

NT PLANNING COMMISSION HEARING

PROPOSED NT PLANNING SCHEME AMENDMENT PA2020/0031

Repeal the Northern Territory Planning Scheme in full and substitute it with the Northern Territory Planning Scheme 2020

Agenda Item Number: **1**

Meeting Date: 20 May 2020

Attachment A – Exhibition Material

Attachment B – Stage 2 Directions Paper

Attachment C – Submissions Received



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Report to the Commission

This report is prepared under section 22 of the *Planning Act 1999*, and considers the submissions made in relation to the proposal.

1. GENERAL INFORMATION

ADDRESS:	Applies to all land subject to the Northern Territory Planning Scheme
PROPOSAL:	Repeal the Northern Territory Planning Scheme in full and substitute it with the Northern Territory Planning Scheme 2020
APPLICANT:	Department of Infrastructure, Planning and Logistics

2. LEGISLATIVE REQUIREMENTS

The Minister for Infrastructure, Planning and Logistics is responsible for determining proposals to amend the NT Planning Scheme including the repeal and substitution of a planning scheme in its entirety. The *Planning Act 1999* establishes requirements relating to the exhibition, consultation and reporting of proposed amendments to the NT Planning Scheme.

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

Under section 24 of the Act, the 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 Commission considers the Minister should take into account when considering the proposal.

3. PROPOSAL

The proposed amendment seeks to repeal the existing Northern Territory Planning Scheme in full and substitute it with the new Northern Territory Planning Scheme 2020 (NTPS 2020). Compared with the existing Scheme, the new NTPS 2020 is intended to:

- be less complex
- be easier for users to navigate
- more clearly identify all requirements and considerations relevant to a particular development and how they will influence the exercise of discretion by the consent authority
- introduce simplified processes for developments with reduced potential for adverse impact.

The new NTPS 2020 looks different to the existing Scheme; however, the zones and associated controls of development within it remain largely unchanged. The new NTPS 2020 has been drafted to:

- provide a framework to deliver the increased focus of the role of strategic planning
- remove duplication either within the Scheme or with other regulatory controls
- introduce a range of policy statements to clearly establish the basis for decisions
- provide a simplified assessment process for minor development that would be expected in a particular zone.

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

4. CONTEXT

In 2017, the NT Government commenced a review of the Territory's planning system, including how the *Planning Act 1999* and the planning scheme operate. The actions identified in the initial review were split into two phases, with Phase 1 addressing priority reforms consisting of:

- fundamental legislation changes;
- a restructure of the NT Planning Scheme to support a renewal of the Scheme in Phase 2; and
- administrative changes that are reasonably simple to implement.

Phase 2 is intended to address longer term reforms that:

- rely on a change to law or policy to be completed first (through Phase 1); and/or
- require comprehensive research and investigation.

Since 2017, three stages of public consultation have been undertaken to inform Phase 1. A Directions Paper was published as part of the second stage of consultation in 2018, which provides further information on the principles of the Planning Reform project, and the different actions to be undertaken in each phase. A copy of the Directions Paper is included at **Attachment B**.

The third stage of consultation, which occurred in October and November 2019, sought comment on the draft Planning Amendment Bill and the *Draft Examples of Possible Changes to the Northern Territory Planning Scheme*. That consultation informed the draft NTPS 2020.

The recently exhibited draft NTPS 2020 reflects changes to the Act that enhance the role of strategic planning in guiding decisions and future development, and aim to provide clearer and more accessible planning information.

The draft NTPS 2020 does not change existing zones or development requirements, except where necessary to enhance the benefits of:

- the move to a more merit based assessment process; and
- the influence of policy and the operation of the planning system.

More comprehensive changes to the Scheme (such as changes to building densities, and minimum lot sizes) and those that may change development rights will need more time for detailed consultation and feedback. As identified in the Directions Paper, a further review of the Scheme will take place as part of Phase 2 planning reforms, to occur after the new structure has been established.

5. PUBLIC EXHIBITION

On 28 February 2020, the Minister for Infrastructure, Planning and Logistics determined under section 12(3) of the *Planning Act 1999* to continue consideration of the proposed amendment by placing it on exhibition.

The proposal was placed on public exhibition for an extended period of seven weeks, rather than the standard four weeks required under the *Planning Act 1999*, and was advertised in the following newspapers on the specified dates.

Publication	1st Publication	2nd Publication	3rd Publication
NT News	Fri 6 March 2020	Fri 27 March	Fri 17 April
Katherine Times	Wed 11 March	Wed 1 April	-
Tennant and District Times	Fri 13 March	Fri 27 March	Fri 17 April
Centralian Advocate	Fri 13 March	Fri 27 March	Fri 17 April

The exhibition closing date was 24 April 2020.

In parallel with the statutory exhibition, a broader consultation program was also undertaken to actively engage with the community, industry and government agencies. This consisted of:

- direct contact and meetings with key stakeholders and groups
- face to face briefing sessions
- online workshops and briefing sessions
- a dedicated project page on the 'Have Your Say' website, including online surveys
- an explanatory video available on 'Have Your Say' and Facebook
- Facebook posts

Overall, 14 workshops and briefings were held, attended by approximately 130 people, and Facebook posts reached over 1100 people. The Have Your Say website received 226 unique visitors, with 530 document downloads.

Below is a summary of the matters raised in the written submissions.

Public Submissions (Attachments C1– C26)

26 submissions were received from the public, including peak industry bodies, regarding this proposal. Individual submissions are summarised thematically in the table below. Numbers in the right hand column indicate the number of times each issue was raised.

Issues Raised	Number
<p>Structure – Part 1 Guidance</p> <ul style="list-style-type: none"> • Two submissions raised general dissatisfaction with the revised structure of the Scheme as a whole • Six submissions supported the introduction of 'Merit' and 'Impact' assessable assessment categories • Two submissions opposed the discretion for the consent authority to vary development requirements • Two submissions supported the removal of 'special circumstances' and one opposed the removal. 	12
<p>Structure – Part 2 Strategic Framework</p> <ul style="list-style-type: none"> • Three submitters commented that the Strategic Framework is too focused on development rather than 'ecologically sustainable development' • Nine submissions supported the establishment and structure of the Strategic Framework. 	12
<p>Structure – Part 3 Overlays</p> <ul style="list-style-type: none"> • One submission opposed the introduction of Overlays that could prevail over Zones on the basis that Zones should be the primary means of identifying the assessment category of uses • Thirteen submissions supported the introduction of Overlays with the potential for increased use of Overlays 	14

Issues Raised	Number
Structure – Part 4 Zones and Assessment Tables <ul style="list-style-type: none"> All submissions supported the expanded Zone Purpose and Outcomes and structure of the Assessment tables 	8
Structure – Part 5 Development Requirements & Part 6 Subdivision Requirements <ul style="list-style-type: none"> Submissions suggested minor amendments to specific development or subdivision requirements. 	10
Definitions <ul style="list-style-type: none"> Three submissions suggested additional defined terms that could be included 	3
Other comments <ul style="list-style-type: none"> Submissions not in support of the planning reform package raising general opposition to progressing the amendment. 	7
Issues out of Scope <ul style="list-style-type: none"> Seven submissions raised issues in relation to changes to existing 'Permitted' and 'Discretionary' uses that are outside the scope of this phase of reforms that will be considered as part of the Phase 2 reforms Three submissions made comment on the extended exhibition period for 'significant developments' and two submissions commented on the inclusion off Zone RL (Rural Living) as a residential zone with third party rights of appeal in the draft Planning Regulations that were concurrently exhibited Three submissions proposed significant changes to existing development requirements which will require specific consultation as part of Phase 2 reforms 	15

Service Authority Submissions (Attachments C27 to C32)

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

Service Authority	Comments
Department of Defence (Attachment C27)	<ul style="list-style-type: none"> Supports the introduction of Overlays and requests that specific Overlays be incorporated to identify constraints on surrounding land to its facilities including RAAF base Darwin, RAAF base Tindal and Shoal Bay Receive Station. Requests that Defence holdings be zoned 'Defence land' rather than identified solely as Commonwealth land Requests National Airports Safeguarding Advisory Group Guidelines be referenced in the Scheme.

Service Authority	Comments
Department of Environment and Natural Resources (Attachment C28)	<ul style="list-style-type: none"> • Supports the introduction of Overlays and proposes that additional overlays to identify land with environmental constraints be included. • Suggests minor amendments to wording of Overlays, Development and Subdivision requirements. • Requests that references to the Department of Environment and Natural Resources as the controlling agency for mapping of flooding and storm surge be removed.
Department of Health (Attachment C29)	<ul style="list-style-type: none"> • Supports the introduction of the Strategic Framework, Overlays and expanded Zone Purposes and Outcomes. • Suggests the Scheme should reference 'relevant regulatory authority' rather than specific Government Agencies. • Suggests 'food business' rather than 'food premises' for consistency with the Food Act 2016.
Department of Infrastructure, Planning and Logistics (Transport) (Attachment C30)	<ul style="list-style-type: none"> • Supports the revised structure and introduction of an Overlay for Arterial Roads.
NT Airports (Attachment C31)	<ul style="list-style-type: none"> • Supports the proposed amendment and particularly the introduction of Overlays. • Requests that the Darwin and Alice Springs Airport Masterplans be incorporated as reference documents in the Scheme. • Requests incorporation of Darwin Airport Central as an 'activity centre' in the Scheme. • Requests further input into the development of Overlays to protect airport operations. • Suggests minor wording changes to requirements.
Power and Water Corporation (Attachment C32)	<ul style="list-style-type: none"> • Supports the introduction of the Strategic Framework, Overlays and expanded Zone Purposes and Outcomes • Requests additional Overlays be developed to include 'Sewerage Plant buffer zones' and 'Water catchment areas' • Requests clarification on how the introduction of 'Renewable Energy Facility' as a defined use will impact on its provision of infrastructure to remote communities

Council Submissions (Attachments C33 to C39)

Submissions received from local government authorities are summarised in the table below.

Council	Comments
Alice Springs Town Council (Attachment C33)	<ul style="list-style-type: none"> • Broadly supports the proposed amendment with no specific comments on the components of the Scheme.

Council	Comments
Central Desert Regional Council (Attachment C34)	<ul style="list-style-type: none"> • Supports the proposed amendment as it improves the structure and interpretation of requirements. • Opposes the removal of signage requirements and requests a two-year transitional period. • Highlights the difficulties regional Councils have with commenting on and assessing development applications within the submission periods
City of Darwin Council (Attachment C35)	<ul style="list-style-type: none"> • Supports the introduction of the Strategic Framework, Overlays and expanded Zone Purposes and Outcomes. • Provided a detailed review of the Scheme and suggested amendments to 47 clauses of the Scheme including minor wording changes and additional requirements. • Identified a number of changes to the existing 'Permitted' and 'Discretionary' uses that are outside the scope of this phase of reforms that will be considered as part of the Phase 2 reforms. • Identified additional Overlays such as 'Heritage Areas', 'Biting Insects', 'Odour' and 'Noise' that could be included. • Suggested changes and additions to Defined Uses and General Definitions in the Scheme.
City of Palmerston Council (Attachment C36)	<ul style="list-style-type: none"> • Supports the proposed amendment as it improves the structure and interpretation of requirements. • Suggests changes to the Assessment tables for 5 zones to incorporate additional development requirements • Recommends Home Based Business should be only a Permitted Use in Zones LR and LMR.
Coomalie Community Government Council (Attachment C37)	<ul style="list-style-type: none"> • Supports the proposed amendment and specifically the introduction of Overlays. • Strongly objects to the removal of development requirements for 'Signs' and 'Domestic livestock' as it represents cost shifting to local government for regulation.
Katherine Town Council (Attachment C38)	<ul style="list-style-type: none"> • Supports strengthening of the role of strategic policy in guiding development decisions and specifically the introduction of Overlays. • Supports the removal of 'special circumstances' and the expanded Zone Purpose and Outcomes as it increases transparency and consistency in decision making.

Council	Comments
Litchfield Council (Attachment C39)	<ul style="list-style-type: none"> • Supports the revised structure of the Scheme and strengthening of the role of strategic policy in guiding development decisions. • Strongly objects to the removal of development requirements for 'Signs' and 'Domestic livestock' as it represents cost shifting to local government for regulation. • Provided a detailed review of the Scheme and suggested amendments to 22 clauses of the Scheme including minor wording changes and additional requirements. • Identified a number of changes to the existing 'Permitted' and 'Discretionary' uses that are outside the scope of this phase of reforms that will be considered as part of the Phase 2 reforms. • Objects to the proposed limits on the hours of operation of 'Home Based Business' • Requests clarification on the operation of existing Specific Use zones in the proposed Scheme. • Suggested changes and additions to Defined Uses and General Definitions in the Scheme.

6. RECOMMENDATION

That under section 24 of the *Planning Act 1999*, the Commission report to the Minister for Infrastructure, Planning and Logistics on the issues raised in submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the proposal.