



PLANNING REFORM DIRECTIONS PAPER

*Building Confidence through Better
Planning for the Northern Territory*

CONTENTS

- 1 Introduction
- 2 Directions to Deliver Planning Reform
- 3 Proposed Reforms
- 4 Next Steps

LIST OF ACRONYMS

DA	Development Application
DAS	Development Assessment Services
DCA	Development Consent Authority
DIPL	Department of Infrastructure, Planning and Logistics
EDP	Exceptional Development Permit
NT	Northern Territory
NTG	Northern Territory Government
NTCAT	Northern Territory Civil and Administrative Tribunal
NTPS	Northern Territory Planning Scheme

INTRODUCTION

Land use planning is needed to make sure that existing and future Territorians have the built and natural environments needed to support great lifestyles and strong communities.

Planning guides how land can be used and sets the direction for sustainable and orderly development that meets the demands of a growing population. The Government is committed to providing the best planning system for the Territory – a system that is transparent, accountable and that will balance the many interests in the community.

From October to December 2017, a consultation paper was released outlining how the current Northern Territory planning system operates and introducing six principles intended to underpin the planning system to ensure it:

- ▷ provides certainty
- ▷ balances competing interests
- ▷ ensures transparency
- ▷ reduces complexity
- ▷ incorporates meaningful community participation and consultation
- ▷ expands opportunities for decisions to be reviewed.

Elton Consulting was engaged to talk with all sectors of the community to seek feedback on the current planning system in the Territory and ideas for its improvement. Feedback about the strengths of our planning system, its shortcomings and suggestions for improvement have been used to inform a package of proposed planning reforms. The full consultation outcomes report from Elton is available online.

FEEDBACK SNAPSHOT

Feedback from the community and industry illustrates features of the NT planning system that work and key areas for improvement.

KEY STRENGTHS

- ▷ Comparable to other states, the NT planning system is generally simple.
- ▷ The planning system is predominantly an efficient and streamlined system for development applications.
- ▷ Development Assessment Services (DAS) is easy to deal with and approachable.
- ▷ Electronic submissions of development applications is efficient.
- ▷ Strategic planning has improved significantly and is moving in the right direction.

KEY SHORTCOMINGS

- ▷ There is too much potential for political interference in the planning system.
- ▷ Decision making processes need more meaningful public participation.
- ▷ Planning decisions need to be more transparent and accountable.
- ▷ Planning decisions need to have more holistic and informed consideration of environmental, social and economic issues, and should focus on producing good development outcomes.
- ▷ Planning information needs to be clearer and more accessible, especially online.
- ▷ More needs to be done to enforce development permits.

AIM OF THE DIRECTIONS PAPER

This Directions Paper gives an overview on the Government's strategy to reform the planning system.

The Directions Paper introduces:

- ▷ three overarching directions for planning reform guided by the six principles and reflecting community feedback
- ▷ the two phases over which reforms will be delivered
- ▷ a snapshot of the proposed reforms and
- ▷ issues considered to be outside the scope of this review

The Directions Paper is complemented by a Phase 1 Priority Reforms paper that provides more technical detail on reforms proposed for Phase 1.

Phase 1 reforms include a number reference so you can easily find more detail and focused questions about these in the detailed Phase 1 Priority Reforms paper

DIRECTIONS TO DELIVER PLANNING REFORM

Community feedback identified a broad range of concerns and priorities. The essence of this feedback and the six principles guiding the reform suggest three key directions for improving the NT planning system.

SIX PRINCIPLES

PROVIDING CERTAINTY	BALANCING COMPETING INTERESTS	ENSURING TRANSPARENCY
REDUCING COMPLEXITY	INCORPORATING MEANINGFUL COMMUNITY PARTICIPATION AND CONSULTATION	EXPANDING OPPORTUNITIES FOR DECISIONS TO BE REVIEWED

THREE KEY DIRECTIONS

PRINCIPLES

- 1 Strengthen and clarify the planning framework** to deliver better planning and development outcomes
 - ● ● ● ●
- 2 Make the planning system more open and accountable** to improve public understanding and confidence in planning decisions
 - ● ● ● ●
- 3 Improve connections with the public** to better value, encourage and support community contributions to planning processes
 - ● ● ● ●



TWO PHASES OF PLANNING REFORM

Improving the planning system will require a mix of changes to planning laws and regulations, amendments the NT Planning Scheme, development of new information resources, upgrades to online systems, and changes to administrative processes.

The proposed reform timeframe is split into two phases:

<h3>Phase 1</h3> <p>Priority reforms which consist of:</p> <ul style="list-style-type: none"> ▷ fundamental legislative changes; ▷ structural planning scheme amendments that are needed to support a renewal of the Scheme in Phase 2; and ▷ administrative changes that are reasonably simple to implement. 	<h3>Phase 2</h3> <p>Longer term reforms that:</p> <ul style="list-style-type: none"> ▷ rely on a change to law or policy to be completed first (through Phase 1 reforms); and/or ▷ require comprehensive research and investigation.
---	---

The Lands Planning team has already commenced reforms that improve how planning information is accessed and internal administrative systems and processes. This reform project aims to have all Phase 1 reforms completed in 2019, and a majority of Phase 2 reforms completed in 2020.

1

Strengthen and clarify the planning framework to deliver better planning and development outcomes

WHAT WE HEARD

This direction reflects key themes from consultation that:

A comprehensive legislative review should be undertaken to simplify the planning system.

Strategic plans are needed for all areas as a priority. These should be developed with a greater depth of research and review, and should avoid a 'one size fits all' approach.

Planning processes need to be better coordinated and integrated with other legislation and processes, including those related to vegetation, water resources and infrastructure provision.

Development outcomes need to be improved, including considerations of the environment, built form, urban design and the local context of proposed developments.

There is a need for the NT Planning Scheme to include design guidelines / requirements.

PHASE 1 REFORMS

The NT planning system was generally considered to work well, notwithstanding the opportunities for improvement. It was also acknowledged that strategic planning is important to enable holistic consideration of environmental, social and economic issues at a relevant scale, including the local level.

Phase 1 reforms are proposed to build on these good points and address areas that need improving. The Act and Scheme will be restructured to make it clear how the planning system works, what matters must be considered by all decision makers (the DCA and Minister) when making planning decisions, and to strengthen the role of policy to influence consideration of a development within the context of its surroundings. Phase 1 reforms include actions to:

- ▷ Revise the purpose of the *Planning Act* and refine the structure and principles of the NT planning system (1.3)
- ▷ Define the contents of a planning scheme (1.4)
- ▷ Clarify the hierarchy and role of policy within the NT Planning Scheme (1.5)
- ▷ Strengthen the linkages between strategic planning and development assessment (1.6)
- ▷ Improve the integration of land use planning and infrastructure provision (1.8)

PHASE 2 REFORMS

Once the Act and Scheme are restructured and the role of policy is established, we can work within the new framework to do a comprehensive review of the NT Planning Scheme. This will include a substantial body of work to:

- ▷ Review definitions, zones and development provisions
- ▷ Review and develop a range of guidelines for matters such as building design, subdivision and land clearing

2 Make the planning system more open and accountable to improve public understanding and confidence in planning decisions

WHAT WE HEARD

This direction reflects key themes from consultation that:

The planning system should be more transparent and accountable.

The planning system is too political.

Decisions on development applications should be impartial.

Enforcement of the Planning Act needs to be proactive and consistent, and penalties should be stronger.

Opportunities for third party appeal rights should be improved.

Any increase in third party appeal rights should take into account and minimise unnecessary cost and delays to development

The NTCAT should take account of both legal and planning considerations.

PHASE 1 REFORMS

Proposed Phase 1 reforms include measures to improve transparency. The reforms listed in this section will be supported by better communication and consultation processes which are addressed in Section 3.

MORE TRANSPARENT APPLICATION AND ASSESSMENT PROCESSES

- ▷ Make the planning scheme amendment process more robust (1.7)
- ▷ Reform the Development Consent Authority (2.8)
- ▷ Introduce time limits for the deferral of development applications (3.2)

REVIEW THE APPEALS PROCESS

- ▷ Revise third party appeal rights (3.1)
- ▷ Increase access to NTCAT to review decisions (4.3)

REVIEW ENFORCEMENT AND COMPLIANCE PROVISIONS

- ▷ Review and clarify existing use rights (4.1)
- ▷ Improve the ability of the DCA to enforce offences under the *Planning Act* (4.2)
- ▷ Strengthen the ability of authorised officers to investigate (4.4)
- ▷ Revise penalty units to reflect the severity of offences (4.5)
- ▷ Introduce penalty infringement notices for minor offences (4.6)
- ▷ Introduce deeming provisions that establish who is liable when an offence has occurred (4.7)
- ▷ Expand liability provisions to include office holders of body corporates (4.8)
- ▷ Clarify provisions that limit time to commence prosecution (4.9)

PHASE 2 REFORMS

Phase 2 reforms that build on Phase 1 actions will include:

- ▷ Review the concurrent application process
- ▷ Review the use of exceptional development permits

PARTS OF THE SYSTEM TO BE PRESERVED

While proposed reforms respond to most concerns raised during consultation, some significant aspects of the current system will be preserved with improvements to aid understanding and enhance community confidence.

- ▷ The Minister will retain discretion over planning scheme amendments and exceptional development permits. This recognises that these decisions relate to changes to government policy. To address the concerns about the transparency of the Minister's decisions, parameters that all decision makers must consider will be added to the *Planning Act*.
- ▷ Council nominated members will remain part of the Development Consent Authority. This recognises their role in representing the interests of the local community. A new DCA code of conduct will include direction on how Council nominated members may voice the views of Council while ensuring their decisions are made independently.
- ▷ All planning scheme amendment hearings will continue to be held by the NT Planning Commission. This recognises that the NTPC is established to develop and advise on planning policy but has no decision making powers under the *Planning Act*. For transparency, reports from the Commission to the Minister with advice on issues raised by the community will now be made publically available.

3 Improve connections with the public to better value, encourage and support community contributions to planning processes

WHAT WE HEARD

This direction reflects key themes from consultation that:

Planning information needs to be easier to understand and more accessible, especially online.

A planning education process should be started.

Consultation should be balanced and transparent.

The way strategic planning projects are released for consultation should be reviewed.

Updating of the NT Planning Scheme needs better notification and distribution.

Requirements for applications and consultation should reflect the complexity of the proposal.

The progress of applications should be trackable and the outcomes should be better communicated to submitters.

Planning advice needs to be more consistent and accurate.

There should be a structured approach to service authority comments and resolving issues.

PHASE 1 REFORMS

Better information and communication values community participation. This will improve both transparency and confidence in decisions, and result in better development outcomes through the contribution of local knowledge. To support community involvement in planning, Phase 1 will involve the following reforms:

CLEARER AND MORE ACCESSIBLE INFORMATION ABOUT HOW THE PLANNING SYSTEM WORKS

- ▷ Demystify the NT Planning Commission (1.1)
- ▷ Improve the clarity and availability of information about the NT planning system and planning scheme amendment processes (1.2)
- ▷ Improve the clarity and availability of information about development assessment processes (2.1)

CONSULTATION THAT BETTER REFLECTS THE COMPLEXITY AND POTENTIAL IMPACT OF A PROPOSED DEVELOPMENT

- ▷ Introduce pre application consultation by applicants for high impact developments (2.2)
- ▷ Simplify notification requirements for minor developments (2.3)

MORE ACCESSIBLE INFORMATION ABOUT APPLICATIONS

- ▷ Update requirements for signs placed on land (2.4)
- ▷ Expand the role of electronic services for development notifications and formal correspondence (2.5)

BETTER RESPONSES AND ONGOING COMMUNICATION WITH SUBMITTERS

- ▷ Promote contact between planning officers and submitters on development applications (2.6)
- ▷ Facilitate post exhibition / pre determination discussion between applicants and submitters (2.7)

PHASE 2 REFORMS

Phase 1 improvements to information and communication will be further developed in Phase 2 with substantial work on online systems and alternative engagement methods. Phase 2 reforms include:

IMPROVE ENGAGEMENT OF 'HARD TO REACH' GROUPS

- ▷ Increase the awareness of and engagement with young people in planning
- ▷ Improve planning for remote communities

FURTHER IMPROVEMENTS TO ONLINE SYSTEMS

- ▷ Overhaul of online systems to develop an integrated planning portal that presents and interlinks systems that may include:
 - Online interactive planning scheme
 - Intuitive interactive mapping system with better property and planning information
 - Easy to understand presentation of applications
 - Application tracking and submissions platform for the public, and improvements to online application tracking / processing system for applicants
 - Online planning application archive
- ▷ Explore potential to use technology to improve opportunities to participate in DCA meetings including livestream

PARTS OF THE SYSTEM TO BE PRESERVED

Set timeframes will not be imposed on service authorities to sign off development permit conditions. This recognises that development must meet the technical and legal requirements of service authorities. Proposed reforms will increase opportunities for developers and service authorities to confer, and to potentially resolve issues, prior to a decision being made by the DCA.



NEXT STEPS

- ▶ This Discussion Paper is intended to be read in conjunction with the Phase 1 Priority Reform paper.
- ▶ The Phase 1 Priority Reforms paper gives a more detailed technical explanation of issues to be addressed in Phase 1.
- ▶ Your feedback will be used to further refine the direction of reforms, including the specific drafting of legislation and changes to Government policy. This will include changes to the *Planning Act*; planning scheme amendments; and administrative changes.
- ▶ Draft legislation and planning scheme amendments will be provided for further feedback, prior to being tabled in parliament in 2019.

HOW TO COMMENT

The Department of Infrastructure, Planning and Logistics will be running targeted consultation sessions over the coming 6 weeks focussing on the details of the Phase 1 Priority Reform paper.

If you provided your details as part of the Stage 1 consultation process you will be automatically included on our stakeholder contact list and invited to attend a workshop.

If you would like to be involved in the consultation sessions, or would prefer to provide written feedback, you can get in touch at: planningreform@nt.gov.au; or phone 08 8946 0600.

