



TECHNICAL Q&A

All information contained in this Q&A relates to the current direction of proposed Phase 1 reforms. This Q&A should be read alongside the Phase 1 Priority Reforms paper. Details of the proposed reforms are subject to change following the outcomes of consultation.

QUESTIONS & ANSWERS FOR PLANNING REFORM CONSULTATION STAGE 2

1. *What are High Impact Development proposals?*

High Impact Development proposals are for developments that have the potential for significant impact on the amenity or environment of the local community. These are proposed to include buildings more than 3 storeys in Alice Springs and Katherine; buildings more than 10 storeys in Darwin and Palmerston; construction of more than 50 dwellings on a site; buildings with a gross floor area more than 10,000m² except within Zones DV, GI and FD of the NT Planning Scheme or for the purpose of a school or sports stadium; Animal boarding or Intensive Animal Husbandry within 500m of residential zoned lots; and new hotel or live music venues within 50m of residential zoned lots (excluding Zone CB).

2. *How will Pre-Application consultation work?*

Developers that are proposing developments defined as High Impact Development must undertake community consultation prior to lodging a development application. The developer must publicly advertise details of where the community can get information on the proposal, how the community can provide feedback and where and when a face to face community engagement session will be held. Community engagement events must be conducted within the local community most likely to be interested in the proposal. The developer will be responsible for making concept drawings and information available that contains sufficient detail for the community to understand the scale and likely impacts of the development.

The consultation process provides opportunity for the community to have input at an early stage and to understand the potential impact of the proposal. The benefit to the developer is that they can identify aspects of the proposal that are supported by the community and whether changes to some of the details of the proposal would address community

concerns. Following community consultation, the developer may proceed to lodge a development application which must include a Consultation Report detailing the consultation process, issues raised by the community and any modifications made as a result of the consultation process. The development application will be subject to the normal public notification process and written submissions may still be lodged.

3. *What is Local Notification of development applications?*

Local notification replaces what was previously called 'Neighbour Notification' and improves the notification of the local community of minor developments. Local notification will require that a sign be placed on the land and the written notification of adjoining landowners. Under 'Neighbour Notification' there was no requirement for a sign and only the landowner/s immediately adjoining the affected boundary was required to be notified. The applicant will be responsible for the printing and erection of the sign for a 14-day period and for the written notification of all adjoining landowners. The sign and notices will provide details of where the application may be viewed or accessed electronically. The local council will still receive a copy of the application for comment.

The range of proposals suitable for Local Notification have been increased as enhanced notification of the local residents most likely to be affected is more appropriate for minor developments than the traditional newspaper advertisement and sign.

4. *Why are new enforcement powers necessary?*

The ability to effectively manage compliance with the Planning Act has been limited by the current provisions of the Act. This is particularly the case in instances where a development or use has commenced without a development permit. Currently it is difficult without

resorting to Court action to enforce that a landowner must cease a use and rectify any unapproved action taken. The community has a high expectation that the requirements of the Planning Act and Scheme are consistently applied and that when alleged breaches occur these are effectively investigated and that appropriate action is quickly taken by the consent authority.

The introduction of 'Enforcement Notices' will allow the consent authority to order that a use or development cease, and also to order that a specified action must be taken. This removes the need to obtain a Court order and improves the time frames to achieve compliance. The proposed changes not only increase the ability of the consent authority to take action, they also include the opportunity for independent review of enforcement decisions taken by the consent authority by the Northern Territory Civil and Administrative Tribunal.

The proposed changes to the role and responsibilities of Authorised Officers will provide them with the necessary powers to conduct investigations and include appropriate safeguards to ensure powers are not abused.

5. What changes are proposed for the Development Consent Authority?

The Development Consent Authority (DCA) is appointed by the Minister to carry out a range of functions including making decisions on development applications. The renaming of the Development Consent Authority to the Development Control Authority will more accurately reflect all of the functions carried out by the DCA and remove any misconception that it exists solely to approve developments.

The consideration of development applications is becoming increasingly complex and it is important that the members of the DCA have the necessary skills to not only undertake assessment of applications but also in the conduct of meetings and community consultation. The introduction of mandatory training for all members prior to participating in meetings will ensure that they have the necessary background knowledge to properly carry out their role.

The introduction of specialist members with professional skills and experience in areas relevant to the assessment of development applications will bring a higher level of scrutiny to the consideration of proposals. The important role of local government nominated members on the DCA as representatives of the local community who bring an intimate knowledge of local issues and constraints to the consideration of applications remains unchanged.

Eligibility to be appointed as Chair of the DCA will be restricted to persons with appropriate legal qualifications and experience in recognition of the positions important role in ensuring the DCA is correctly undertaking its functions.

A Code of Conduct will be introduced for the DCA to ensure that members fully understand their obligations and responsibilities. This will ensure that members operate professionally, honestly and ethically at all times. Failure to comply with the Code of may lead to termination of appointment by the Minister.

Further measures to improve the transparency of the DCA are the introduction of the requirement for the minutes to record the voting by each member on development applications and for the provision of an Annual Report which must be tabled in the Legislative Assembly by the Minister.

6. How will signs advising of developments and planning scheme amendments change?

The existing Yellow for Development and Pink for Planning Scheme Amendment signs will be changed to improve the information available to the public.

Signs will now need to include more information with greater use of graphics such as concept drawings or images, site plans, key information about building height, site coverage and setbacks. The information displayed will depend on the type of proposal and guidelines will be published to set minimum requirements. The use of technology such as QR codes will allow easy access to the detailed information about proposals through hand held devices such as smart phones.

7. Will the Minister continue to be solely responsible for making rezoning decisions?

Yes, the Minister will continue to determine planning scheme amendments including rezoning applications. However, new clear and detailed criteria will be introduced to guide the Minister's decisions by reinforcing the role of policy in achieving the purposes of the Planning Act.

Applicants will also need to address these new criteria when proposing a planning scheme amendment.

8. How will access to information about development proposals be improved?

Information about development proposals needs to be available in new ways that embrace the community's day to day reliance on digital media. It is proposed to

use social media platforms such as Facebook or mobile applications to display information about development proposals. The public will also be able to register to receive automatic email alerts about development proposals in their neighbourhood or postcode.

As some sectors of the community have limited access or familiarity with electronic systems, information will also continue to be available in traditional print format.

9. Has the process for making a submission on a development proposal changed?

No, written submissions on development applications must still be lodged within 14 days from the commencement of the notification period. Enhancements to our online systems are planned to make it easier for people to lodge a submission via email or through the Development One Stop Shop.

The Development Assessment Services team will be commencing a new procedure where all submitters will be contacted by a Planning Officer to clarify their concerns and to discuss how the issues they have raised will be assessed against the provisions of the Planning Scheme. Following close of the submission period, Planning Officers will now also offer to convene a voluntary meeting between applicants and submitters to provide opportunity for both parties to discuss any concerns and to identify possible solutions.

10. Are any changes to third party appeal rights proposed?

Yes, it is proposed to extend third party appeal rights to lots within Zone RL (Rural Living) of the NT Planning Scheme. These lots are primarily used for residential purposes with the same high amenity expectation as other residential zones. The existing criteria for rights of appeal for all other zones remain unchanged.

11. What changes to Exceptional Development Permits are proposed?

Exceptional Development Permits (EDPs) will have a default base period of two years introduced unless otherwise specified. Developments approved by an EDP which do not commence within the base period unless granted an extension by the Minister will now lapse. This encourages developments to proceed in a timely manner and ensures that the approval remains relevant to site and policy circumstances.

Reports by the Planning Commission to the Minister on EDPs will now be publicly available to improve the

transparency of the assessment process. A further review of EDPs will be undertaken as part of the Phase 2 reforms.

12. Why change Existing Use Rights?

Existing Use Rights are common in planning legislation to protect the continuation of the use of land for any purpose for which it was used immediately before a change in the planning scheme that prohibits such uses. This protects the right of the owner to continue use of the land for an existing purpose. However, the use must not increase beyond the scale and intensity of the original use.

The administration of existing uses currently provides no certainty for the owners who have significant investment and rely on the continuing use for their livelihood nor does it allow effective compliance management. The proposed changes will improve the certainty around the operation of Existing Uses and allow all parties to clearly understand the legitimacy of such uses and the limitations under which they must operate. By introducing that a person can rely on the establishment of an existing use right if they can demonstrate through an application to the consent authority that the use has been carried out continuously for 15 years will allow existing uses to be assessed, registered and more effectively monitored for compliance.

13. How will accountability for planning decisions be increased?

It is proposed to increase the role of the Northern Territory Civil and Administrative Tribunal (NTCAT) as an independent body that a person may apply to for review of a decision. The additional types of decisions will include;

- Review of an Enforcement Notice issued by the consent authority,
- Refusal of an application for a Compliance Certificate for an Existing Use,
- Deferral of a development application by the consent authority and
- Refusal of an application for an extension of time to provide information to the consent authority.

The Development Consent Authority (DCA) will be required to publish in its Minutes, identify the members vote on development application decision, and provide an Annual Report to the Minister on its activities which must be tabled in the Legislative Assembly.

The NT Planning Commission will be required to develop and publish a community engagement

charter and report annually on its performance. Reports from the Commission to the Minister for Planning about planning scheme amendment applications will also be made publicly available.

The Minister for Planning must, when making decisions about planning scheme amendments, consider the new criteria that require decisions to advance the purposes of the Act. The published Reasons for Decision will need to demonstrate how the Minister has properly considered these criteria.

Third Party Appeal rights will be extended to Zone RL (Rural Living) lots to allow decisions by the DCA to be independently reviewed by the NTCAT in certain circumstances.

14. What benefits are there for industry from the proposed reforms?

The changes to the Planning Scheme amendment process through the introduction of criteria will provide a clear framework for developers to address when preparing proposals for the Minister's consideration. The introduction of a formal process for pre-application consultation for High Impact Development proposals will allow developers to understand community concerns and issues early in the design stage and provides the opportunity to modify the proposal prior to lodgment. This has the potential to reduce adverse submissions during the assessment process and reduces the likelihood of community concerns impacting on the consent authority deliberations.

The convening of optional pre-determination conferences between developers and submitters provides a new opportunity for community concerns to be clarified and for potential solutions identified prior to the DCA meeting. Broadening the types of applications that are exempt from newspaper advertisement will reduce the cost for developers (in some cases) and will enhance engagement with the local community. The changes to the Planning Scheme that clarify and enhance the role of policy to inform decision making by the consent authority will facilitate more innovative development and provide more flexibility in responding to site constraints.

The development of improved guidance notes for industry professionals will assist in interpretation of various clauses of the Planning Scheme, and in particular new or changed provisions. The improved integration of land use plans with infrastructure plans will allow a more strategic and equitable approach particularly for the development of 'Greenfield' sites.

15. Why are penalty infringement notices necessary?

Penalty Infringement Notices (PINs) are part of the package of reforms to provide a contemporary, effective and flexible enforcement/compliance regime. PINs have proven effective in many jurisdictions as a simple way of dealing with minor compliance issues that have short term impact on amenity or the environment. PINs also provide an owner or occupier of land who has committed an offence a means of redressing that offence, without the cost of court appearances and the formal recording of a conviction or a finding of guilt.

PINs are only one of the tools available to ensure compliance with the Planning Scheme or development permits and they will be subject to guidelines to limit their use to circumstances where it is appropriate. A person may elect to either pay the fine or to seek review through the Court.

16. What changes to the NT Planning Scheme are proposed?

Strong feedback from the first stage of community consultation was that planning decisions need to consider both the 'big picture' and allow for local variations.

The NT Planning Commission, in consultation with the public, has produced a trove of policies (including area plans) that holistically consider environmental, social and economic needs at a regional to local scale. However, the current structure of the Scheme limits the ability of the consent authority to use these policies to effectively influence development.

In Phase 1 the NT Planning Scheme will be restructured to emphasise the importance of policy and clarify the hierarchy of the components of the Scheme. This will allow more innovative proposals or locality specific variations to be accommodated and reduce poor development outcomes that meet the minimum standards of development provisions but ignore higher level goals and principles from policy.

A number of suggestions were put forward during the first stage of community consultation around potential changes to specific clauses within the Scheme and these are being reviewed and assessed for introduction during Phase 2 of the reforms following the initial structural changes to the Scheme and *Planning Act*.