem simple, but a recent application required over 500 pages of application information. Such an application would be prime for extended exhibition.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 47A Development Applications Requiring No Public Notice	Revision	Adds no public notice for subdivision for unit titles for existing constructed development	Formalises existing process; unit title subdivisions for vacant land, as occur in the rural area, would continue to require exhibition.	Can be supported.
Section 47B Development Applications Requiring Only Local Notice	New	Allows certain development types to only notify adjoining neighbours and have sign on land but no newspaper or electronic notice	Will likely reduce submissions from non-adjoining neighbours	Council cannot give support without Regulations noting which types of applications fall into this category. In general, Council supports public notification of all development types (other than as noted in 47A) for transparency to the public.
Section 48(2) Notice to Council	New	<p>-Council can make a “submission” or lodge a “comment or view” on applications. If Council makes a “submission”, Council must be invited to a DCA meeting.</p> <p>-If Council makes a “comment/view”, and no public submissions received, DCA meeting not required to be held.</p> <p>-If public submissions received and Council makes a “comment/view” or provides no comments, DCA meeting held but Council not required to be invited.</p>	<p>Allows DCA to not invite Council to a hearing if Council does not make a “submission”.</p> <p>If Council makes a “comment/view” and public make submissions, Council will not be invited to the hearing to listen to public comments and understand community views. If Council attends hearing without being formally invited, Council would not have permission to speak at the hearing.</p>	<p>-Object to this change.</p> <p>-It is understood from discussions with the Department that there is an error in referencing in this section. (2)(a) should reference 49(3) and (2)(b) should reference 49(6).</p> <p>-Council is required to be invited to all reporting body hearings for PSAs and EDPs. It is unclear why Councils would not be invited to a meeting of the DCA. It is understood that it is administrative practice to invite Councils to all DCA meetings in their jurisdiction; it is recommended to include this requirement in the Act instead of leaving to the administrative practice of the day.</p>

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
				-It is important to Councils to hear the views of the public and to be able to respond to those views at a DCA meeting if appropriate. It is unclear why all local and service authorities would not be formally invited to all DCA meetings and leave it up to those agencies to choose to attend. The proposed approach may limit Councils' abilities to understand and provide support or refute community views with no clear public or Council benefit.
Section 48A Service Authority Notice	New	Specifies how service authority is notified and how it may comment	Separates notice to Council and notice to service authority	-Can be supported. -This section allows a Service Authority to request an extension on the comment period. There is no similar provision for a local authority. It is recommended that Section 48 be amended to include this same extension request provision for local authorities.
Section 49(4), (5), (6) Submissions on Development Applications	New	Must lodge submission within exhibition period, includes requirements for submission		-Items (4) and (5) can be supported. -See comments above under Section 48 for comments on item (6), to which Council objects.
Section 50(5) Evidence and Information/ Submissions	New	Consent authority may adopt or reject advice from a service authority	Consent authority could approve applications that do not meet service authority requirements and/or not	-Council raises objection to this proposal. It is unclear whether this provision is also intended to include local authorities and whether or not it may be amended to do so in the future.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
			apply conditions required by service authorities	-The consent authority is not the authority on items owned by a service authority (or local authority). A service authority must have autonomy related to infrastructure under their ownership. -Where advice given is considered “opinion”, such as comments from a government agency without ownership of infrastructure, the consent authority could consider the validity of such advice; however, for infrastructure under the authorities’ ownership, the consent authority has no expertise to be able to make comment on the suitability of the requirement. It is questioned whether this provision would be legally enforceable.
Section 50B(3) and (3A) Significant Development Report	New	Adds criteria	Adds clarity	Can be supported.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 51 Matters to be Taken into Account for Development Applications	Revision	Instead of requiring all applications to address all items, may take into account “any of the following relevant to application”	Can reduce requirements for applicants	<p>-Can be supported in principle; however, it is unclear how the applicant will know which items to address and which not to address. More clarity is needed in this section for applicants and all individuals/organisations reviewing the application to determine if all required areas have been addressed.</p> <p>-It is the further opinion of Council that applications that do not address the minimum requirements should not be placed on public exhibition. Accepting applications for exhibition that do not meet the requirements is a waste of time for the public and service/local authorities. Further, if the additional required information is submitted at a later date, the application is not typically re-advertised to the public, thus not allowing the public to review and comment on the actual application. This is not transparent and not equitable to the public.</p>
Section 52 Development Application No Consent if Contrary to NT Planning Scheme (NTPS)	Revision	<p>-Reverses from consent if compliant with NTPS to no consent if contrary to NTPS</p> <p>-Allows consent if consistent with strategic framework but not consistent with NTPS</p>	Allows DCA to approve applications not in compliance with NTPS clauses	-See comments above in Section 30W(5) on “not foreseen by strategic framework”

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 61 Subdivision Approved under Licensed Surveyors Act	Revision	Reverses from “must not subdivide” if not in accordance with to “must subdivide” in accordance with and specifies penalties	Clarification	Can be supported
Section 63 Purported Subdivision or Consolidation Prohibited	Revision	Clearer on penalty	Clarification	Can be supported
Section 65 Certification of Compliance	Revision	Minor revisions to text	No effect for Council	Can be supported
Section 66(5), (6), (6A), (6B), (7), (7A), (7B) Minister May Revoke or Modify Permit	Revision	Minister must notify and notes when offence is committed if person still uses/develops land in accordance with permit or conditions	Clarifies penalties and notification	Can be supported

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 67 Definition of Infrastructure	No change proposed	No change proposed	Continues to limit ability of Councils to collect funding for required infrastructure as a result of new development	Additional Amendments Requested. It is understood that the Regulations will be amended as part of the Planning Reform work and changes to the Act. The current regulations limit “infrastructure” to “motor vehicle carriageways and stormwater drains”. However, there are additional features that often warrant upgrades as a result of a new subdivision or development. For example, footpaths or streetscapes may need to be improved as part of road upgrades but contributions are currently limited to the motor vehicle carriageway. Further, in some areas, new public open spaces are required to service a large development area. Currently, the only developer responsible for those upgrades is the one on whom the Area Plan has placed the new open space area. In reality, the entire Area Plan area should be contributing to this park that will be used by all new development within the Area Plan area. The ability for local authorities to raise funding for these other features should be addressed in the Regulations.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 68 Making Contribution Plans, Section 74 Enforcement	Revision	Specifies that both local authorities and service authorities may make contribution plans and enforce the plans	Makes consistent with new Act definitions	Can be supported
Section 70(6) Contribution Towards Car Parking	Revision	Contribution must be calculated in accordance with revised requirements	Notes how it is to be calculated	Can be supported
Section 71(1A), (1B) Contribution Payable	Revision to 71 (8)	Notes how contribution should be calculated and proportionality, and that cost should be most appropriate and cost effective	Relocating text	Can be supported
Section 71 Duties of Local and Service Authority	Revision to 72	Revises text on how contributions are kept and used, allows for authorities to be reimbursed for costs for infrastructure built after plan created and included in plan	Authorities can recoup costs on infrastructure required to be constructed prior to development occurring	Can be supported
Section 73 Discount, Interest Rate	Revision	Minor revisions to location of text within clause	Nil	Can be supported
Part 7, Sections 75-81 Enforcement	Many revisions	<ul style="list-style-type: none"> -Adds penalties -Adds powers to collect evidence, enter premises -Can issues show cause notice -Body corporate executive officer can have criminal liability if reckless 	Greatly enhances enforcement powers	Can be supported

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 81B Functions of NTPC	Revision	Provides advice on strategic planning instead of matters within the objects of the act	Focusses more specifically on strategic planning matters	Can be supported
Section 81D Independence	Revision	Provides more info on how members will act independently	More info on considerations for independence but still conflict with functions of NTPC	Council object as this provision will not be able to be enforced as long as the NTPC holds reporting body hearings on applications proposed by the NTPC. There will always be a perceived bias of the NTPC holding hearings and writing reports on strategic planning documents, area plans, regional plans, PSAs proposed by the NTPC.
Section 81F(4) NTPC Membership	new	Requirement that one NTPC member must be eligible for membership in a planning association or have planning qualifications recognised by Minister	Ensures minimal representation on planning commission from a planning expert	-Can be supported for a minimum 10% of the commission to have planning expertise. However, considering that it is a planning commission, it is recommended that the minimum percentage of members with planning expertise should be significantly higher than 10%. One option could be that any other members under (f) would be required to have planning qualifications to ensure sound planning outcomes. -It is unclear how the person with planning qualifications will be recorded for public knowledge. -It is unclear whether the NTPC could continue to convene if the planning member resigns.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 81L(2) and (3) Community Consultation NTPC	New	NTPC must develop policies (and publish on website) on consultation with public and specific participants and on public education	Will add to transparency and accountability of consultation	-Can be supported in principle. -To develop policy is sound idea; content of policy will determine the effectiveness of the requirement
Section 81Y(1A) annual report	New	Includes requirements for annual report	Should aid in transparency and accountability	Can be supported
Section 81ZA Confidentiality	Revision	Minor revisions to text	Nil	Can be supported
Section 84(3) Functions and Powers of DCA	New	DCA may seek advice from any specialist members on Minister's list	Unclear, unclear how process would work or how will know what specialities are	The general idea is supported, though it is unclear how it will work in process and how the process may affect statutory timeframes. For many DCAs that only meet once a month, a request at one meeting for advice will likely result in a two week timeframe for that advice to be provided to meet the next hearing. The likely outcome is then for the advice to be presented to DCA in two months, which would lead to a two month delay in processing the application.
Section 88(1A) DCA Chair	New	Minister must be satisfied chair has skills, qualifications or experience to exercise powers and perform the functions of the office	Assume Minister has always thought that about appointee, good idea but not useful without criteria	-Can be supported. -It is noted that for DCA members, the required skills, qualifications, or experience to hold the position is expected to be detailed in the Regulations. It is recommended that the same occurs for the DCA Chair.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

<p>Section 89 Appointment of DCA Members</p>	<p>Revision</p>	<ul style="list-style-type: none"> -Change from 2 “community” members to 2 “specialist” members -Change from Minister being required to accept 2 Council nominees to Minister consider appointing Council’s nominees but Minister may instead appoint any person Minister thinks fit to be local authority member -Eligible to be specialist member if have skills, qualifications and experience prescribed by Regulations -Employee of Council not allowed on DCA -Employee of Agency administering Act not allowed on DCA -Minister must maintain list of people eligible and willing to be specialist members 	<ul style="list-style-type: none"> -Eliminates ability of Council to appoint own representatives/ ensure representatives will be representative of the local area -Eliminating employees of Council/agency could reduce perceptions of bias -Unclear how list of specialist members works 	<ul style="list-style-type: none"> -Council strongly objects to a change to the appointment of local authority members to DCA. -This change allows all DCA appointees to be nominated by the Minister, potentially creating a political, rather than community or specialist, decision-making body. -If it is believed that Council may be nominating individuals inappropriate to serve on DCA, the Act could be worded such that if the Minister chose not to appoint a Council nominated individual, the Minister must: <ul style="list-style-type: none"> a) Advise Council in writing of the reason Council’s appointee is considered unsuitable, in order to ensure transparency, and b) Refer the process back to Council to appoint a new nominee The Territory is a large area and it is submitted that the local authority knows the best representatives of their local area much more than a Minister would be able to do for all local authority areas. -Can support in principle the idea of specialist members having appropriate skills, qualifications, or experience, but cannot give full support until
--	-----------------	---	--	--

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
				<p>Regulations are developed and those requirements are available to Council for comment. It would be beneficial to expect DCA members to have some set of planning-related qualification; however, Council would submit that, in some cases, being a long-term resident in the community with a feel for the community's views of appropriate development would be sufficient qualifications/experience rather than any requirement for formal qualifications or degrees in specialist subjects.</p> <p>-If local authority employees and agency employees are not eligible to be on DCA due to perceived bias due to their employment status, it logically follows that employees of all service authorities should also be ineligible for the same reasons of perceived bias. Council supports adding that employees of service authorities are ineligible for membership on the DCA.</p> <p>-It is unclear on whether the list of specialist members is specific to individual local authority areas or Territory-wide. This should be clarified in the Act or Regulations.</p>

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 89A Training of DCA Members	New	Requires Minister approve a training course for members, which members are required to complete	Should result in more educated members	Can support, course should instruct members on NT Act, Scheme, requirements etc, as well as sound planning theory and provide resources
Section 91(4) Alternate Members for Local Authority Representatives	No Change	No Change	Section 89 has changed the provisions for appointment of local authority members, but Section 91(4) continues the previous process of Minister being required to appoint the alternate member	It is recommended that Section 91(4) be amended as noted above under Council's comments on Section 89
Section 92(4) Term of Office of DCA Member	New	If Council placed under official management, local member continues to be local member unless terminated by Minister	Clarification	Can be supported
Section 97(3), (4), (5) DCA Members Disclosure of Interest	Revised Revision	Clarifies that a DCA member that makes a disclosure of interest and has a noted relevant relationship must not be present or participate in deliberations or decision unless determined suitable by the Chair	Clarification	Can be supported in concept; however, it is unclear how under (5) an individual could be counted for a quorum if the individual was not present. The wording of (5)(a) and (5)(b) should be reviewed.
Section 98 Offences Related to Non-disclosure of Interest	Clarification	Separates penalty for non-disclosure from previous clause 97	Clarification	Can be supported

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 98A Independence of Local Authority (Council) DCA Members	Revision	Clarifies that members appointed by local authority are to make DCA decisions independent of the local authority's comments in relation to the application	Clarification	Can be supported
Section 100 Code of Conduct	New	Minister may establish a code of conduct for DCA members and publish on website	Holds DCA members to known code of conduct	Can be supported in principle. Cannot offer full support until Code of Conduct is drafted and available for review.
Section 100A Removal from Office	Revision	Adds that Minister may terminate appointment of DCA member for failure to adhere to code of conduct	Holds DCA members to known code of conduct	-Can be supported. -It is recommended that a provision be added that the Minister must provide, in writing to the affected individual (and Council if local authority appointee), reasons why the individual is believed to have violated the code of conduct or be otherwise suitable for termination, to support transparency of decision-making. This letter does not have to be made public but should be provided, as appropriate, to the individual and/or local authority.

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Section 103(1A) DCA Minutes	New	<p>-Minutes of DCA meeting must record the name of each member who attends a meeting</p> <p>-Minutes must record how each member votes in respect of any decision taken during a meeting in relation to a development application</p>	Makes public the previously confidential voting of DCA members	<p>-Council objects to making voting public. DCA members are appointees, not elected officials. As Minister can remove from office for improper behaviour, there is no need to hold members accountable to public for their decisions. Transparency should be available through detailed Notices of Consent/Refusal/Deferral.</p> <p>-This proposal could lead to situations where members feel politically or socially obliged to make a decision rather than being able to evaluate an application on merit. Council feels that while the intent of this recommendation is to provide transparency, in reality, this recommendation could lead to politicisation of the DCA, which is undesirable.</p> <p>-In other Council locations in Australia, DCA members have been threatened or experienced negative social behaviour as a result of publicly recorded voting.</p> <p>-It is unclear how voting would be recorded if members agreed on overall outcome to approve application but strongly disagreed on conditions to be placed on permit.</p> <p>-At the time of the DCA meeting, the final Development Permit and all conditions, as well as the Notice of Consent or Notice</p>
-----------------------------	-----	---	--	--

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
				of Refusal, have not been fully drafted. It is not appropriate to ask a member to have a formal vote recorded for public record on documents that are not in final form.
Section 104 Annual Report	New	Requires DCA Chair to write annual report on performance of DCA and table report in Legislative Assembly.	Collects all information from public DCA minutes into a single document to put before Assembly.	Can be supported
Section 106 Disrupting Meeting	Revision of previous Section 106 Contempt	Revises text	Clarification	Can be supported
Section 107 Offence to Disclose Certain Information	Revision of previous Section 107 Confidentiality	Clarifies intent of disclosure and revises text	Clarification	Can be supported

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 111 Review of Decisions by Consent Authority	New	Previously were only able to review refusal to issue a permit, new section allows review of a number of issues, including: -refusal to issue development permit, -conditions on a permit, -request for additional information, -refusal to grant extension of time, -refusal to grant compliance with EDP, -issue enforcement notice, requirements of that notice, or refusal to issue notice. Also states how application for review must be made and specifies 28-day timeframe	Allows public more opportunity to review planning decisions.	Can be supported
Section 112 Review if Consent Authority Does Not Determine Application	Revision	Revision to text	Clarification	Can be supported
Section 115 Review of Refusal to Refund or Remit Contribution	Revision	Revisions to text to address new definition of local authority as separate to service authority	Clarification	Can be supported

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 119 No Development Permitted Under Permit if Application for Review	Revision	Clarifies that land must not be developed until application is determined by Tribunal and offence penalties	Clarification	Can be supported
Section 135B Administrative Directions	New	Minister may issue directions on how to interpret and administer provisions of the Act, regulations and NTPS. Directions should be consistent with the Act, regulations and NTPS and NTPC and DCA must have regard to the directions.	Allows Minister to provide interpretation.	Can be supported

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Section 139A Electronic Publication	New	Despite anything else in the Act, a requirement to publish in the newspaper may be satisfied by publishing on a website or other electronic platform, other than a required gazette notice.	Individuals required to have internet access to view all notifications.	-Council strongly objects to this proposal for a number of reasons. -Publishing only in electronic format unfairly disadvantages those individuals without internet access, or adequate internet access, as well as individuals not familiar with computer use. Many elderly residents do not feel comfortable with use of internet and many rural residents do not have adequate access to internet. Internet access is limited or unavailable in many parts of the NT. Many mobile blackspots identified in the rural area. -Newspapers are still a well-used form of communication that many individuals review on a daily basis. The NT Government cannot expect private citizens to regularly log on to a planning website (and a liquor licence application website, gaming website, water licence website, etc) to find information about what is going on in their community. -This provision would reduce transparency and could be viewed as an attempt to get fewer public comments.
Section 148(j), (k) Regulations	Revision	Revises max penalty units for offence against regulations from 10 penalty units to 200 or 100 penalty units.	Increases penalties	Can be supported

Litchfield Council – Submission on Draft Bill of Amendments to the NT Planning Act 1999
November 2019

Draft Bill Section	Section from current Act	Key Change	Effect	Council Submission
Division 8 Planning Amendment Act, Sections 209 and 210	New	<ul style="list-style-type: none"> -Makes transitional provisions for moving from old to new Act. -Provisions of new Act apply to permits issued before Act -Members of NTPC and DCA holding office before Act continue to hold office under same terms and conditions -Authorised officers before Act continue to be authorised officers 	Makes clear applicability of act and membership	Can be supported



PROGRESSING PLANNING REFORM AN OVERVIEW



*Building Confidence through Better
Planning for the Northern Territory*

Contents

Introduction.....	2
How to use this document	3
What are the changes?.....	5
1. Strengthen the role of strategic planning	5
2. Make the Planning Scheme more user-friendly.....	8
3. Simplify development application processes.....	12
4. Revise notification requirements	15
5. Introduce criteria for planning scheme amendments.....	18
6. Streamline application timeframes	20
7. Introduce more effective enforcement tools.....	24
8. Introduce new Development Consent Authority membership and reporting requirements.....	27
9. Improve planning information and public engagement	29
10. Extend third party rights of review to Zone RL (Rural Living).....	31
11. Create more certainty for legal existing uses.....	32
12. Support infrastructure contributions	33
13. Miscellaneous minor changes to the Act	34

Introduction

Government is committed to an open and accountable planning system that values community participation, is easy to understand, supports economic development through streamlined assessment processes, promotes sustainable development, and values the Territory environment.

To continue to build the Territory, we need a planning system that is flexible, innovative, embraces technology and respects the unique characteristics of our diverse communities.

The first step for planning reform outlined how the current system operates and sought ideas about how it could be improved to deliver better development outcomes for the community.

The second step presented an overall strategy for reform and provided technical explanations of a set of proposed priority reforms that responded to the first round of consultation. The reform directions are to:

- strengthen and clarify the planning framework to deliver better planning and development outcomes;
- make the planning system more open and accountable to improve public understanding and confidence in planning decisions; and
- improve connections with the public to better value, encourage and support community contributions to planning processes.

The current step advances the reform directions and responds to previous consultation through the introduction of a *Consultation Draft Bill for Amendments to the Planning Act 1999*. Changes to the Act will be supported by a restructured and enhanced Northern Territory Planning Scheme. The Government has now released:

- A **Snapshot** to explain the Government's overall strategy to progress priority planning system reforms; and
- An **Overview** which presents a summary of the reforms with links to:
 - the **Consultation Draft Bill for Amendments to the Planning Act 1999**; and
 - a **Draft Examples of Possible Changes to the Northern Territory Planning Scheme**.

Briefings and consultation sessions will be held throughout the Territory and you are invited to participate in these sessions and contribute to the discussion.

How to use this document

This **Overview** will guide you through the proposed reforms to the planning system, especially the changes to the *Planning Act 1999* as presented in the consultation draft Bill. Possible changes to the NT Planning Scheme are also described and examples of how the revised Planning Scheme might look are provided to help you understand how the proposed Act changes will be implemented.

References to the Act

A **Consultation Draft Bill for Amendments to the Planning Act 1999** is currently available for comment. You are encouraged to make comments about the wording and intent of the consultation draft Bill. Once this consultation period is finished, changes will be made to the draft Bill and the law-making process will proceed with introduction of the Bill to the Legislative Assembly.

In each section of this **Overview**, you will find a table that refers to the specific sections of the Act that will be changed to support the reforms described in that section. You can use the references in the table to find the corresponding changes to the Act within the **consultation draft Bill**.

The diagram illustrates how to use the Overview document to find specific changes in the consultation draft Bill. It consists of two main panels connected by arrows.

Left Panel: Example table in this Overview

Changes to the Act	Reference to the draft Bill
Proposed changes to the Act	
4 - Section 2A replaced	
2A Purpose and objectives	
Enhance the current objects of the Act to guide the creation, interpretation and changes to components of the planning system.	

Right Panel: Example extract from the consultation draft Bill

4 Section 2A replaced

Section 2A

repeal, insert

2A Purpose and objectives

The purpose of this Act is to establish a system for the planning of land development to achieve the following objectives:

(a) to ensure that planning is conducted within a strategic framework;

Arrows and Annotations:

- A red arrow points from the "4 - Section 2A replaced" row in the table to the "4 Section 2A replaced" heading in the draft Bill extract.
- A blue arrow points from the "2A Purpose and objectives" row in the table to the "2A Purpose and objectives" heading in the draft Bill extract.
- A blue box at the bottom of the left panel contains the text: "Section number and title to be used in the amended Act".

References to the Planning Scheme

A **Draft Examples of Possible Changes to the Northern Territory Planning Scheme** is available to give you an indication of how the Planning Scheme will look and function with the changes to the Act. Once the draft of the revised Planning Scheme is complete, it will be placed on extended exhibition to enable detailed industry and community consideration and comment.

In each section of this **Overview**, you will find a table that refers to possible changes to the Planning Scheme. You can use the Part references to find the corresponding example of the revised Planning Scheme Part within the **Draft Examples of Possible Changes to the Northern Territory Planning Scheme**.

Example table in this Overview

Changes to the Planning Scheme	Reference to Part of the Planning Scheme
Proposed changes to the Planning Scheme PART 1 – GUIDANCE Part 1 will be revised to: <ul style="list-style-type: none">establish the Strategic Framework as a component of the Planning Schemeidentify the role of the Strategic Framework in the operation of the Planning Schemeprovide detail on how the components of the Strategic Framework are used to inform discretion when the consent authority considers a development application	Extract from the <i>Draft Examples of Possible Changes to the Planning Scheme</i> PART 1 - GUIDANCE 1.1 Citation 1) The Northern Territory Planning Scheme 2020 may be cited as the Planning Scheme. 1.2 Application 1) This planning scheme applies to the whole of the Northern Territory with the exception of an area subject of a specific planning scheme made under section 8 of the <i>Planning Act</i> ####.

When providing feedback on the changes described in this Overview, please let us know:

Do the proposed changes to the Act and Planning Scheme reasonably address your key areas of concern?

What other changes to the Act or Planning Scheme do you think are needed?

Of the changes proposed, which do you feel will have the greatest benefit?

What are the changes?

1. Strengthen the role of strategic planning

What is being done

Both the *Planning Act 1999* (the Act) and the Northern Territory Planning Scheme (the Planning Scheme) are being revised to clearly identify the role of strategic planning. This will emphasise the importance of the Strategic Framework (including a hierarchy of strategic plans) and provide details about how the framework is used to influence:

- development of new strategic plans and policies;
- changes to the NT Planning Scheme (eg rezoning); and
- development decisions.

The reforms described throughout this paper work together to make a stronger role for strategic planning to deliver better development outcomes.

Why this change is needed

Best practice land use planning holistically considers the social, environmental and economic context of an area and encourages early community involvement.

The NT Planning Commission implements this approach by working with the community, infrastructure providers and other government agencies to:

- identify the utilities, roads, housing and community infrastructure needs to accommodate population growth;
- establish a long term vision for land use in the Territory and our communities; and
- recognise the needs and aspirations of different regions and local communities.

The products of this work are strategic plans (eg area plans) that the Minister includes in the Planning Scheme.

The role of strategic plans in the NT planning system is not currently defined in the Act and the Planning Scheme, and reliance has been placed on 'one size fits all' development requirements. While these requirements are appropriate for the assessment of simple and conventional developments, they provide limited guidance for more complex or innovative developments.

Clarification of the role of strategic policy will encourage better development outcomes and inform decisions to ensure all development responds to local circumstances and achieves the broader vision for the Territory.

Strengthening the role of strategic plans and policy to influence planning and development decisions will:

- facilitate better development outcomes;
- allow the community, industry and government to anticipate future development and coordinate infrastructure provision;
- provide clear guidance for decisions so that they reflect the local context and environment, as well as the vision for the wider region;
- enhance the community's contribution to the vision for their local area; and
- foster community confidence and understanding of planning processes through early engagement in strategic planning.

How this responds to consultation

The community, developers and government agencies generally support a stronger role for strategic planning. In particular, this change responds to calls for planning decisions to take better account of local factors and coordination of infrastructure provision.

Development of strong strategic plans will be supported by [improved planning information and public engagement](#).

Changes to the Act

Proposed changes to the Act	Purpose of the changes
4 - Section 2A replaced 2A Purpose and objectives Enhance the current objects of the Act to guide the creation, interpretation and changes to components of the planning system.	To support a fair, transparent and accountable system by clearly establishing: <ul style="list-style-type: none"> the broad range of considerations that should guide the planning system; and a clear structure for procedures and decision making roles and responsibilities.
7 - Section 6A inserted 6A Persons and bodies performing functions under this Act Establish who is responsible for particular decisions.	
8 - Section 9 replaced 9 Planning scheme Establish: <ul style="list-style-type: none"> the components of the framework including strategic policies and strategic land use plans; and how the components relate to each other. 	To improve understanding about the: <ul style="list-style-type: none"> components of the Planning Scheme; their relationship to each other; and their role in informing decisions. See also make the Planning Scheme more user-friendly .
9 – Section 13 replaced 13AA Planning Commission views on request and decision Give the Minister the option to request the Planning Commission provide advice on strategic planning implications of a proposal to amend the Planning Scheme.	To ensure strategic implications are appropriately considered, recognising that the functions of the Planning Commission include review of the NT Planning Scheme and the preparation of strategic policies and plans.
<i>Subsequent change:</i> 45 – Section 81B amended 81B Functions Include advice to Minister as described above as a new function for the Planning Commission.	

Proposed changes to the Act	Purpose of the changes
19 - Section 30W amended 30W Determination of development proposal; and 32 - Section 52 replaced 52 No consent if development contrary to planning scheme or order Require the consent authority to take account of the Strategic Framework in making determinations.	To clarify that the consent authority must consider the Strategic Framework in making a decision. Simplified development assessment processes will establish which components of the Strategic Framework are relevant in particular circumstances.

Changes to the Planning Scheme

Proposed changes to the Planning Scheme	Purpose of the changes
PART 1 – GUIDANCE Part 1 will be revised to: <ul style="list-style-type: none"> establish the Strategic Framework as a component of the Planning Scheme identify the role of the Strategic Framework in the operation of the Planning Scheme provide detail on how the components of the Strategic Framework are used to inform discretion when the consent authority considers a development application 	To: <ul style="list-style-type: none"> clarify and strengthen the role of the Strategic Framework within the Planning Scheme; set out a clear structure that ensures that strategic plans and policies can effectively inform discretion for development decisions; and clearly establish the basis of decisions relating to variations to address the uncertainty created by current reliance on ‘special circumstances’. Relevant considerations will depend on the level of assessment (see also simplify development assessment processes).
PART 2 – STRATEGIC FRAMEWORK The new Part 2 will consolidate strategic plans and policies currently found under Part 2, Part 8 and Schedule 2. The new Part 2 will identify: <ul style="list-style-type: none"> the purpose of Strategic Framework; the components and operation of the Strategic Framework; Strategic Planning Policies that apply across the Territory; and the Hierarchy of Strategic Land Use Plans. 	To: <ul style="list-style-type: none"> consolidate the Strategic Framework to make it easy to identify all strategic plans and policies (see also make the Planning Scheme more user-friendly). clarify how the various levels of plans and policies inform and relate to each other, including: <ul style="list-style-type: none"> that more detailed plans are informed by higher levels of plans; that in the case of inconsistencies between plans at various levels the more detailed plans prevail; and that in the absence of more detailed plans higher level plans can guide interpretation.

2. Make the Planning Scheme more user-friendly

What is being done

The NT Planning Scheme will be revised to more logically group together related provisions and make the intent of the provisions clearer. This will ensure decision makers can better support achievement of the strategic planning framework and good development outcomes. These changes to the Planning Scheme will also reflect the changes to the Act.

Changes to the structure of the Planning Scheme will come into effect as an amendment to the current Planning Scheme. Extended public exhibition in early 2020 will enable detailed industry and community consideration and comment before the new Planning Scheme is adopted.

Why this change is needed

The current Planning Scheme was the first integration of multiple Town Plans and land use objectives into a single document. This complex process resulted in the Planning Scheme being difficult to navigate and use. For example, the structure of the current Planning Scheme and layout of the zoning tables can make it hard to identify all the relevant requirements and considerations for a development. Additionally, the role and function of strategic plans needs to be more prominent.

The restructure will make it easier to find, understand and apply the Strategic Framework, development requirements and any other provisions that are relevant to a proposed development.

How this responds to consultation

The proposed revision of the Planning Scheme responds to calls for clearer information and the need to improve the robustness of the NT Planning Scheme. The restructure is also essential to assist understanding of the [stronger role of strategic planning](#) and [simplified development application processes](#).

Changes to the Act

Proposed changes to the Act	Purpose of the changes
8 - Section 9 replaced 9 Planning Scheme 9A Contents of strategic framework 9B Overlay provisions, zone provisions and development requirements and guidelines 9C Interpretative provisions and administrative guidelines Clarify the potential components of a planning scheme being: <ul style="list-style-type: none">• a strategic framework;• overlays;• zones;• development requirements; and• interpretative provisions and administrative guidelines. These components are explained in more detail in the table on Changes to the Planning Scheme on the next page.	To establish a clear and concise framework for planning schemes See also strengthen the role of strategic planning .

Changes to the Planning Scheme

Proposed changes to the Planning Scheme	Purpose of the changes
<p>PART 1 – GUIDANCE</p> <p>Part 1 will set out:</p> <ul style="list-style-type: none"> the structure of the Planning Scheme; how the Planning Scheme operates; when consent is required; and the various components of the Planning Scheme relevant to the exercise of discretion 	<p>To clarify:</p> <ul style="list-style-type: none"> the overall operation of the planning system; and how the various components influence decisions (ie how they are used to inform the exercise of discretion). <p>See also strengthen the role of strategic planning.</p>
<p>PART 2 – STRATEGIC FRAMEWORK</p> <p>Part 2 will consolidate strategic policies and strategic land use plans from what was Part 2, Part 8, and Schedule 2.</p>	<p>To:</p> <ul style="list-style-type: none"> make it easy to identify all strategic plans and policies within the Planning Scheme; and clarify how the various levels of plans and policies inform and relate to each other. <p>See also strengthen the role of strategic planning.</p>
<p>PART 3 – OVERLAYS</p> <p>Overlays found in the new Part 3 are a new way of presenting general development requirements (found in the current Part 4 Performance Criteria) that relate to land constraints (e.g. flooding, storm surge and proximity to an airport).</p> <p>Overlays may change the assessment category and/or assign additional requirements to a development irrespective of the underlying zone.</p> <p>Areas affected by an overlay will be mapped, and each overlay will include:</p> <ul style="list-style-type: none"> a purpose statement administration statements the requirements associated with the overlay 	<p>To clearly identify all requirements relevant to particular developments by:</p> <ul style="list-style-type: none"> making them easier to find within the Planning Scheme; and clarifying that overlay requirements sit above and in addition to the zone-related requirements in later parts of the Planning Scheme.

Proposed changes to the Planning Scheme	Purpose of the changes
<p>PART 4 – ZONE PURPOSES, MAPS AND ASSESSMENT TABLES <i>(previously Part 3)</i></p> <p>Part 4 will enhance the presentation and details around zones by:</p> <ul style="list-style-type: none"> • making the purpose for each zone clearer • introducing outcomes that describe how the purpose of the zone will be achieved • improving assessment tables to identify the category of assessment and all development requirements relevant to defined uses <p>Provisions for infrastructure zones (previously Part 7) will also be moved to Part 4.</p>	<p>To:</p> <ul style="list-style-type: none"> • clarify how each zone is expected to look and function; • identify matters that inform consideration of whether an impact assessable development is compatible with the zone; and • make it easier to identify all requirements of the Planning Scheme that may apply to a defined use in the zone. <p>Provisions relevant to land within Specific Use Zones will continue to be identified in a Schedule.</p> <p>These changes concisely and clearly establish the information that is the basis for decisions.</p>
<p>PART 5 – DEVELOPMENT REQUIREMENTS <i>(previously Part 4)</i></p> <p>Part 5 will enhance the presentation and details of Development Requirements by:</p> <ul style="list-style-type: none"> • making the purpose for each development requirement clearer and more meaningful • providing more guidance on the administration of each development requirement, including whether a variation can be considered and under what circumstances • setting out the standard requirements for a particular development 	<p>To:</p> <ul style="list-style-type: none"> • enhance community understanding about what each requirement is intended to achieve; and • provide clearer guidance for the consent authority when exercising discretion, particularly for variation of a development requirement.
<p>PART 6 – SUBDIVISION AND CONSOLIDATION REQUIREMENTS <i>(previously Part 5)</i></p> <p>Part 6 will enhance the presentation and details of Subdivision and Consolidation Requirements with formatting that is consistent with other updated requirements in the Planning Scheme.</p> <p>Note: there is no example provided for this Part in the <i>Draft of Possible Changes to the Planning Scheme</i>.</p>	<p>To maintain a consistent format with other requirements in the Planning Scheme and similarly:</p> <ul style="list-style-type: none"> • enhance understanding about what the subdivision requirements are intended to achieve; and • provide clearer guidance for the consent authority when exercising discretion.
<p>PART 7 – ABORIGINAL COMMUNITIES AND TOWNS <i>(previously Part 6)</i></p> <p>The content of this Part will remain unchanged.</p> <p>Note: there is no example provided for this Part in the <i>Draft of Possible Changes to the Planning Scheme</i>.</p>	<p>Conversations around planning for Aboriginal communities and towns remain ongoing. These provisions will not be changed through Planning Reform in order to retain flexibility in discussions with stakeholders in remote communities.</p>

Proposed changes to the Planning Scheme	Purpose of the changes
<p>INTERPRETATIVE PROVISIONS AND ADMINISTRATIVE GUIDELINES</p> <p>Interpretative provisions and administrative guidelines will be reorganised into Schedules in the back of the Planning Scheme, including:</p> <ul style="list-style-type: none"> • definitions • exceptions • strategic plans and policies • zone maps (including overlays) • specific use zones • list of communities and towns to which Part 7 applies • guidance documents <p>Note: there is no example provided for this Part in the <i>Draft of Possible Changes to the Planning Scheme</i>.</p>	<p>Moving these details into Schedules will make the main parts of the Planning Scheme easier to read and navigate.</p>

3. Simplify development application processes

What is being done

“Discretionary” development will be separated into two assessment categories:

Merit Assessable – development that is considered to achieve the purpose of a zone if it meets the purpose of all relevant development requirements and any site-specific guidance in an area plan; or

Impact Assessable – development that may be suitable to establish in a zone depending on the site suitability, surrounding development, the scale and intensity of the proposed development, and whether adverse impacts can be managed. Impact Assessable development must be considered within the context of the zone purpose and outcomes, and any relevant component of the Strategic Framework.

A Permitted development may become Merit Assessable because of the need for a variation to one or more development requirements. In this case, the Merit Assessment will only need to address the matters that relate to the varied requirement(s).

The assessment category will be identified in the assessment tables. Overlays or the need to vary development requirements may change the assessment category. The matters that must be considered for each assessment category will be set out in the beginning of the revised Planning Scheme.

Why this change is needed

“Discretionary” uses in the NT Planning Scheme are uses and developments that must have approval from the consent authority (ie uses that need a Development Permit). The consent authority uses its “discretion” (its judgement) to decide whether or not to issue a permit, having regard to matters set out in the Act and the Planning Scheme.

Currently, all discretionary uses are treated in the same way regardless of whether the proposed development is simple (eg reduced setback for a car port) or more complex (eg subdivision to create lots for a new suburb).

The introduction of Merit Assessable and Impact Assessable categories will clearly set out what strategic plans and policies apply to particular developments (see also [strengthen the role of strategic planning](#)). This will:

- support simpler requirements and a more streamlined process for simpler developments;
- ensure that more rigor is applied to more complex developments; and
- make application requirements, considerations and decisions easier to understand.

Greater emphasis on the policy directions within the Planning Scheme, particularly for Impact Assessable developments, will now ensure that development decisions appropriately respond to:

- the purpose and preferred uses for the zone;
- how the land surrounding the site is currently developed; and
- how the locality is expected to develop in the future.

How this responds to consultation

The introduction of Merit and Impact Assessment categories provides the clarity requested on how strategic plans and policies will influence decisions about development applications. The changes ensure that the local (or subregional or regional where appropriate) context is taken into account for all development requiring consent.

The introduction of these assessment categories clarifies how an application is determined by:

- simplifying the assessment of a fully compliant Merit Assessable development;
- specifying how variations to development requirements will be considered and under what circumstances; and
- identifying those developments that will be subject to greater scrutiny (Impact Assessable development).

Changes to the Act

N/A

Changes to the Planning Scheme

Proposed changes to the Planning Scheme	Purpose of the changes
PART 1 – GUIDANCE Part 1 will provide specific guidance in relation to the: <ul style="list-style-type: none">• Operation of the Planning Scheme (Clause 1.7)• When development consent is required including the distinction between Merit and Impact Assessable (Clause 1.8)• Ancillary use and development (Clause 1.9)• The parameters which will inform decisions of the consent authority depending on the relevant level of assessment (Clause 1.10)	These changes provide the community with meaningful information about the planning system and what informs decisions by: <ul style="list-style-type: none">• clarifying the operation of the Planning Scheme• providing a tiered approach to the level of assessment depending on the complexity and possible impact of proposal within the context of the zone of the land;• clarifying provisions around ancillary uses; and• providing structure around what informs discretion to address ambiguities around how the Planning Scheme operates.
PART 4 – ZONE PURPOSES, MAPS AND ASSESSMENT TABLES (<i>previously Part 3</i>) Improved assessment tables associated with each zone will identify: <ul style="list-style-type: none">• the category of assessment;• Potential influences (eg Overlays) on the category of assessment; and• development requirements for defined uses.	The improved assessment tables will clearly identify the category of assessment that applies to a development and identify all overlay or development requirements which may impact on the category of assessment. Clearly establishing criteria which will inform assessment decisions will enhance community confidence in the operation of the planning system. See also make the Planning Scheme more user-friendly .

Proposed changes to the Planning Scheme	Purpose of the changes
<p>PART 5 – DEVELOPMENT REQUIREMENTS and PART 6 – SUBDIVISION AND CONSOLIDATION REQUIREMENTS</p> <p>All development requirements are to have a clear purpose, administration statements and requirements.</p> <p>Note: there is no example provided for Part 6 in the <i>Draft of Possible Changes to the Planning Scheme</i>.</p>	<p>Changes to Parts 5 and 6 will clearly set out whether a variation may be considered by the consent authority and under what circumstances. Providing meaningful information will minimise the lack of certainty associated with the current operation of the Planning Scheme.</p> <p>See also make the Planning Scheme more user-friendly.</p>

4. Revise notification requirements

What is being done

Improvements to the Act and associated revisions to the *Planning Regulations 2000* (the Regulations) will better target notices to the people most likely to be affected by a proposed development or rezoning.

Requirements for notification signs

The Regulations will be amended to improve “pink” and “yellow” notification signs by:

- requiring more relevant information on signs; and
- allowing more flexibility for sign placement.

Further investigation of options and consultation regarding the changes to the signs will occur later in the reform process.

Notification streams for development applications

Two new streams of notification will be introduced for development applications requiring public notification:

Local notification – for minor developments that only have localised impacts. Applications will be simplified and notification will only be required to immediate local residents by letter and a sign on the land. Newspaper advertisement will not be required.

Designated development – for developments that require greater community consultation due to their location or nature. The minimum exhibition period for designated developments will be increased to 28 days.

Consultation will occur later in the reform process to determine which developments will be subject to the new notification streams. The Regulations will list the types of development that will be subject to each stream.

The existing **standard notification** requirements, including newspaper advertising, will continue to apply to most development applications.

Why this change is needed

Currently, “pink signs” (for development applications) and “yellow signs” (for rezoning applications) are the way most local residents find out about a planning application. Revised requirements for sign information will ensure that signs provide a more detailed overview of the proposal. The location where signs can be placed will also be made more flexible, providing increased visibility.

The local notification stream will simplify notification requirements for some applications while ensuring that local residents are informed.

A longer exhibition period for designated developments will ensure the community have more time to review development proposals that may substantially impact on public amenity, the environment and/or attract a high degree of community interest.

How this responds to consultation

The new streams of notification respond to calls for a hierarchy of applications that reflect the complexity of the proposed development.

Specifically, the extended exhibition requirements for “designated developments” respond to service authority and community group calls for increased submission periods for complex developments. These new requirements will also resolve concerns around the previously proposed “pre-application consultation”.

Changes to the Act

Proposed changes to the Act	Purpose of the changes
<p>- Section 16 amended</p> <p>16 Notice relating to rezoning or grant of permit; and</p> <p>16 - Section 30J amended</p> <p>30J Notices on land to which concurrent application relates</p> <p>Amend requirements for notices to:</p> <ul style="list-style-type: none">• clarify the requirements for planning scheme amendment and DA signs placed on land;• differentiate between notices provided to landowners, and notices (signs) placed on the land; and• increase flexibility for the location of signs to focus on ensuring the visibility of the signs from an adjoining public road.	<p>To:</p> <ul style="list-style-type: none">• ensure signs are placed to maximise the availability of information for those potentially impacted by the proposal; and• address administrative issues associated with the lack of distinction between “notices” and “signs”.
<p>23 - Section 46 amended</p> <p>46 Development applications</p> <p>Introduce the opportunity for the Regulations to identify that minor applications need to address only some of the requirements identified in s46.</p>	<p>Simplifying application processes for minor developments recognises that some of the requirements that currently need to be addressed are irrelevant to a simple application such as a boundary setback variation.</p>

Proposed changes to the Act	Purpose of the changes
<p>24 - Section 47 amended</p> <p>47 Public notice of development application Introduce the opportunity for the Regulations to identify 'designated development' to be subject to an extended 28 day exhibition period.</p> <p><i>Subsequent changes:</i></p> <p>26 - Section 48 amended 48 Notice to local authority of development application</p> <p>and</p> <p>82 – Section 111 and 112 replaced 111 Review of decisions of consent authority consent authority 112 Review if consent authority does not determine application</p> <p>Extend the overall decision making period to accommodate the longer exhibition period.</p>	<p>These changes represent a balance between:</p> <ul style="list-style-type: none"> • concerns about delays to the consideration of an application because of delayed service authority responses; and • calls for more time to comment.
<p>25 – Section 47A replaced</p> <p>47A Development application requiring no public notice; and 47B Development application requiring only local notice</p> <p>Introduce the opportunity for the Regulations to prescribe an expanded range of uses that may be subject to 'local notification'. 'Local notification' will require the erection of a sign and notification of adjoining landowners and occupiers.</p>	<p>To introduce an expanded range of local notifications and requirements for signs that will enhance the opportunities for the local neighbourhood to comment on issues of concern in the locality.</p>

Changes to the Planning Scheme

N/A

5. Introduce criteria for planning scheme amendments

What is being done

The Act will specify what must now be provided in an application requesting the Minister to amend the Planning Scheme. This will include how the proposal:

- achieves the intended outcomes of the Act;
- benefits the Planning Scheme; and
- benefits the public interest.

The Act will also specify matters that the Minister must consider when making decisions about a request to amend the Planning Scheme. These will include whether the amendment:

- promotes the purpose and objectives of the Act; and
- is consistent with the Strategic Framework in the Planning Scheme.

Why this change is needed

The Act currently provides no guidance on what information should be included in an application to amend the Planning Scheme (including rezoning). There are also no specified matters to guide the Minister in making a decision.

Establishing what information must be included in an application will result in:

- less need for further information from the applicant;
- better focused applications for the Minister to consider; and
- better structured information for the public when applications are exhibited.

Including in the Act matters that the Minister must consider will:

- enhance transparency around the Minister's decisions;
- make it easier for applicants and the community to understand the matters that are considered and that influence decisions; and
- assist applicants and submitters to better frame their application or submission.

How this responds to consultation

Providing criteria that the Minister must consider was strongly supported by all stakeholders including industry and the community. This responds to calls for more transparency about what informs the Minister's decisions.

Changes to the Act

Proposed changes to the Act	Purpose of the changes
4 - Section 2A replaced 2A Purpose and objectives Introduce a comprehensive purpose and objectives of the Act.	To provide overarching guidance to inform creation and amendments of a planning scheme and associated policies, zones and development requirements.

Proposed changes to the Act	Purpose of the changes
<p>9 Section 13 replaced</p> <p>13 Request to amend planning scheme</p> <p>Introduce:</p> <ul style="list-style-type: none"> • matters a request to amend the planning scheme must address; • opportunity for the Minister to request further information; and • to reject the request if the required information is not submitted within the timeframe specified. <p>13AA Planning Commission views on request and decision</p> <p>13AB Minister’s consideration of request and decision</p> <p>Introduce additional criteria to inform the Minister’s consideration of a request to amend a planning scheme (see also strengthen the role of strategic planning).</p>	<p>Establishing matters for consideration by the Minister will provide guidance, particularly for proponents, as to what an application needs to address and will ensure the Minister has all the information that is required to be considered.</p> <p>Clarification around parameters that will inform both the request for and consideration of a request for changes to a planning scheme, will address often raised concerns about the role of the Minister and the basis on which decisions are made.</p>

Changes to the Planning Scheme

N/A

6. Streamline application timeframes

What is being done

Changes to the Planning Scheme amendment process

Timeframes for Planning Scheme amendment applications will be introduced for:

- an applicant to respond to the Minister’s request for further information within a specified timeframe; and
- the Minister to make a decision (90 days after receiving the report from the Planning Commission).

The ability to extend these timeframes will include notification of the applicant and any submitters.

The Act will also allow the Planning Commission to choose to not hold a hearing if it will not be of benefit.

Changes to development applications

Timeframes for development applications will be introduced for:

- an applicant to respond to the consent authority’s request for further information (30 days after receiving the request); and
- service authorities to provide comments (to align with the public exhibition period).

A distinction will be made between a local authority “comment or view” or a “submission”. This will allow Councils to nominate if they are providing technical advice about their infrastructure, or making a submission as an advocate of the community. If only technical advice is provided, and no submission is received from the Council, the consent authority will not have to invite a Council representative to attend a meeting.

Why this change is needed

Introducing timeframes will reduce unnecessary delays, and strengthen certainty and transparency by ensuring that both applicants and submitters:

- are aware of and notified at key decision points;
- know what is being considered during these timeframes; and
- are aware of why an application is delayed if consideration is deferred.

How this responds to consultation

These changes respond to calls for more certainty and consistency in application processes. Timeframes were strongly supported by all sectors of the community.

Changes to the Act

Proposed changes to the Act	Purpose of the changes
<p>5 - Section 3 amended</p> <p>3 Interpretation The definition of ‘service authority’ is amended to separate local authority from the definition of a service authority</p> <p><i>Subsequent changes:</i></p> <p>11 - Section 19 amended 19 Notice to local authority if proposal relates to land in council area; and</p> <p>12 - Section 22 replaced 22 Submissions and hearing; and</p> <p>15 - Section 30H amended 30H Notice to local authority; and</p> <p>17 - Section 30M amended 30M Submissions; and</p> <p>28 - Section 49 amended 49 Submissions</p> <p>Differentiate between a ‘comment or view’ as opposed to a ‘submission’ by the local authority to omit the need for a hearing when the local authority is providing advice only.</p>	<p>To reduce planning application timeframes by reducing the need for hearings where the advice only relates to technical matters.</p>
<p>9 - Section 13 replaced</p> <p>13 Request to amend planning scheme Introduce that if the applicant fails to respond to a request for further information or resubmission of planning scheme amendment proposal within the time specified by the Minister, the Minister may reject the request without considering it further.</p>	<p>Currently there is no process for deferral of a planning scheme amendment application. This change will mean that an application with no action within a reasonable time can be closed.</p>
<p>12 - Section 22 replaced</p> <p>22 Submissions and hearing Provide the Planning Commission with the discretion to not hold a hearing if it is satisfied no useful further information will be provided.</p> <p><i>Subsequent change:</i></p> <p>13 - Section 24 amended 24 Reports</p> <p>Require the Planning Commission to report on why a hearing was considered not to be necessary.</p>	<p>To reduce the timeframes for proposed amendments which attract submissions in support or raising only minor concerns. The Commission must report on the reasons for not holding a hearing to maintain transparency whilst reducing unnecessary administrative processes.</p>

Proposed changes to the Act	Purpose of the changes
<p>14 - Section 25 replaced</p> <p>25 Minister's action on amendment to planning scheme</p> <p>Introduce provisions that require or allow the Minister to:</p> <ul style="list-style-type: none"> • make a decision in relation to a proposed amendment within 90 days of receiving a report from the Planning Commission • defer consideration of a proposal following exhibition and require the provision of additional information • notify any person who made a submission of a decision to defer consideration and require further information. • refuse an application if the requested further information is not provided. 	<p>To ensure that submitters and applicants are notified about the progress of proposals and responds to both industry and community concern about the decision making processes around amendments to the Planning Scheme.</p>
<p>24 - Section 47 amended</p> <p>47 Public notice of development application; and</p> <p>25 - Section 47A replaced</p> <p>47A Development application not requiring public notice</p> <p>47B Development application requiring only local notice; and</p> <p>26 - Section 48 amended</p> <p>48 Notice to local authority of development application; and</p> <p>27 - Section 48A inserted</p> <p>48A Notice to service authority of development application; and</p> <p>28 - Section 49 amended</p> <p>49 Submissions; and</p> <p>29 - Section 50 amended</p> <p>50 Evidence and information</p> <p>Introduce a range of provisions around the exhibition of development applications and the submission of comments including:</p> <ul style="list-style-type: none"> • standard exhibition of 14 days; • exhibition of 28 days for certain prescribed, more complex developments; • the option for the consent authority to accept or reject advice provided by a service authority; and • the ability for the consent authority to grant an extension of time to service authorities if the applicant is notified. 	<p>To establish a more robust process around seeking meaningful input to assist in the consideration and determination of applications.</p> <p>The longer exhibition for designated developments will enhance the potential for identification of any significant issues to inform initial decisions and minimise the need for deferral for further consideration.</p>

Proposed changes to the Act	Purpose of the changes
23 - Section 46 amended 46 Development applications To clarify the process around a consent authority request for further information including: <ul style="list-style-type: none"> • 30 days to provide the information; • An opportunity for an extension of the 30 days; and • The option for the consent authority to reject the application if the information is not provided 	To provide both industry and the community with information about the decision making processes and encourage the submission of adequate applications to minimise delays and deferrals.

Changes to the Planning Scheme

N/A

7. Introduce more effective enforcement tools

What is being done

New enforcement tools will be introduced including:

Show Cause Notice – acts as a first notice of an alleged offence. This notice advises a person that a planning breach is suspected and that they are required to ‘show cause’ why further enforcement action should not be taken. A person issued with a Show Cause Notice has the opportunity to immediately rectify the alleged non-compliance and respond to the consent authority. If the consent authority is not satisfied with the action taken or the response, it may proceed to issue an Enforcement Notice.

Enforcement Notice – replaces the current ‘Notice to Cease’. This notice may require a person to:

- cease the work or use;
- act within conditions that limit the impacts of the activity;
- carry out rectification works (eg demolition of a building or planting of vegetation); or
- take any other action specified to address the non-compliance.

Penalty Infringement Notice (PIN) – an on-the-spot fine for minor offences that may be issued by an authorised enforcement officer.

An Enforcement Notice may be issued without the prior need for a Show Cause Notice to prevent activity that may need immediate action (eg illegal clearing of native vegetation).

Rights to review will be introduced for any person issued with an Enforcement Notice or PIN. A right to review will also be included for a person who makes a complaint to the consent authority if the consent authority decides not to issue an Enforcement Notice. This right to review will be limited to the same circumstances where a third party has a right to review issue of a development permit.

New powers and protections will be introduced for authorised enforcement officers to aid investigations into alleged offences.

Maximum penalties will increase from 200 penalty units for an individual to 500 penalty units and for a corporation from 1000 to 2500 penalty units to better reflect the value the community places on compliance with the Act.

New liabilities will also be introduced to place greater accountability on executives of body corporates and land owners in relation to offences. These liabilities will be balanced by grounds for defence.

Why the changes are needed

The NT planning system is currently lacking in effective tools to discourage, investigate, penalise and order rectification of illegal uses and development.

A stronger and more flexible enforcement toolset is needed to:

- help build a culture of compliance;
- create a fairer environment for those that do the right thing;
- increase penalties to better reflect the value the community places on compliance with the Act; and
- strengthen protection of the environment and amenity of all Territorians.

How this responds to consultation

There was significant support in the community for stronger enforcement. These changes seek to build trust in the planning system and create a fairer environment for those who ‘do the right thing’.

Some concerns were raised in consultation around proposed liabilities which have been resolved through the inclusion of clear grounds for defence.

Changes to the Act

Part 7 of the Act deals with enforcement. To introduce stronger and more flexible enforcement tools, Part 7 will be replaced in full (see consultation draft Bill reference **44 - Part 7 replaced**).

Proposed changes to the Act	Purpose of the changes
Division 3 Enforcement notice <ul style="list-style-type: none"> • 77 Issuing enforcement notice • 77C Contents of enforcement notice • 77D Variation or revocation of enforcement notice Division 1 Offences <ul style="list-style-type: none"> • 75D Contravention of enforcement notice 	Introduce enforcement notices.
Division 3 Enforcement notice <ul style="list-style-type: none"> • 77A Show cause process 	Introduce show cause notices.
Division 3 Enforcement notice <ul style="list-style-type: none"> • 77B Exception to show cause process 	Introduce a process to issue an enforcement notice without the need for a show cause notice.
Division 5 Other enforcement matters <ul style="list-style-type: none"> • 80E Infringement notices 	Introduce penalty infringement notices (PINs).
Division 2 Entry and inspections of premises <ul style="list-style-type: none"> • 76 Authorised officers • 76A Authorised officer's functions and powers • 76B Identity card • 76C Return of identity card • 76D Obstruction of authorised officer • 76E Authorised officer's identity card • 76F Entry and inspections by authorised officer or police officer • 76G Entering residential premises • 76H Identification of person Division 1 Offences <ul style="list-style-type: none"> • 75E Failure to identify 	Enhance powers for enforcement officers.
Division 1 Offences <ul style="list-style-type: none"> • 75 Use or development contravenes planning scheme • 75A Use or development contravenes interim development control order • 75B Use or development contravenes permit • 75C Clearing native vegetation 	Increase maximum penalties.

Proposed changes to the Act	Purpose of the changes
Division 1 Offences <ul style="list-style-type: none"> • 75C Clearing native vegetation • 75D Contravention of enforcement notice Division 5 Other enforcement matters <ul style="list-style-type: none"> • 80F Criminal liability of executive officer of body corporate – legal burden of proof on prosecution 	<p>Introduce liabilities and related grounds for defence.</p> <p>Note that general grounds of defence are also available in accordance with Part IIAA of the Criminal Code.</p>
Division 4 Complaints and investigations <ul style="list-style-type: none"> • 78 Making a complaint • 79 Investigation of complaint • 79A Action after investigation 	<p>Introduce the right for a complainant to review a DCA decision not to issue an enforcement notice, in alignment with those available for development approvals.</p>
Division 5 Other enforcement matters <ul style="list-style-type: none"> • 80 Order for investigation expenses • 80A Order for compensation • 80C Order to remedy contravention or failure 	<p>Introduce that the Local Court can award costs and order compensation.</p>

Changes to the Planning Scheme

N/A

8. Introduce new Development Consent Authority membership and reporting requirements

What is being done

All members of the Development Consent Authority (DCA) will need to:

- have relevant qualifications, skills or experience in a planning related field;
- undergo training about the NT planning system prior to commencing; and
- adhere to a code of conduct.

A more robust process will be introduced for the appointment and termination of DCA members by the Minister including:

- what to do if a Council is placed under official management;
- that employees of a Council and the agency responsible for administering the *Planning Act* (ie the Department of Infrastructure, Planning and Logistics) are ineligible for appointment; and
- that the Minister has discretion to not appoint a person nominated by the Council.

In addition, the Minister will be able to appoint a pool of specialist members to support the DCA in its decision making. The Chair may call upon specialist members to provide advice to the DCA around their area of expertise.

Why this change is needed

The community's confidence that the correct decisions are being made will be enhanced if members have appropriate skills, and meetings are conducted in a way that values community participation and demonstrates proper consideration of the issues.

The new requirements will:

- increase planning related expertise in the DCA;
- provide more support for DCA members in their role; and
- minimise real and perceived conflicts of interest.

How this responds to consultation

These changes respond to calls for more expertise on the DCA and more transparency around membership and DCA decisions.

Consultation identified a range of concerns around previous proposals for legal qualification for the Chair and a change of name for the DCA. As a result, these proposals are not being progressed.

Changes to the Act

Proposed changes to the Act	Purpose of the changes
55 Section 88 amended 88 Chairman and Deputy Chairman Require the Minister to be satisfied when appointing the Chair of the DCA that the person is suitably qualified.	Restore confidence in DCA decisions by supporting a knowledgeable and accountable DCA and establishing a more robust process for the appointment and termination of DCA members.
56 Section 89 replaced 89 Appointment of members within council area Establish: <ul style="list-style-type: none"> the appointment of specialist members with skills, qualifications or experience on the DCA; that employees of a local authority or of the agency responsible for administering the <i>Planning Act</i> are ineligible for appointment to the DCA; and the Minister is not obliged to appoint persons nominated by the local authority to be members of the DCA. 89A Training of members Require all DCA members to complete mandatory training.	
58 Section 92 amended 92 Term of office of member Allow the Minister to terminate the appointment of a local authority member if the Council is placed under official management.	
61 Section 98 replaced 98 Offences related to non-disclosure of interest 98A Independence of local authority members Provide clarity around the independence of local authority members and offences related to conflicts of interest.	
62 Section 100 replaced 100 Code of Conduct 100A Removal from office Allow the Minister to terminate any member for a breach of the Code of Conduct	

Changes to the Planning Scheme

N/A

9. Improve planning information and public engagement

What is being done

Information about the planning system will be made more accessible through an online planning ‘portal’ featuring:

- central access to planning notices, decisions, mapping and online systems;
- ‘Plain English’ information about the planning system, processes and considerations, and how to be involved; and
- improved navigation and search ability.

Other changes to the Act to improve the availability of information about the planning system, decisions and processes will include requirements for:

- the Planning Commission to produce a community engagement policy and include a review of its activities under the policy in its annual report;
- the DCA to provide an annual report and publish voting on development proposal decisions; and
- submissions to include submitter details including name, signature and contact details.

A new administrative practice will be introduced whereby planners will contact submitters to discuss their concerns and to outline the assessment process.

The Planning Commission report to the Minister under Section 24 of the Act will also be made public.

Why these changes are needed

Community confidence and ability to participate meaningfully in planning processes is impacted by a lack of transparency as well as misunderstandings about the operation of the planning system.

The aim of these changes is to:

- improve the content and accessibility of planning information;
- build community understanding of planning process and the capacity to engage meaningfully;
- improve confidence and understanding of the Planning Commission’s engagement processes;
- improve transparency of DCA decisions; and
- ensure that submissions contain sufficient details to:
 - facilitate contact with submitters to clarify issues
 - ensure submitters are notified of key decisions
 - ensure submitters qualify for third party rights of review where these are available.

How this responds to consultation

These changes respond to the need for clearer information about planning processes, more detail about how decisions are made, and more information and support for how the public can be involved. The changes work together with [revised notification requirements](#) and [new criteria for planning scheme amendments](#) to improve awareness and the transparency of the planning system.

Ongoing improvements to website content, Planning Commission engagement processes and customer service will continue to be progressed over time.

Changes to the Act

Proposed changes to the Act	Purpose of the change
65 – Section 103 amended 103 Minutes Require that DCA meeting minutes are to record how each member in attendance votes on any decision relating to a development application.	To improve transparency relating to decisions made by the DCA.
66 – Section 104A inserted 104A Annual Report Introduce requirements that: <ul style="list-style-type: none"> the Chair of the DCA must provide the Minister with a report on the performance of its functions; and the Minister must table a copy of the report in the Legislative Assembly. 	The publication of an annual report of the DCA's performance will improve the public availability of information and contribute to improved transparency of the planning system. The NT Planning Commission is already subject to a similar requirement.
12 – Section 22 replaced 22 Submissions and hearing (NT Planning Commission); and 17 – Section 30M amended 30M Submissions (Concurrent Applications); and 28 – Section 49 amended 49 Submissions (Development Applications) Require that, for a submission to a planning application to be considered received by the DCA or the Planning Commission, the submission must: <ul style="list-style-type: none"> be received during the exhibition period; be in writing (electronic acceptable); be signed by the person making the submission (email signature is acceptable); include the name and contact details of each person making the submission; and identify one person to be the nominated contact in the case of multiple signatories. 	To ensure that people who make submissions are able to be contacted and kept informed of the processes and progress of the planning application These changes also ensure those with third party rights of review are aware of and able to exercise those rights.

Changes to the Planning Scheme

N/A

10. Extend third party rights of review to Zone RL (Rural Living)

What is being done

Third party rights of review are being introduced for development in and adjacent to Zone RL (Rural Living). These are consistent with third party rights of review in other residential zones.

Why this change is needed

Development of lots within Zone RL (Rural Living) has changed over time to become primarily for residential uses with an expectation for a high level of amenity that aligns closely with residential zones.

Given community expectation for Zone RL (Rural Living) to function like a residential zone, it is being given the same third party rights of review as other residential zones.

How this responds to consultation

This change provides a balanced response to a wide range of opinions on whether or not to expand third party rights of review. The change recognises the potential for impacts on amenity in residential zones without unnecessarily delaying development. It is also recognised that pathways exist in other legislation to resolve environmental, health and nuisance issues.

Changes to the Act

N/A

Changes will be made to the Regulations in due course to include Zone RL (Rural Living) in the list of residential zones.

Changes to the Planning Scheme

N/A

11. Create more certainty for legal existing uses

What is being done

The Act will allow for a person to apply for a certificate that confirms that an existing use, building or works was legally established. The onus will be on the applicant to demonstrate legal establishment and continuous operation to the satisfaction of the consent authority. As part of the certificate, the consent authority may:

- include conditions about the operation of the use, building or work;
- define the nature and extent of the existing use, building or work; and
- provide for exceptions or limitations to the certificate.

Why this change is needed

Owners and operators are currently unable to confirm the legitimacy of an existing activity. This can be problematic if the land changes ownership or if a dispute arises. This addition to the Act will allow a person to obtain a certificate if they can prove they have existing use rights under the Act.

How this responds to consultation

This change responds to objections to using “15 years” as a benchmark for establishing existing use rights. The change now requires an applicant to prove the legal establishment and continuous operation to the satisfaction of the consent authority in order to receive the certainty of a certificate of existing use.

Changes to the Act

Proposed changes to the Act	Purpose of the changes
20 – Sections 37A and 37B inserted 37A Application for certificate; and 37B Decision to issue certificate Provide the opportunity for: <ul style="list-style-type: none">• a person to make an application to the consent authority for a certificate establishing the legality and extent of an existing use• the consent authority to impose conditions to define the extent and intensity of the use; and• a right to review a consent authority decision relating to a certificate.	These changes will address long standing ambiguities around the legality or otherwise of existing uses, noting it will be the applicant’s responsibility to demonstrate the legal establishment and continuous operation of the use to the satisfaction of the consent authority

Changes to the Planning Scheme

N/A

12. Support infrastructure contributions

What is being done

Changes to the Act will allow developer contribution plans to facilitate payments for amounts already spent on the construction of infrastructure required to support future development of a locality.

Why this change is needed

This change will facilitate ongoing and timely infrastructure provision by allowing for more flexibility around when developer contribution payments can be made under the Act.

The changes will support work on a developer contributions framework that is being carried out separately from planning reform and will be subject to a separate consultation process.

How this responds to consultation

These changes respond to the identified need to better coordinate infrastructure provision and land use planning. The changes will support a more fair and certain system for infrastructure funding for developers.

Changes to the Act

Proposed changes to the Act	Purpose of the changes
40 – Section 71 amended 71 Contribution payable Allow a contributions plan to require retrospective contributions to infrastructure that has already been developed.	These changes will increase the flexibility for when infrastructure contribution payments can be required.

Changes to the Planning Scheme

N/A

13. Miscellaneous minor changes to the Act

What is being done

This section includes a number of minor changes to the Act that:

- clarify the current planning system within the Act;
- update terminology; or
- are a minor consequential change supporting larger reform items.

Why these changes are needed

The larger reform offers the opportunity to clarify and update the wording, terms and processes in the Act.

How this responds to consultation

These changes generally weren't prompted by consultation.

Changes to the Act

Proposed changes to the Act	Purpose of the change
5 – Section 3 amended Section 3 Interpretation Update definitions so that: <ul style="list-style-type: none">• “<i>base period of the permit</i>” will also apply to Exceptional Development Permits to establish the validity of the permits• “<i>Chairman</i>” replaced with gender neutral “<i>Chair</i>”• “<i>Deputy Chairman</i>” replaced with gender neutral <i>Deputy Chair</i>”	To clarify and update a number of terms and references throughout the Act.
7 – Section 6A inserted 6A Persons and bodies performing functions under this Act Clarify and define roles of decision makers in the front of the Act.	
22 Part 4, Division 4 inserted 43D Certification of compliance with exceptional development permit Include provision for the Minister to issue a certificate of compliance for developments approved under an Exceptional Development Permit	The ability to apply for a certificate of compliance for an Exceptional Development Permit will mirror the ability to request a certificate of compliance for a Development Permit.
23 – Section 46 amended 46 Development applications Require the consent authority to notify the applicant of a deferral or rejection of an application to provide further information.	<p>To ensure that the reference to the notification process required to establish the grounds for review by the NTCAT of a deferral decision by the consent authority can be met.</p> <p>The Department and DCA currently notifies the applicant via administrative process even though this is not required by the Act.</p>

Proposed changes to the Act	Purpose of the change
31 – Section 51 amended 51 Matters to be taken into account Grant the consent authority discretion to consider only those matters relevant to the application.	Some of the matters prescribed can be irrelevant to minor developments but increase the administrative burden on applicants, Development Assessment Services and the consent authority.
46 – Section 81D replaced 81D Independence Increase guidance around the role and responsibilities of Planning Commission members	To provide the community and industry with confidence that the work of the Planning Commission is undertaken in a professional manner and in accordance with a code of conduct.
47 – Section 81F inserted 81F Constitution and appointment of members Introduce that at least one person appointed under to the Commission must be a qualified planner or member of a planning association or institute recognised by the Minister	To ensure that the Commission has at least one member with direct planning expertise.
48 – Section 81L amended 81L Community consultation Introduce the requirement for the Planning Commission to prepare a community engagement policy that includes performance outcomes. The community engagement policy must be approved by the Minister. <i>Subsequent change:</i> 51 - Section 81Y amended 81Y Annual Report The annual report provided by the Planning Commission to the Minister must include details of the Planning Commission's delivery of the community engagement performance outcomes.	These changes will formalise the Planning Commission's engagement policy so that there is: <ul style="list-style-type: none"> • public awareness of what can be expected; and • continuity of consultation activities across changes to Commission membership. Once approved by the Minister, the Planning Commission must publish and make any of its policies publicly available.
74 – Section 135B inserted 135B Administrative directions Provide for the development and implementation of directions	This change will allow the Minister to develop and publish directions to provide clarity around the administration of the Act. Any direction published would need to be considered by the consent authority, when making decisions
77 - Section 139A inserted 139A Electronic publication Enable the expanded use of electronic services for publication of notices.	When there is a requirement to publish a document in a newspaper, this change will introduce flexibility for publication to occur on a website or other electronic platform.

NOTES



How to be involved

To access more information, provide a submission, or to find out about consultation activities, get in touch with us at:



www.haveyoursay.nt.gov.au

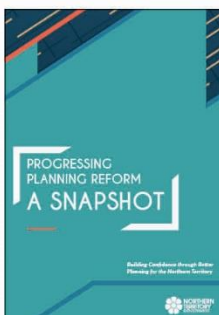


planningreform@nt.gov.au

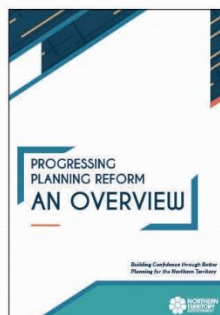


08 8999 8963

Related documents



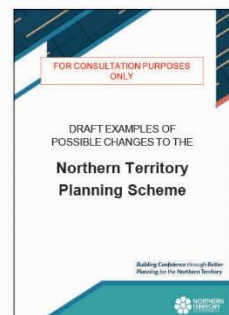
Planning Reform: a
Snapshot



Progressing Planning
Reform:
an Overview



Consultation Draft of a
Bill for Amendments to
the *Planning Act 1999*



Draft Examples of
Possible Changes to the
NT Planning Scheme

***Building Confidence through Better
Planning for the Northern Territory***

