

Report from the Planning Commission

This report is prepared under section 24(1) of the *Planning Act*, and considers issues that were raised in submissions, issues raised during any consultation and any other matters the Planning Commission considers the Minister should take into account when considering the proposal.

1. GENERAL INFORMATION

ADDRESS:	Section 67 Hundred of Bagot (125 McFarland Road, Pinelands)
CURRENT ZONE:	Zone GI (General Industry)
PROPOSED ZONES:	Zone CP (Community Purposes) and Zone FD (Future Development)
PROPOSED LAND USE:	Youth Justice Centre
APPLICANT:	Elton Consulting on behalf of the Department of Infrastructure, Planning and Logistics
LAND OWNER:	Vacant Crown land
AREA:	56.16 ha

2. CONTEXT

The application to rezone Section 67 Hundred of Bagot arises from the Northern Territory Government's response to the recommendations of the *Royal Commission into the Protection and Detention of Children in the NT* handed down in December 2016. The report of the Royal Commission tabled in the Commonwealth Parliament found that existing facilities for the detention of children in the NT specifically, the Don Dale, Holtze and Aranda House sites, were "not fit for accommodating, let alone rehabilitating, children and young people."

On 9 August 2018, the Government announced the preferred site for the new Darwin Rehabilitation Precinct is on the vacant Crown Land at 125 McFarland Road, Pinelands (Section 67 Hundred of Bagot). The proposed precinct includes a new Darwin Youth Justice Centre, to replace the former Don Dale Youth Detention Centre in Berrimah (The Proposal).

125 McFarland Road, Pinelands (Section 67 Hundred of Bagot) is located in an area zoned for General Industry (GI) adjacent to Pinelands Industrial Estate. The estate, which sits between Stuart Highway and Tiger Brennan Drive near the Palmerston interchange, has developed since the 1970's to cater for a range of well-established medium to heavy industries such as metal fabrication and recycling, freight and logistics and trade services.

The business community of Pinelands were informed about The Proposal the day before it was publically announced. Further information was provided through a joint effort by the Department of Infrastructure, Planning and Logistics (DIPL) and the Department of Territory Families (DTF) comprising face-to-face meetings with business owners and on-site meetings. Details of The Proposal were disseminated through a letter box drop to all accessible premises in the suburbs of Pinelands and south-western portion of Holtze, a public meeting, an email to stakeholders and a follow up factsheet. The application for rezoning was placed on exhibition on 16 November 2018.

The announcement and subsequent community engagement elicited strong objections to The Proposal centring around concerns about the affect the facility would have on the amenity of Pinelands as an industrial estate.

On 25 October 2018, a petition against The Proposal, containing 1425 signatures, was tabled in the NT Legislative Assembly. In early November 2018, a security breach at Don Dale received national media attention. The Palmerston City Council passed a resolution opposing The Proposal on 11 December 2018.

3. LEGISLATIVE REQUIREMENTS

The Minister for Infrastructure, Planning and Logistics is responsible for determining proposals to amend the NT Planning Scheme including the rezoning of land. The *Planning Act* establishes requirements relating to the exhibition, consultation and reporting of proposed amendments to the NT Planning Scheme.

Under section 22(2), the Planning Commission must hold a hearing if public submissions are lodged during the exhibition period.

Under section 24 of the Act, the Planning Commission must provide to the Minister for Infrastructure, Planning and Logistics, a written report that addresses the issues raised in the submissions, the issues raised at the hearing and any other matters the Planning Commission considers, the Minister should take into account when considering The Proposal.

4. EXECUTIVE SUMMARY OF MAIN CONCERNS RAISED

Anglicare and NTCOSS “support government in implementing recommendations from the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory” and note that The Proposal is consistent with the Royal Commission’s recommendations.

All other submitters opposed The Proposal. Opposition centres around five interrelated issues.

1 Lack of Consultation

It was argued that the announcement of The Proposal pre-empted meaningful consultation about selection of the best site. This was exacerbated by the method in which community engagement was conducted which led to a perception that, as well as being excluded from the site selection process, other concerns would be ignored.

2 Amenity of Pinelands Diminished

It was argued that The Proposal will reduce the amenity of Pinelands as an industrial estate and this in-turn will erode business confidence. This will be realised in a decline in property values, difficulty in attracting new tenants, inhibiting sales and increasing operating costs (e.g. additional safety and security measures). Further, The Proposal will undermine the attractiveness of Pinelands to new businesses, and severely limit opportunities for the area to expand. In addition, as the recent security breach at Don Dale shows, fear of breaches occurring at the proposed new facility will affect business confidence. Many businesses indicated that they do not have adequate security systems for a similar breach occurring in Pinelands.

3 Application Not in Accordance with the *Planning Act*

It was argued that the application does not meet the objects of the *Planning Act*, specifically that the application conflicts with the Sections 2A(2)(e, f & g) which in summary set out to achieve:

- minimising adverse impacts on existing amenity;
- ensure that community feedback is considered in planning processes; and
- ensure a fair and open decision making and review process has been conducted.

It was also argued that the wording of sections 12 and 13 of the *Planning Act*, suggests that: given The Proposal appears to be at the initiative of the Minister, the application for rezoning should have been made under section 12 and not under section 13. It was suggested that, on this basis, the current application may be invalid.

4 Community Safety

It was argued that, the absence of pedestrian infrastructure in Pinelands combined with high exposure to heavy vehicle and commercial vehicle traffic is “an accident waiting to happen” when clients and visitors to the proposed Rehabilitation Precinct negotiate their way to the facility on foot from the nearest bus stop on the Stuart Highway.

Further, it was argued that permissible emissions emanating from the industrial area, ranging from noise, to airborne particulates could pose a hazard to staff and those living permanently at the new Darwin Youth Justice Centre.

5 Incompatibility with Existing Uses

It was argued that The Proposal would result in two distinct and conflicting uses in what is now a cohesive industrial area. Further, submissions foresaw that over time, incompatibilities (such as permissible emissions, road design in favour of heavy vehicles over pedestrians etc.) will be resolved in favour of the Rehabilitation Precinct & Youth Justice Centre rather than the businesses of Pinelands and resulting in restrictions on business activity.

Submitters were sceptical about the assertion by the applicant that the proximity of The Proposal to local business in Pinelands will provide access to employment pathways. Submitters were unaware of any engagement with Pinelands businesses about this possibility.

The City of Palmerston submitted that, to avoid the conflict between land uses, The Proposal be established near the existing centre at Holtze, to maximise the effective use of staff, buildings and equipment.

5. THE PROPOSAL

The purpose of the rezoning from Zone GI (General Industry) to Zone CP (Community Purposes) and FD (Future Development) is to facilitate a new Darwin Rehabilitation Precinct, which will include the Darwin Youth Justice Centre and secondary uses such as services dedicated to alcohol rehabilitation, and a buffer of light industry between The Proposal and established industries in Pinelands.

The application covering The Proposal was lodged by Elton Consulting on behalf of the Department of Infrastructure, Planning and Logistics on 30 October 2018.

The proposed rezoning would allow 42% of the site (24ha) to be developed in accordance with Zone CP (Community Purposes) to facilitate the immediate development of a Youth Justice Centre. The remaining area is to be zoned FD (Future Development), which will be retained for the above mentioned secondary uses and provide a buffer to the adjacent general industry area of Pinelands.

The Youth Justice Centre will form the primary use on the land zoned CP, given Zone CP has the ability to provide for a number of community services and facilities, including supporting accommodation.

The Proposal responds to a Northern Territory Government initiative to replace the existing Don Dale Youth Detention Centre (located 900m north west of the subject site) with a fit for purpose, contemporary and secure rehabilitation precinct in Darwin informed by the recommendations of the *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory*.

Note: Elton Consulting have also lodged an application for the subdivision of Section 67 (56ha), which will be considered by the Development Consent Authority (known as PA2018/0477). The Proposal seeks to subdivide Section 67 into three lots, which align with the proposed rezoning and remain consistent with the Section 67 Preliminary Concept (Darwin Rehabilitation Precinct) submitted with the subdivision application.

A copy of the exhibition material including the application is at **Attachment A**.

6. PUBLIC EXHIBITION

On 14 November 2018, the Acting Minister for Infrastructure, Planning and Logistics determined under section 13(2)(b) of the *Planning Act* to continue consideration of the proposed amendment by placing it on exhibition.

The Proposal was placed on public exhibition for a period of 28 days, in accordance with the requirements of the *Planning Act*, and was advertised in the *NT News* on 16 November 2018 and 30 November 2018. The exhibition closing date was 16 December 2018.

Below is a summary of the matters raised in the submissions, refer **Attachment B** Public Submissions, Submissions by Elected Officials and Submissions by Industry Groups.

Public Submissions

102 public submissions were received (66 of these submissions were template letters) and are summarised thematically below:

Note: A large number of submissions were also received for the subdivision application which in some cases overlap with this application. Where practicable, these submissions have also been included for this application. The Palmerston Division of the Development Consent Authority will consider all submission in relation to the subdivision application.

Issues Raised	Number of times raised
<p>Safety</p> <p>A majority of submissions from business owners and employees in the Pinelands area and nearby residents of Durack referred to a lack of faith in the ability to adequately secure the facility from breakouts, given recent events at the Don Dale JDC in 2018. Lack of pedestrian infrastructure and high frequency of heavy vehicle traffic makes the area unsafe for people using the facility. The increased likelihood of anti-social behaviour and even criminal behaviour in the area is a threat to the safety of people working and using businesses in Pinelands.</p>	88
<p>Conflicting Use</p> <p>The majority of submissions raised strong concerns about siting The Proposal adjacent to an established industrial area and within 800m of a new residential estate. A range of potential conflicts were identified in the submissions, including inadequate achievement of the NTEPA separation distances guidelines and noise exposure from existing industry.</p>	86
<p>Consideration of alternate locations</p> <p>A large number of submitters suggested The Proposal be located near the existing correctional facility at Holtze, or the refurbishing of the existing Don Dale site whilst retaining the proposed site as GI for future expansion of the Pinelands industrial area.</p>	79
<p>Property Values</p> <p>Many submissions from business owners of Pinelands, developers involved in the Durack Heights estate and residents of Durack expressed their fears The Proposal would have a dramatic impact to the value of their land. Submissions reveal a heightened perceived risk associated with such a facility coupled with a negative perception of both the youth justice centre and alcohol rehabilitation facility (which was often referred to as a prison) would limit their ability to achieve the maximum value of their investment.</p>	77
<p>Initial Engagement Process</p> <p>There was general dissatisfaction from submitters from the Pinelands area with the initial stakeholder engagement conducted between August 2018 and November 2018 by NT Government representatives. A number of submitters highlighted that notification was received only hours prior or, in some cases, after the official announcement of The Proposal. Given the broader implications associated with the proposed development on business owners in the area, the level of pre-application engagement was viewed by many as insufficient, rushed and lacking any meaningful opportunities to participate.</p>	69

Issues Raised	Number of times raised
<p>Planning Policy</p> <p>Most submissions from business owners, community planning advocates and design professionals referred to the Darwin Region Land Use Plan (DRLUP) in which the area including section 67 Hundred of Bagot is identified for “industrial use”. The proposed rezoning and development of the Youth Justice Centre was viewed as a limiting factor of further industrial expansion for the region, contrary to current policy.</p>	67
<p>Public Transport</p> <p>Many submissions challenged the Applicant’s reference to the site having good access to existing public transport, on the grounds the distance from existing bus stops is not walkable, especially considering the absence of footpaths and pedestrian crossings to safely access the site.</p>	6
<p>Consistency with <i>Planning Act</i> and NT Planning Scheme</p> <p>Several submissions suggested the proposed rezoning may have been progressed in a manner inconsistent with the <i>Planning Act</i> and the NT Planning Scheme. Specific areas of contention included:</p> <p><i>Planning Act</i></p> <ul style="list-style-type: none"> ▪ Section 2A(2)(e),(f) & (g). Objects, referring to whether The Proposal has attempted to minimise adverse impacts on the existing amenity, ensured community feedback has been considered and whether the process has been conducted in a fair and open decision making and review process; ▪ Section 6. Act to bind Crown; given the land is part of the Crown Estate; ▪ Section 12(1). Whether the correct interpretation has been invoked for the purposes of approving exhibition under a Minister's initiative; or via ▪ Section 13. Request to the Minister by a body; ▪ Section 25. Whether the Minister can approve a proposal lodged by her own Department. <p><i>Northern Territory Planning Scheme</i></p> <p>Clause 5.12 General Industry. Given The Proposal is inconsistent with the Zone purpose statement.</p>	5
<p>Traffic Flow & Transport Corridors</p> <p>Several submissions argued that The Proposal would constrain existing and limit the development of future road train routes resulting in reduce traffic flow.</p>	5

Issues Raised	Number of times raised
<p>Transparency</p> <p>Several submissions questioning the lack of transparency by the NT Government in providing adequate information to the public for the purpose of review during initial engagement with Pinelands land owners prior to lodgement, and in reports made available to inform the public during the exhibition period.</p>	3

Submissions from Elected Officials (Attachment B Submissions by Elected Officials)

In addition to the local businesses identified in the map above, detailed submissions were made by: two MLA's and one Alderman from the City of Palmerston.

Submitter	Main Points
<p>Mrs Lia Finocchiaro – MLA</p> <p>(Attachment B Submissions by Elected Officials)</p>	<p><i>Site Constraints</i> The site is unsuitable because of proximity to industrial and residential uses and infrastructure such as sewerage and pedestrian access is absent.</p> <p><i>Separation Distances</i> The separation distances are between incompatible land uses referring to having accommodation in close proximity to industrial activities.</p> <p><i>Best Practice</i> Location is out of step with current practice in other jurisdictions.</p> <p><i>Strategic Land Use</i> The Proposal is inconsistent with the Darwin Regional Land Use Plan 2015 and Palmerston Land Use Plan and has compromised the rail and utility corridor which is proposed to service future development at Glyde Point.</p> <p><i>Safety Risk</i> The Proposal will generate risks to visitors and clients of the proposed rehabilitation precinct due to the limited pedestrian networks available within Pinelands and frequency of commercial traffic.</p>
<p>Mr Gerry Wood – MLA</p> <p>(Attachment B Submissions by Elected Officials)</p>	<p>The Proposal is in conflict with the Darwin Regional Land Use Plan 2015.</p>
<p>Dr Tom Lewis – City of Palmerston</p> <p>(Attachment B Submissions by Elected Officials)</p>	<p>Inappropriate size and location on the grounds of traffic, noise and security.</p>

Submissions from industry groups (Attachment B Submissions by Industry Groups)

Submissions were received from several peak bodies regarding The Proposal. Submissions received are summarised in the table below.

Submitter	Main Points
<p>Anglicare (Attachment B Submissions by Industry Groups)</p>	<p><i>Royal Commission Findings</i> Anglicare supports government in implementing recommendations from the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory.</p> <p><i>Location Strengths</i> The location of the facility is key to creating a therapeutic environment and can influence greater engagement within the community and family support networks and its proximity to urban centres offers employment pathways and promote continual learning which are designed to reduce future offending.</p>
<p>Northern Territory Council of Social Service (NTCOSS) (Attachment B Submissions by Industry Groups)</p>	<p><i>Location Strengths</i> The location plays a critical role in creating opportunities for therapeutic and education support assisting with normalising the living environment for children, which is a strength of Pinelands, which also has ready access to local health services and public transport.</p> <p>The close proximity to local business will provide access to greater employment pathways, education and training opportunities.</p> <p><i>Best Practice</i> The Proposal is consistent with international best practice as affirmed in the Royal Commission report.</p> <p><i>Stigma</i> Community pushback is being driven by fear and negative stigma associated with children in the youth justice system.</p>
<p>Chamber of Commerce Northern Territory (Attachment B Submissions by Industry Groups)</p>	<p>Members based in the Pinelands area have overwhelmingly voiced opposition citing a range of issues which included impact to land values, security concerns with breakouts, compromising long term viability of industrial land and overall reduction in the amenity of Pinelands for landowners and businesses.</p> <p>Proposal has been developed without consultation with or due consideration of existing businesses.</p>

Service Authority Comments (Attachment B Service Authority Comments)

Submissions received from Service Authorities are summarised in the table below.

Service Authority	Comments
<p>Power and Water (Power Networks Network Engineering) (Attachment B Service Authority Comments)</p>	<p>The Power Networks Division commented on a number of technical requirements relating to reticulated electrical infrastructure associated with the development which is more appropriate to be addressed at the development stage.</p>
<p>Power and Water (Water Services Land Development) (Attachment B Service Authority Comments)</p>	<p>The Water Services Division commented on a number of technical requirements relating to reticulated sewer and headworks infrastructure associated with the development which is more appropriate to be addressed at the development stage.</p>
<p>Department of Environment and Natural Resources (DENR) (Attachment B Service Authority Comments)</p>	<p>DENR commented that a number of technical requirements relating to wastewater, general environmental duty and weed management associated with the development. These matters are more appropriately addressed at the development stage. Additional comment was made by the NT EPA in relation to separation distances and contaminated land:</p> <ul style="list-style-type: none"> • <u>Zoning Conflicts</u> The development of the Youth Justice Centre and associated developments have the potential to generate noise/odour related nuisance and conflicts in the area and consideration should be given to buffer zones between areas of conflicting uses in accordance with NT EPA's Recommended Land Use Separation Distances Guideline October 2017. • <u>Contaminated Land</u> A recent site audit confirmed that contaminants on the site had been linked to horticulture (pine plantation), the previous activity conducted on the site. EPA recommends a condition requiring an <i>Assessment of Site Contamination</i> be considered in the event the subdivision permit is approved.

Service Authority	Comments
Department of Health (Environmental Health & Medical Entomology) (Attachment B Service Authority Comments)	<p>The DoH commented that any relevant works are completed in accordance with the <i>Food Act (NT) 2004</i>, the <i>Public & Environmental Health Act (NT) 2011</i>, the <i>Public & Environmental Health Regulations (NT) 2014</i>, The Food Standards Code and The National Construction Code.</p> <p>Additional comment was made by Medical Entomology in relation to the threat of biting insects:</p> <ul style="list-style-type: none"> <u>Buffer Zones</u> <p>Part of the site is located within 1Km of Darwin Harbour mangroves, timing of outdoor activities would need to be managed, however the biting midge problem would be no worse than that experienced by Marlow Lagoon and Bayview. A biting insect management plan is recommended.</p>
Department of Infrastructure Planning and Logistics (Transport and Civil Services Division) (Attachment B Service Authority Comments)	<p>The Transport and Civil Services Division commented that a number of technical requirements relating to drainage associated with the development which is more appropriate to be addressed at the development stage. Additional comment was made by the Transport Division in relation to public transport:</p> <ul style="list-style-type: none"> Public Transport notes that there are public bus stops on the Stuart Highway that are within 500m – 1000m of the site. Consideration needs to be given to the walking distance from the site to these existing bus stops.

Council Submission (Attachment B Service Authority Comments)

Council	Comments
City of Palmerston (Attachment B Service Authority Comments)	<p>Council oppose the establishment of a Youth Justice Centre, and/or Drug Rehabilitation Centre at the proposed location. Understanding the need for such facilities, the Council recommend such centres can be established near the existing centre at Holtze, to maximise the effective use of staff, buildings and equipment.</p>

7. ADDITIONAL ISSUES RAISED AT THE HEARING

On 31 January 2019, the NT Planning Commission held the required public hearing for this application providing submitters with the opportunity to be heard and to inform the Planning Commission's report to the Minister about issues raised.

The hearing was attended by 45 people which included the applicant Mrs Hanna Steevens from Elton Consulting and persons of interest such as the MLA for Spillett Lia Finocchiaro, MLA for Nelson Gerry Wood with the City of Palmerston represented by Alderman Dr Tom Lewis and Mayor Athina Pascoe-Bell.

The following is a summary of submissions presented at the hearing by the applicant and submitters:

Mrs Hanna Steevens – Elton Consulting (applicant)

Mrs Steevens provided context, background and rationale behind the rezoning application. The application lodged by Elton Consulting contains a summary of the matters outlined by Ms Steevens. Mrs Steevens later responded to the themes and issues raised in the hearing, providing the following responses:

Mrs Steevens contested claims of:

- The process of site selection and initial consultation was adequate.
- The proponents desire is to locate a new fit for purpose youth justice centre addressing the recommendations of the *Royal Commission into the Protection and Detention of Children in the Northern Territory*.
- The example of Cherry Creek in Wyndham City Council (Vic), which was highlighted by Mr Gerry Wood as best practice, did not address some of the poorer outcomes that were a result of the decision to relocate from the original Werribee South site noting accessibility to the site for family members and professionals was reduced, given the 11km commute from the nearest train station.
- The new residential subdivision at Durack Heights will, in some areas, be closer to industrial operations in Pinelands when compared to the youth justice centre.
- Effective rehabilitation comes from being within the right environment, appropriately designed for children offering affective therapeutic rehabilitation. The right environment lessens the likelihood of experiencing unrest.

Mrs Lia Finocchiaro – MLA for Spillett (submitter)

Mrs Finocchiaro provided the following comments in support of her written submission:

Considerations of the *Planning Act*.

The applicant's interpretation of the requirements of the *Planning Act* is unsound. In particular the Objects of the Act (s2A) have not informed the application process. Subsections of s2A referring to transport corridors, minimising adverse impacts on existing amenity, need to reflect the wishes of the community and open decision making and process appear to have been overlooked (resulting in a petition of 1425 signatories being presented to parliament). Mrs Finocchiaro argued that the objectives of the Act had been subverted by:

- poorly executed pre-lodgement public consultation by the Department, in which the applicant did not appear to be interested in the opinion of the Pinelands community and;
- the lack of any consideration of alternative sites as well as details of why this was chosen without their input.

Conflicting Use

Locating this facility in this location may potentially limit the operation and expansion of adjoining and nearby industrial uses. Examples of these included:

- the availability of dangerous materials and modest security infrastructure of existing businesses does demonstrate the area is not prepared for such an event; and

- the proposed youth justice centre's incompatibility with uses in Zone GI will result in reverse sensitivities and reduce currently allowable separation distances for industries in Pinelands. This provides government the means to impose further restrictions via the NTEPA at the request of the youth justice centre if emissions from business start to have impact on the facility.

Incompatibility of Pedestrians and Existing Industrial Uses

Pedestrian accidents associated with visitors to and from the site could increase given the lack of pedestrian infrastructure available.

Business Confidence

Introducing the facility to Pinelands will have a negative impact to business, eroding of business confidence in the area, which is already suffering from a depressed market. The Youth Justice Centre may just be another reason for some tenants to move from the area.

Strategic Land Use Policy

The Proposal has a number of detrimental outcomes to the regions' strategic direction as guided by the Darwin Regional Land Use Plan (DRLUP), such as reducing the limited amount of available industrial land and compromising the transport and utility corridor to Glyde Point.

Experiences International and Interstate

The current trend in Australia and New Zealand, is to site youth detention centres outside of urban areas. The case of Cherry Creek in the Wyndham City Council (Vic) was cited as an example.

Mr Gerry Wood – MLA for Nelson (submitter)

Mr Wood spoke to a PowerPoint presentation in support of his written submission and made the following comments:

Considerations of the *Planning Act*

The applicant's interpretation of section 2A of the *Planning Act* is questionable, stating the consultation process did not meet the test defined within section 2A, specifically reflecting the wishes of the community through appropriate consultation. Mr Wood referred to the methods used in Victoria for the Cherry Creek as a good example of consultation. Further, Mr Wood questioned whether the process was fair, referring to the lack of clarity in terms of the development proposed for the remaining undeveloped portions of Section 67.

Ministerial Conduct

Past statements by current ministers in favour of upgrading the Don Dale site conflict with current Proposal. Mr Wood also contended that the Minister for Infrastructure, Planning and Logistics has a conflict of interest, given this Minister is the decision-making body and the Department (DIPL) applying for the application is under the same Minister's portfolio.

Strategic Land Use Policy

The Proposal conflicts with DRLUP's ability to influence future industrial development in the greater Darwin region, which is lacking suitable greenfield industrial land. Therefore, removing Section 67 from the industrial land pool would significantly reduce opportunities for new business and expansion of existing industry.

Alternative Sites

There has been a lack of discussion with the community on alternative sites. Mr Wood questioned why Don Dale site is not the preferred site given its existing access to services, central location and cost advantages.

The Don Dale site is comparable with South Australian facilities based in inner Adelaide, showing that the current Berrimah 'Don Dale' site is far more appropriate for the facility.

Attachment C – PowerPoint presentation tabled by Mr Woods at the hearing

Dr Tom Lewis OAM – Alderman for Palmerston (submitter)

Dr Lewis contended that the application does not adequately measure the security threat The Proposal poses to Pinelands businesses and workers. There is a risk of escapees using unsecured hazardous materials and heavy machinery to cause significant harm to themselves and the community and therefore the facility should be located elsewhere.

Mr Chris Renehan (submitter)

Mr Renehan provided the following comments in support of his written submission made on behalf of a number of other submitters (whom he did not identify).

Strategic Land Use Policy

- The Proposal's lack of conformity with DRLUP, a document which is the guardian against short term decision making and provides certainty on investments, will undermine the basis of long term planning within the region.
- The DRLUP shows Section 67 Hundred of Bagot as an extension to the industrial area around Pinelands and it should remain so.
- The Proposal does not comply with the vision of DRLUP and could cause conflict that interrupts the benefits of co-locating like uses.
- There could be roughly 1000 jobs in this location on the doorstep of Palmerston if the extension to Pinelands industrial area was progressed.

Mr Renehan tabled an extract of the DRLUP (**Attachment D**)

Considerations of the *Planning Act*

Mr Renehan questioned the applicant's interpretation of the Section 2A of the *Planning Act* stating that consultation was not conducted with the residents of Durack, and some land owners in Pinelands were only contacted hours prior to the formal announcement. Further, Mr Renehan felt that consultation was delivered in such a way that excluded their feedback.

Mr Renehan tabled the following documents at this point, copies of which are attached to this report:

Attachment D - Extracts from the NT Planning Scheme

Attachment D - Signed Petition submitted to the NT Legislative Assembly

Conflicting Use

There is concern that The Proposal in this location will impose limitations on the adjoining industrial area, including:

- discouraging co-located industrial uses which are a feature of this area and a result of attractive business conditions which have formed organically;
- causing property in the Pinelands area, to be stigmatized and thereby limiting the saleability of properties in the neighbourhood;
- creating security risks for vulnerable employees in the Pinelands area, in particular female workers and owners;
- generating risk for businesses not prepared for the possibility of breakouts from the facility with inadequate security measures to prevent escapees from gaining access to hazardous materials and heavy machinery; and
- generating risk for businesses who may be liable for accidents involving visitors or clients of the centre (e.g. the alcohol rehabilitation centre), as Pinelands lacks formal pedestrian networks and has a high volume of heavy vehicles that traverse the area. A recent incident at the Hibiscus Shopping centre was used as an example of the possibility of additional liabilities imposed on businesses owners in the case of an accident.

Mr Renehan tabled the following documents to support these points, see attached:

Attachment D - Images of the adjoining metal recycling yard and unsecure fuel tankers

Attachment D - Images of Road Train Photos & Truck Routes in Pinelands

Attachment D - Press Release referring to 'Charges laid over death of itinerant man'
Unknown publication source.

Health Impacts

There may be impacts to the health and wellbeing of residents in the facility from nearby industrial uses from noise, dust and hazardous emissions, which is at odds with the UN Convention on the Rights of the Child. It is questionable whether the facility strictly complies with the NTEPA separation distances.

NT Planning Scheme

The Proposal conflicts with the administrative principles and framework of the scheme which informs policy and zoning (e.g. Zone GI), which does not support the proposed use.

Financial Loss

The City of Palmerston loses the potential rates that would be raised if the land was developed for Industry.

Experiences interstate and best practice locations for the juvenile detention and rehabilitation facilities

Corrections facilities have, historically, been built on the outskirts of Darwin. This holds true from Fannie Bay Gaol to Berrimah Prison. As Darwin has grown, so did urban sprawl with these old facilities now surrounded by residential developments.

There was good reason why these facilities were placed on the outskirts of urban areas because of the danger they impose to uses around them.

This practice is still followed on other states, for example: Cherry Creek (Vic), Banksia Hill (WA – co-location of correctional facilities) and the Ashley School in Tasmania. These are good models to follow as they are away from an urban centre of population.

The process followed by the Victorian government in selecting a site for their new youth detention centre is relevant. This involved the Victorian government changing the location of the youth detention centre from Werribee South to Cherry Creek due to pressure from the community. Consensus on a new site was achieved after the community was properly consulted.

Holtze is an obvious site for a Youth Justice Centre, as it is ideally located away from existing urban areas, can share resources with the adult prison but still remain separate and can source additional security when needed. Good design of the facility can ensure that the recommendations of the Royal Commission regarding separation from the prison can be achieved.

Mr Renehan tabled documents supporting these points (see attached):

Attachment D - Aerial photos of examples of other youth detention sites throughout Australia.

At the end of his submission, Mr Renehan tabled his speaking notes, a copy of which is at **Attachment D**.

Attachment D – Speaking notes on the example from Wyndham City Council experience.

Mr Jim Noonan (submitter)

Mr Noonan provided the following comments in support of his written submission and spoke on behalf of a number of business owners located in Pinelands. The following provides a summary of his presentation.

Considerations of the *Planning Act*

Mr Noonan questioned the applicant's interpretation of the *Planning Act*, in particular whether the application constituted an *Amendment of planning scheme on Minister's initiative* (s.12) – or rather a *Request for amendment of planning scheme* (s.13), which applies to an applicant being a person or a body. Specifically, it was contended that Section 12 should have been applied as this proposal is a Government/Minister's initiative.

Mr Noonan also questioned the applicant's interpretation of Section 2A (objects) of the *Planning Act*. He argued that this application does not meet the objects of the Act, because it has not been informed by a process whereby the wishes and needs of the community have been determined through appropriate consultation and fair and open decision-making. Mr Noonan contended that; as the current application does not accord with the objects of the Act, the application should not be considered any further as it may be invalid.

Mr Noonan tabled a supporting submission from Mr Greg Strettles, the manager of Bruce Avery Transport, who stated consultation consisted of an unsolicited visit by Department of Infrastructure, Planning and Logistics staff who entered the premises, without seeking to speak with the business owner, and offered employees a copy of the precinct plan. The business owner then confronted Department staff who appeared uninterested in hearing the owners concerns.

Mr Noonan tabled a copy of the correspondence from Mr Strettles, a copy of which is at **Attachment E**.

Transparency

The application provides limited information about the Alcohol Rehabilitation Services and other proposed uses for the site.

Amenity

Mr Noonan argued that the amenity of the Pinelands locality can be measured through development consistent with the established general industry zoning. To introduce an inconsistent use, or development such as that proposed, would impact on and erode that established amenity. This may then impact on the long term viability and success of the industrial uses in Pinelands.

Consultation

Consultation conducted by the Government does not comply with section 4.4 of the Planning Commissions own Community Engagement Policy, which is based on the *International Association for Public Participation (IAP2) Spectrum of Public Participation*. For example:

- mail services are not available in some parts of Pinelands; and
- unauthorised visits were conducted by Department representatives at the last moment, only hours prior to the official announcement. Many business owners and land owners were excluded from the consultation due to being unavailable at the time it was conducted.

Financial Impact

The expansion of the Pinelands Industrial Estate will be limited if Section 67 Hundred of Bagot becomes the site of The Proposal and will cause property values in Pinelands to suffer due to the stigma attached to such facility.

Safety

A number of detrimental impacts will result from the proposed facility being located on the proposed site, such as:

- potential death or injury from pedestrians and road train industrial traffic conflict, which could leave businesses liable as a result of accidents occurring given Pinelands is not designed for pedestrians;
- business tenants in Pinelands will move away from the estate because of potential limitations imposed on their business;
- adverse impact on the Youth Justice Centre resulting from industrial emissions and noise; and
- possibility of a lockdown of the Pineland Estate due to a security breach at the proposed facility which could impact the business owners of Pinelands.

Mr Noonan tabled a copy of the consultation document for traffic management in Pinelands. A copy is included at **Attachment E**. Mr Noonan tabled his speaking notes, a copy of which is at **Attachment E**.

Ms Judy Lambert (submitter)

Ms Lambert provided the following comments in support of her written submission:

- Pinelands was the preferred location for her business due to close proximity to the port and highway.
- The facility threatens a family succession plan for her business due to her son's future plans to expand the business.
- There is a lack of industrial land for other businesses to relocate within Pinelands and Section 67 represents that opportunity to cater for new business.

- How can an industrial estate be a positive environment to be rehabilitated? Hence, this seems to be the wrong site for true rehabilitation.

Mr Todd McCourt (submitter)

Mr McCourt provided the following comments in support of his written submission:

- The Proposal impacts on his decision to expand the business due to a number of factors such as the negative impact to land values in the area, which restricts his ability to obtain finance.
- The adverse impact of industrial noise and other emissions on the facility will not foster a healthy environment for residents of the facility.
- The patrons of the Alcohol Rehabilitation Centre may become a risk to both the Youth Justice Centre and Pinelands businesses, due to the lack of pedestrian infrastructure in an environment with a high volume of heavy vehicle traffic.
- The security of businesses and employees are at risk from a breakout as the lack of security infrastructure on existing business may allow access to dangerous materials and heavy vehicles.
- The facility will impact his current occupation licence over the eastern portion of Section 67. This portion of land is located in the area identified on the concept plan for a future light industrial buffer zone.
- The facility may expand in the future further limiting industrial activity in the Pinelands area.
- Initial consultation was received 1 hour prior to the official announcement of the facility, and pre-lodgement consultation is therefore not considered to be adequate.

Ms Janice Dyer (submitter)

Ms Dyer provided the following comments in support of her written submission:

- The initial consultation on the application was non-existent.
- Ms Dyer has had no response to her letters, written to both the Minister and Department, requesting further information about the feasibility of locating an alcohol rehabilitation facility on Section 67 Hundred of Bagot.
- The existing power infrastructure to her site via Section 67 Hundred of Bagot was paid for by the land owner, with the expectation Section 67 would be developed for industrial uses and possible co-location opportunities.
- Ms Dyer's property is part of a Self-Managed Super Fund (SMSF) and is highly exposed to a fall in property value which is likely to occur if The Proposal is approved.

Ms Annette Bould (submitter)

Ms Bould provided the following comments in support of her written submission:

- Only received consultation from the Transport division on changes to traffic management, with no mention of the Youth Justice Centre.
- Ms Bould's business will be highly exposed to litigation if The Proposal proceeds. As a provider of instruction for operators of heavy vehicles, with inexperienced drivers using the road network around Pinelands as part of their training, business risks arising from accidents will increase because the Pinelands road network lacks basic pedestrian infrastructure.

Mr Bart Solomon (submitter)

Mr Solomon submitted that he had bought land within the Pinelands estate with the expectation that the area would be expanded with better access to the port via Tivendale Road, and he believes The Proposal would prevent this expansion. If The Proposal goes ahead he will reconsider plans for future expansion of his business in the area.

8. ANY OTHER MATTERS THE PLANNING COMMISSION CONSIDERS THE MINISTER SHOULD TAKE INTO ACCOUNT

This report summarises the issues raised in submissions and during consultation under the Planning Act on the proposed Planning Scheme Amendment to rezone Section 67 Hundred of Bagot from Zone GI (General Industry) to Zone CP (Community Purposes) and Zone FD (Future Development). This report is designed to guide the Minister in understanding the issues raised in the written submissions and at the hearing; it is not a function of this report to analyse or comment on the relative merit of these issues. The Commission understands that the Minister may seek separate advice on the matters raised in this report.

The Planning Commission commends and thanks submitters to the proposed Planning Scheme Amendment for their comprehensive, considered and respectful input to the planning process.



**DAVID RITCHIE
CHAIRMAN
NT PLANNING COMMISSION**

14/2/2019