Planning Reform Phase 1 - Priority Reforms
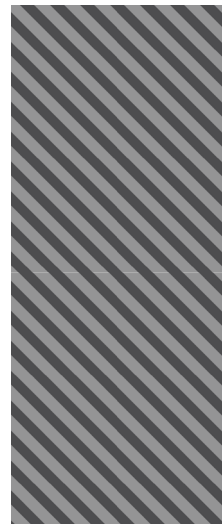
Building Confidence through Better Planning for the Northern Territory

Client: Department of Infrastructure, Planning and Logistics
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Contents

TABLES

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
EPA	Environment Protection Authority
LGANT	Local Government Association of the Northern Territory
NGO	Non-Government Organisation
NT	Northern Territory
NTG	Northern Territory Government
NTCAT	Northern Territory Civil and Administrative Tribunal
NTPS	Northern Territory Planning Scheme
P1PRP	Phase 1 Priority Reforms Paper
PSA	Planning Scheme Amendment

1 Executive Summary

1.1 Why was Consultation Undertaken?

In late 2017, the Northern Territory Government heard from the community during the consultation period associated with the Discussion Paper *Building Confidence through Better Planning for the Northern Territory: Review, Reframe, Renew* (Stage 1).

Stage 2 consultation was undertaken in August and September 2018 to gather feedback from the community and key stakeholders on the Government's proposed planning reforms which were drafted in response to the feedback received during Stage 1 consultation.

Supporting Stage 2 consultation was the *Planning Reform Directions Paper* which gives an overview of the Government's strategy to reform the planning system.

The Directions Paper introduced:

- Three overarching directions for planning reform guided by the six principles (from Stage 1) and reflecting community feedback.
- The two phases over which reforms will be delivered.
- A snapshot of the proposed reforms and the issues considered to be outside the scope of this phase of the review.

The Directions Paper was complemented by *Planning Reform Phase 1 - Priority Reforms*. The Priority Reforms Paper outlined in more technical detail the reforms proposed for Phase 1.

> Elton Consulting was appointed to undertake independent consultation and reporting on the outcomes of the consultation for Stage 2 of the planning reforms project.

1.2 When, how and where was the Consultation delivered?

Public exhibition and consultation regarding the Phase 1 - Priority Reforms Paper (the P1PRP) was undertaken between 26 July 2018 and 7 September 2018. Written and email submissions were received up until 27 September 2018.

Obtaining feedback and comments on the proposed Phase 1 – Priority Reforms is critical to developing the Northern Territory community's trust and confidence in the planning system. The consultation process was carefully developed and implemented to ensure sufficient opportunity for the community to 'have their say'. In addition, the proposed planning reforms are technical and therefore more focused and in-depth consultation with industry and key stakeholders was necessary. These objectives were achieved through a range of mechanisms:

» Re-engaging participants who provided feedback through Stage 1 consultation

» Opening engagement to all community members through the "Have Your Say" website where reform documents could be accessed and a survey submitted. The website also encouraged people to contact Elton Consulting to register their attendance at a workshop and to make a formal written submission.

» Detailed discussions with key stakeholders identified as having a high degree of familiarity with the planning system, including representatives of industry and professional groups

» Briefings delivered by the Department of Planning, Infrastructure and Logistics to inform and provide planning technical information.

> The consultation process focused on in-depth, detailed, **meaningful engagement** with key stakeholders and groups who had participated in Stage 1 consultation in 2017 or had an interest in this stage of planning reform. Key stakeholders and groups ranged from community members and groups, environmental groups, planning professionals, legal professionals, development and industry associations and Local Government.

1.3   Consultation Tools and Response

A range of community engagement tools were used to achieve meaningful and effective engagement:

» **Direct contact** and **meetings** with key stakeholders and groups, introducing the discussion paper and inviting them to participate in consultation.

» A dedicated **telephone number** for queries.

» An **online survey submission**, providing the opportunity for all Territorians to participate. Over 758 visits were made to the 'Have Your Say' website with 204 downloads of the *Planning Reform Phase 1 – Priority Reforms* and 166 downloads of the Directions Paper.

» Inviting **written submissions -** 33 written submissions were received; 12 completed via an online survey submission and 21 through formal written submissions.

» Over 70 people attended 15 **workshops sessions** in either Darwin, Alice Springs or Katherine to workshop the Phase One – Priority Reform Paper (the P1PRP). Workshops were attended by a range of community and stakeholder representatives:

> Community members

> Environmental groups

> Planning and legal professionals

> Industry associations

> Local government (LGANT, greater Darwin Councils, Regional Councils and Remote Councils in and around Katherine and Alice Springs)

> Northern Territory Planning Commission.

Many Northern Territorians have been directly involved in the in-depth consultation, with additional residents reading the documents on the website.

Further to the above, and separate to Elton Consulting's formal engagement process, the Department of Planning, Infrastructure and Logistics (DIPL) undertook a number of briefings with various stakeholders. The purpose of these presentations was to provide information to stakeholders rather than to gather input/feedback. Following presentations by DIPL to the various divisions of the Development Consent Authority (DCA), the DCA members were surveyed on their views about the reforms. The results of the member surveys were provided to Elton Consulting as part of the DCA's submission.

1.4 What are the Consultation Outcomes?

This report groups the outcomes of the consultation process into key themes:

» Strategic land use planning and the Northern Territory Planning Scheme

» Development assessment and application process

» Compliance and enforcement

» Review of decision making.

1.4.1 Summary

As the proposed planning reforms are technical in nature, the workshops and briefing sessions were used as an opportunity to break down and explain the potential changes as well as the government's intended outcomes.

The vast majority of consultation participants viewed the proposed planning reforms as **"going in the right direction"** and used the consultation process as an opportunity to make suggestions for further improvement.

Feedback from the workshops on the P1PRP, indicated substantial confusion about the role of the Northern Territory Planning Commission (NTPC) and there was support for demystifying the NTPC's role and processes. Feedback, particularly from community groups, was that there is a need for the NTPC to undertake more meaningful consultation.

In all submissions and workshops, comments emphasised the need for ecologically sustainable development and climate change principles to be incorporated in the Planning Act as well as in policy.

Feedback received through the consultation overwhelming supported reform of the Development Consent Authority (DCA), including the addition of expert skills, a code of conduct, training and improved processes to give communities and the development industry greater clarity and certainty. However, there was limited support for the DCA chairperson to be legally qualified.

The comments and feedback acknowledged support for:

» Outlining clear decision-making criteria for the Minister for Planning in relation to Planning Scheme Amendments or Exceptional Development Permits.

» Improving the integration of land use planning and the planning and timing of infrastructure development.

» Development applications or planning scheme amendments to have time limiting deferral, with the associated additional information to be shared with community and referral agencies.

» Defined timeframes for contact between planning officers and submitters

» Defined timeframes for any post exhibition meetings between applicants and submitters

» Greater enforcement powers, acknowledging this will require additional resourcing.

Further comments and feedback through workshops and submissions outlined the need for a clearer definition or criteria for the "high impact development" category, with the industry not supporting this type of development as it will lead to an increase in time and cost.

The development industry and professionals also outlined the need for defined timeframes for responses to applications, as well as timeframes to deal with conditions of consent referred by agencies and council.

Councils provided comments that they should be given special status to ensure that the conditions of permit affecting their local council assets are included in the permits. Regional and remote councils also commented that the planning reforms "do not go far enough" as there is a need for local decision making or remote council involvement in the decisions currently made by the Minister.

Community groups in the greater Darwin area commented that more planning should be done for, and with, the community to develop trust and certainty in the planning system.

Below is a summary by theme outlined in the P1PRP, of the key comments and feedback provided during the consultation.

Strategic Land Use Planning

Planning reform **Items 1.1.to 1.8** were supported by most respondents, regardless of their method of participation in the consultation process. Workshop participants commented that additional reforms may be needed to make the planning process more certain and transparent. The inclusion of environmental considerations in the planning process was also seen as important to achieving better balanced outcomes for the Territory.

Most feedback indicated the need for greater clarity around the role and responsibilities of the NTPC as well as ensuring the planning process includes genuine engagement on the part of the NTPC.

Overwhelmingly, comments made by community, environmental groups and NGOs are for the objectives of the Planning Act to include ecologically sustainable development (ESD), meaning more integration of environmental considerations and climate change into the planning system.

> Ecologically sustainable development must be introduced as a core planning principle…….

There was strong support for clarity and transparency around the planning decisions made by the Minister. This includes the criteria and matters taken into consideration when deciding a planning scheme amendment, policy or exceptional development permit. In particular, feedback indicated a need for clear timeframes for decision making. Most workshop groups supported the associated release of the NTPC report that informed the Minister's decision.

> …strongly suggests consideration of incorporating legislative timeframes for planning scheme amendments…

Feedback from local councils in regional areas indicates there is a gap in strategic planning in their locations. To address this, input should be sought from regional councils and representatives to inform strategic planning and Ministerial decision making.

All submitters and representatives at workshops supported the need to integrate land use planning and infrastructure at the strategic planning level. In particular, representatives from councils and the development industry commented during workshops that strategic planning should also focus on the funding mechanism. Community groups stressed the importance of planning for social infrastructure at the strategic planning or Area Plan stage.

> An ideal opportunity exists to better integrate planning and infrastructure, particularly the coordination and funding of infrastructure as it relates to Area Plans.

Development Applications

Respondents provided mixed views of the planning reform **Items 2.1 to 2.8**, particularly in relation to the high impact development category and the associated pre-consultation and post exhibition conference. Most respondents queried the definition of, and criteria for, high impact development. There were suggestions that the policy and processes around this category of development needs to integrate more substantially with the policy and processes applying to the consideration of environmental impacts and ESD.

The development industry provided strong feedback that the reform to introduce pre-application consultation for high impact development will have a significant impact on the cost and time for development and were therefore

not supportive. Conversely, community groups, primarily in workshops, commented that the early discussion of projects and their impacts was critical and therefore supported pre-consultation engagement by developers.

> We are trying to improve the development assessment process, not make it more onerous for all parties. Pre-application consultation is onerous.

There was general support in written submissions and workshops for the local notification category, except for some urban community groups who commented that this category should require applications to also be notified in the newspaper. Councils, predominantly in workshops, suggested that the local notification should extend to residents across the road from the proposed development.

Feedback around the reform of the DCA was generally consistent. In particular, there was limited support for the chairperson to be a lawyer, although comments from DCA members were mixed on this issue. While comments about the skills required for inclusion on the DCA's specialist pane were mixed, most respondents supported the DCA taking steps to ensure its membership has the necessary expert skills to perform their role. DCA members also recognised and supported this view.

In workshops, many comments were made about the operation of the DCA, in particular the improvement needed for informing and sharing late information. Comments made by community groups emphasised support for a code of conduct to ensure members declare any conflicts of interest.

> It is not agreed that the Chair of the DCA should be a lawyer. Most important is knowledge of planning, aspects of planning and their wide and narrow implications.

The development industry's major comment was associated with the DCA's adequacy in assessing, and including, only the most appropriate condition in the development permit. All councils, particularly at workshops, provided feedback that the DCA needs to include all their comments (particularly for roads, stormwater and parking) as conditions of the permit, as it is ultimately a council asset.

The development industry, both in workshops and in submissions, also commented that there should be a clear timeframe for referral agencies and councils to sign off the conditions of the permit, as currently the process can increase the timeframe by up to eight weeks.

The DCA members supported rebranding of the Development Assessment Report so that it was clear that the report by the department planners is one aspect of their consideration, but had mixed views as to whether more consideration should be given to policy rather than the Planning Scheme as this may provide for more merit assessment.

> Local government as an owner of infrastructure is a key stakeholder when it comes to accepting and owning infrastructure following the development of land.

Review of Decisions

The planning reform **Items 3.1. to 3.3** received a mixed response from submitters and workshop participants. Community and NGO groups provided comments that third-party appeal rights should be extended to more zones, whilst industry commented that the current third-party appeal rights should not be extended to Rural Living Zone, as proposed.

> Third party merits review is noted to be a key accountability tool, and yet its proposed inclusion in the Planning Act will remain very limited....

Feedback from a few submissions and most workshop participants supported a time limit for the deferral of development applications.

> We agree with references 3.2.1 that there be a serious time limit for deferred applications to prevent them falling into limbo.

The development industry provided feedback that Exceptional Development Permits (EDPs) and concurrent applications are generally working well. However, many community groups were either confused about the planning process or provided comment that these two categories should be stopped. Almost all comments received at workshops suggested that the Minister should have a legislated timeframe within which to make a decision and give reasons for the decision for an EDP or Planning Scheme Amendment.

Compliance & Enforcement

The planning reform **Items 4.1. to 4.9** were generally supported by all participants at workshops and by those who commented on these Items in written submissions. The largest number of comments received supported greater enforcement powers, but noted the associated need for additional resourcing.

The DCA members supported the planning reform package related to enforcement and compliance.

Most council representatives supported the role of the Authorised Officer, however some councils commented that they were hesitant to take on the role (if requested) due to funding implications; but also, as councils do not have a role in deciding applications.

> There is some concern that such a role has added complexities when Authorised Officers are not part of the office issuing consents.

Mixed comments were provided in written submissions and in some workshops regarding *existing use rights*. In particular, community workshop participants provided comment that existing use rights were a problem when residents have been impacted by illegal uses or existing uses in the area. The legal professionals acknowledged that if the use was legal at the time, or consent was granted, that the legal right cannot be taken away. They queried the reasoning for the 15-year timeframe.

Most groups/submissions queried the liability of office holders on body corporates, and commented that this reform is not supported.

1.5 Conclusion

The consultation process generated considerable interest from a broad cross section of the community and key stakeholders and substantial feedback was collected through the various engagement mechanisms. This community consultation outcomes report sets out the feedback and provides the Northern Territory government with valuable insights into the views, issues and concerns raised by respondents about the proposed planning reforms. While there is broad support for reform, feedback indicates that community and stakeholder groups support changes to the proposal that would, in their view, further improve the transparency, fairness and effectiveness of the Territory's planning processes.

2 **Introduction**

Elton Consulting was appointed to manage an independent consultation process and write a consultation outcomes report for Stage 2 of the *Planning Reforms Phase 1 – Priority Reforms (P1PRP)*.

2.1 **Objective**

The objective of consultation was to provide an opportunity for all Northern Territorians to submit comments and feedback about the P1PRP. Identified stakeholders included:

» the community members and community groups

» industry associations

» planning professionals

» legal professionals

» environmental groups

This report summarises the views, written and verbal comments and insights of stakeholders received during the consultation process. The consultation outcomes are captured in this report to enable the Department of Infrastructure, Planning and Logistics and the Minister for Planning to understand the feedback received and then decide on any actions necessary to progress the reforms of the planning system.

2.2 **Background**

In late 2017, the Northern Territory Government heard from the community during the consultation period associated with the Discussion Paper *Building Confidence through Better Planning for the Northern Territory: Review, Reframe, Renew* (Stage 1).

Elton Consulting was engaged in 2017 to consult with all sectors of the community on the current planning system in the Northern Territory. Feedback about the strengths of the planning system, its shortcomings and suggestions for improvement were provided to inform a package of proposed planning reforms. The full consultation outcomes report from Stage 1 can be found at https://haveyoursay.nt.gov.au/planningreform

At the end of July 2018, the Minister of Planning, Infrastructure and Logistics released the *Planning Reforms Directions Paper.* The Directions Paper was complemented by *Planning Reform Phase 1 - Priority Reforms Paper* which was drafted by the Northern Territory Government in response to the feedback heard during Stage 1 consultation and outlined in more technical detail the reforms proposed for Phase 1.

The Directions Paper introduced:

• Three overarching directions for planning reform guided by the six principles (from Stage 1) and reflected 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 phase of the review.

Stage 2 consultation was undertaken in August and September 2018 to gather feedback from the community and key stakeholders on the P1PRP.

2.3   Consultation approach and involvement

A range of community engagement tools were used to achieve meaningful and effective engagement on the P1PRP:

»   **Direct contact** and **meetings** with key stakeholders and groups, introducing the Stage 1 Priority Reforms and inviting them to participate in consultation.

»   A dedicated **telephone number** for queries.

»   An **online survey submission**, providing the opportunity for all Territorians to participate.

»   Inviting **written submissions**.

»   15 **workshop** sessions, held in Katherine, Alice Springs and Darwin.

Many people within the Northern Territory have been directly involved in the consultation, with additional residents downloading and reading the documents on the website.

Further to the above, and separate to Elton Consulting's formal engagement process, the Department of Planning, Infrastructure and Logistics undertook a number of presentations or briefings with various stakeholders. The purpose of these presentations was to provided information to stakeholders rather than gather input/feedback. Following presentations to the various divisions of the DCA, DCA members were surveyed on their views about the reforms. The results of the member surveys were provided to Elton Consulting as part of the DCA's submission.

The consultation process resulted in:

»   Over 758 visits to the 'Have Your Say' website with 204 downloads of the *Phase 1 – Priority Reforms Paper* and 166 downloads of the Directions Paper.

»   33 submissions of which 12 were completed online and 21 via written submission.

»   More than 70 people attended 15 workshops held in Darwin, Alice Springs or Katherine. In each region, workshops were held for community members and groups, environmental groups, planning professionals, legal professionals, developers and industry associations and local government (LGANT, greater Darwin Councils and regional and remote councils in and around Katherine and Alice Springs). A workshop was also held with the Northern Territory Planning Commission.

»   Less than ten calls to the dedicated telephone number.

Consultation workshops

The consultation process focused on in-depth, detailed and **meaningful engagement** with key stakeholders and groups who had previously participated in the 2017 Stage 1 consultations or those who had an interest in this stage of planning reform. Key stakeholders and groups ranged from community members and groups, environmental groups, planning professionals, legal professionals, industry associations and Local Government.

The focus of the 15 workshops was to obtain more detailed and focused input and comments into the P1PRP, namely:
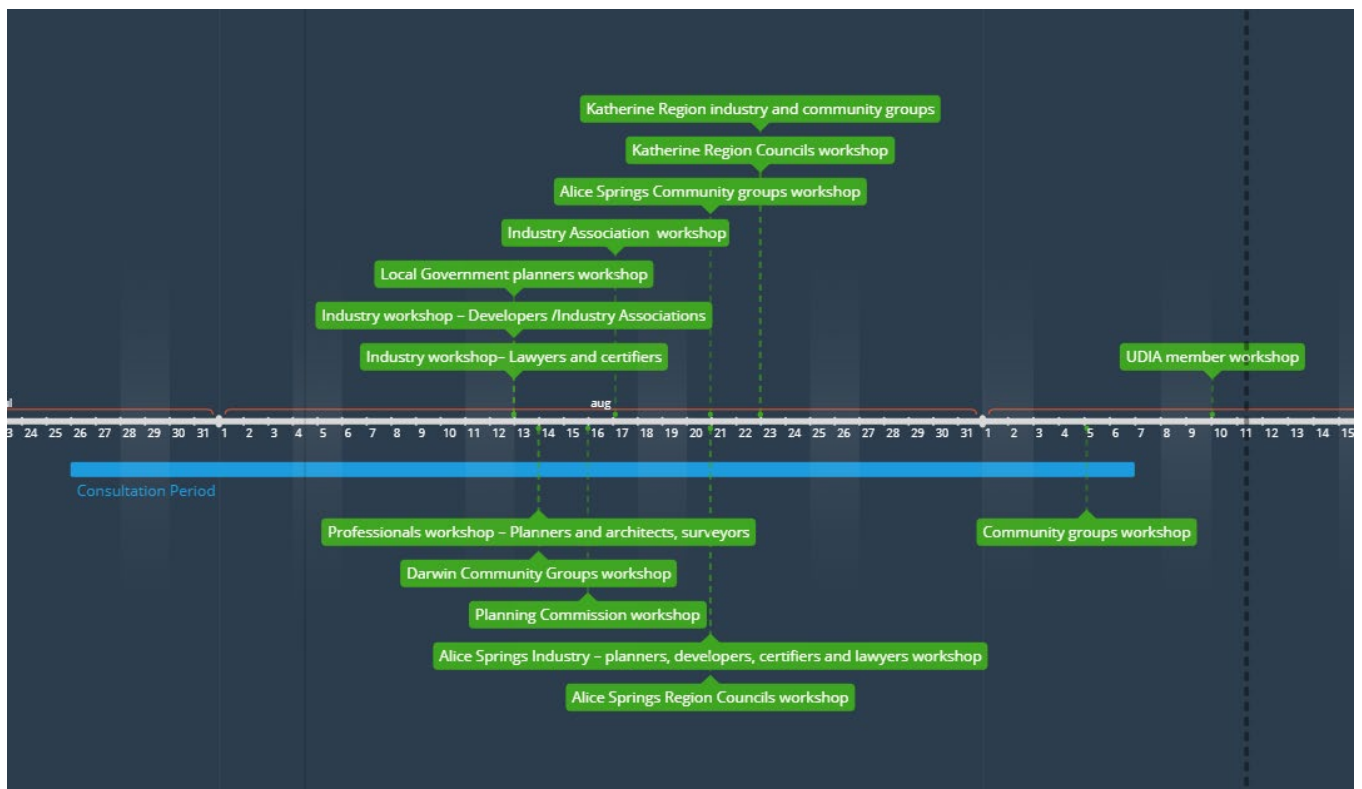
»   Strategic Land Use Planning and Northern Territory Planning Scheme (NTPS).

»   Development Assessment and Application Process.

»   Review of Decisions.

»   Compliance and Enforcement.

Unless chosen otherwise by the participants, the workshops were structured in two sections:

» The first part of the workshop was to outline each of the planning reform themes and associated priority reform items, and obtain a high-level indication of participants' comments, support, disagreement, and their views about the relative priority of individual reforms.

» The second part of the workshop focused on the themes and priority items/issues that were identified by participants as needing more detailed consideration or comment.

Timing

Consultation was undertaken between 26 July 2018 and 7 September 2018. Written and email submissions were received up until 27 September 2018. The figure below provides a timeline of consultation activities and timeframes.

2.4   Consultation outcomes

All inputs and discussions were captured and outlined in this report under the **planning reform's themes** of:

» Strategic Land Use Planning and Northern Territory Planning Scheme (NTPS).

» Development Assessment and Application Process.

» Review of Decisions.

» Compliance and Enforcement.

Consultation outcomes and comments are collated and documented by planning theme and then by the proposed action under the planning theme

2.5 **Limitations**

Respondents at times found it difficult to differentiate between the planning process as the subject of consultation rather than the Northern Territory Planning Scheme. It is understood that the review of the Northern Territory Planning Scheme will be undertaken as part of Stage 2 of the planning reforms.

Comments and input have therefore been refined in the main body of this report, with the focus being on the Phase 1 Priority Reforms Paper of the planning system reform.

3 Strategic Land Use Planning and NTPS

This section outlines the consultation outcomes, namely comments and feedback from written submissions, online survey submissions and feedback at workshops specific to the theme of Strategic Planning.

3.1 Overview

Most of the submissions, and the majority of workshop participants, are supportive of all the Strategic Land Use Planning reforms, although some comments highlighted that the reforms have either not gone far enough or need further consideration. There was a mix of views from all groups as to which reforms were of greatest priority.

The following summary can be provided:

» Many community groups were of the view that the planning system and planning reforms are concentrated on development, rather than on the impact of development or community need.

» Many submissions from community groups or non-NGOs proposed the inclusion of ecologically sustainable development (ESD) and climate change in policy and as an objective in the Planning Act.

» One community group in Darwin commented that the government and the NTPC's role is to plan for the future, while the DCA considers development applications. This leaves a gap as there is no governance body that plans for the community and community needs.

» The community group suggested that the planning reforms should establish an accessible one stop shop for the community to get advice, assistance with submissions or be informed about the planning system/process. Further, the community group acknowledged the P1PRP, but stated that they have no trust in government to implement Stage 2.

» There is substantial confusion about the NTPC's role, the strategic planning process and consultation. Feedback indicates the need for the NTCP to adopt a clear engagement charter and consultation process to guide strategic planning. Community groups indicated a lack of genuine consultation in the strategic planning process.

» Feedback from local government was varied and influenced by location, with councils located in regional or remote areas identifying issues not raised by councils in urban areas. For example, regional and remote councils identified gaps in strategic planning in their areas as well as a lack of local representation in decision making. In particular, the remote and regional Councils felt there was a disconnect between the NTPC and strategic planning in regional areas. It was also felt by some participants in regional and remote areas that consultation was not collaborative or extensive. Feedback provided acknowledged that there were challenges with land tenure.

» All councils, community groups and the development industry (whether in workshops or in written submissions) fully supported the need to link land use planning and infrastructure planning and funding. The feedback indicated this link or integration should occur at the policy and Area Plans stage. The industry representatives provided comment that the Northern Territory government should consider funding the headworks to support provision of affordable housing, but simultaneously suggested that there be more linkage and collaboration between all the agencies in planning for land use and infrastructure provision.

» Urban councils provided comments that they should be able to undertake/develop policy or Area Plans, and collaborate with NTPC. Councils' role in strategic planning is important because they provide and maintain assets and look after the community's social wellbeing. The importance of contribution plans/funds for infrastructure to meet community needs was strongly emphasised by all councils.

» A majority of respondents strongly support increased transparency around the decisions made by the Minister for Planning. There is support for improving the clarity of criteria applying to decisions on Planning Scheme Amendments (PSAs) and Exceptional Development Permits (EDPs). Particularly, the development industry identified the need to ensure that a PSA decision is provided within a statutory timeframe to give certainty. Further, a majority of comments showed support for the report from the NTPC to the Minister, and the Minister's decision to be publicly available.

3.2   Summary of key feedback and comments

The tables below provide a summary of the feedback from the online survey submissions, written submissions and participants at workshops relating to strategic land use planning reforms of the P1PRP.

3.2.1   Local Government/Councils

There was general support for the planning reform Items 1.1 to 1.8, with differing comments provided between urban areas and regional/remote council areas. Councils believe their comments in relation to PSAs and EDPs should be given additional weight in the decision-making process because Councils ultimately own the local infrastructure that results from the development.

Table 1   Local Government/Councils

Planning Reform Priority	Comments/inputs
1.1 Demystify the role and processes of the NT Planning Commission (NTPC)	» NTPC should have a separation of power so not to have a conflict of interest, as they develop policy and then make recommendations to the Minister for Planning on PSAs. » There should be a clear engagement charter with improved coordination of the various consultation processes by NTPC » NTPC should provide clear feedback to the council as to what has been considered/included in the planning strategies. » NTPC should consider broader diversity and include 3D and visuals to convey messages. » Councils are of the view that they should have a role in policy and should also be able to develop Area Plans. » Remote councils provided comment that strategic planning needed to occur, and some local councils felt it may be too late to undertake strategic planning. Responses requested further thought should be given by NTPC about strategic planning, and developing policy with councils, in the regional areas. » Most councils supported the development of a community charter.

Planning Reform Priority	Comments/inputs
1.2 Improve the clarity and availability of information about the NT planning system, particularly amendments to the scheme, including rezoning of land.	» Supported by all councils that commented on this Item.
1.3 Clarify the purpose of the Act and clearly establish the structure and guiding principles of the NT planning system	» Support for the proposed reform and for the objectives and principles of the Act to be reframed. Most councils at workshops emphasized that the principles should be considered together in an assessment, but should also be able to be considered individually depending on the development. » The Act should provide clarity, or alternatively guidance should be provided, as how to achieve a balance between the objectives. Comments indicated that it is necessary to provide guidance to create certainty in the assessment of a development. » There should be new principles included into the principles, such as minimising adverse impacts of development on the amenity of the area, and efficient provision of infrastructure including stormwater drainage and sewer. » Regional and remote councils in workshops commented that there should be an inclusion of a new chapter in the Act for strategic planning in regional areas, municipal land or Land Trust land.
1.4 Define the contents of a Planning Scheme	» No comment was received on this item
1.5 Clarify the hierarchy and role of policy in the NT Planning Scheme	» The reform was supported, as councils agreed that there needs to be clear or well-defined hierarchy between policy and development applications. » Some regional councils commented in workshops that the DCA should not consent to a development if it is contrary to policy.
1.6 Strengthen the linkages between strategic planning and development assessment	» Support for the Minister for Planning to have clear criteria or matters for consideration in decision making, including outlining the compliance with policy and the validity of submitters' comments. » Most councils also indicated that the Minister should make decisions within a timeframe so to give certainty to the development industry.
1.7 More robust planning scheme amendment processes	» Support for the NTPC and Minister's report to be publicly available. » All councils commented that there should be a statutory timeframe for PSAs included in the reforms, to provide certainty to all parties.
1.8 Improved integration of planning and infrastructure	» All councils supported this reform as council's role in strategic planning is linked with the provision of infrastructure. All councils commented that contribution plans at a strategic level are critical so

Planning Reform Priority	Comments/inputs
	to provide infrastructure at the right time as part of the planning.
	» Local development contribution plans are essential to be developed at the strategic land use planning level. This provides certainty to Council's future assets, roads and car parking.
	» Most councils commented that their role, due to infrastructure becoming their assets, should be more than a referral role in strategic planning or decision making. Councils rely on contributions plans to deliver infrastructure.

> Council strongly supports a closer link between planning and infrastructure. Strategic plans should not be adopted without having plans in place for infrastructure delivery. Improving this link would ensure more robust land use planning and better decision making. Council can also plan for the community with greater certainty around land use and development.

3.2.2 Planning Commission and Development Consent Authority

The Planning Commission generally supported the planning reforms, indicating that their role of developing draft policy and providing planning advice to the Minister for Planning should remain unchanged. The Planning Commission confirmed that the Northern Territory Government actually makes the policy or planning scheme amendment, and not the NTPC.

The DCA did not consider this theme in detail in their submission, however there was a comment that councils should be more involved in strategic planning.

Table 2   Planning Commission and Development Consent Authority

Planning Reform – Priority	Comment/input
1.1 Demystify the role and processes of the NT Planning Commission	» The NTPC felt that their role should not change as they develop the policy and advice the Minister, but the NT Government makes the policy or PSAs. » NTPC support the need for developing clearer engagement process with the development of an engagement charter. » NTPC agree that their roles should be clearly articulated and be more transparent.
1.2 Improve the clarity and availability of information about the NT planning system, particularly amendments to the scheme, including rezoning of land.	» Supported by NTPC
1.3 Clarify the purpose of the Act and clearly establish the structure and guiding principles of the NT planning system	» NTPC support including clear objectives and principles in the Act, together with strategic plans for all areas. » NTPC felt that the guiding principles should however not be motherhood statements, but rather practical and deliverable.

Planning Reform – Priority	Comment/input
	» NTPC supported the view that there is a need to integrate and balance, the interests of all groups and communities, as well as integrate physical/technical/environmental outcomes in policy.
1.4 Define the contents of a Planning Scheme	» No comment was received on this item
1.5 Clarify the hierarchy and role of policy in the NT Planning Scheme	» There should be a high level non-statutory document that informs statutory planning hierarchy, process and system.
1.6 Strengthen the linkages between strategic planning and development assessment	» The NTPC should write a report with recommendations to the Minister for Planning for his/her decision. The report can include the submissions and the Reporting Body Hearing outcomes. » The NTPC commented that the Minister should make the decision public so to support transparency.
1.7 More robust planning scheme amendment processes	» NTPC support the development of criteria or outlining matters that the Minister should consider when making a decision. » The NTPC suggested that the Minister should include as a criteria the NT government policy and priorities of the government. » NTPC stated that a targeted (not statutory) timeframe for a PSA should be considered to ensure certainty, but there should also be clear deferral and lapsing timeframes.
1.8 Improved integration of planning and infrastructure	» To achieve this reform, the NTPC will develop policy and objectives to get a balanced outcome social, environmental and economic considerations, as well as an integrated outcome of land sue and infrastructure.

3.2.3   **Community**

Feedback from the Community is that the role of the NTPC is confusing. One community group expressed the view that the NTPC should be abandoned with strategic planning moving to the Department of Planning, Infrastructure and Logistics, or that the NTPC and DCA be combined.

Table 3   Community

Planning Reforms – Priority	Comments/Input
1.1 Demystify the role and processes of the NT Planning Commission	» Support for the increased clarity of the role and processes of the NTPC. » Comments provided at workshops demonstrated that there is confusion about the role of the NTPC; with a view that the NTPC was changing its role in the proposed reforms. » During workshops the community in great Darwin commented that consultation by the NTPC has

Planning Reforms – Priority	Comments/Input
	been undertaken poorly, and there is a need to improve and listen to the community. This view however was different to communities in some regional areas where it was commented at workshops that consultation has been undertaken well.
	» In workshops, it was commented that the consultation process needs to be more transparent, more inclusive and feedback provided to the community.
	» A community charter was supported in the regional areas, as well as in written submissions by NGO groups.
	» Many community groups and NGOs stated that NTPC should include ecological sustainable development in policy.
	» In virtually all workshops the community provided commented that there should be feedback to stakeholders after the exhibition period.
	» In written and comments made in workshops attended by community representatives, it was commented that the NTPC should not support the rezoning of community purpose land, as community and social infrastructure is required.
	» In some workshops, the comment was made that Area Plans lack detail and should more closely consider capability and environmental qualities of the land.
1.2 Improve the clarity and availability of information about the NT planning system, particularly amendments to the scheme, including rezoning of land.	» This reform is supported, especially plain English fact sheets.
1.3 Clarify the purpose of the Act and clearly establish the structure and guiding principles of the NT planning system	» Comments in most written submissions strongly suggested that ESD should be included as an objective and principle in the Act.
» Many submissions by NGOs and residents indicated that the Act should include upfront assessment of environmental impacts so there is better integration of planning with the new framework.
» In workshops, many queried how the Act is going to enforce policy?
» Written submissions stated that the Act should include climate change and ESD, and should be weighted to the environmental outcomes.
1.4 Define the contents of a Planning Scheme	» No comment was received on this item
1.5 Clarify the hierarchy and role of policy in the NT Planning Scheme	» No comment was received on this item -
1.6 Strengthen the linkages between strategic planning and development assessment	» Supported.

Planning Reforms – Priority	Comments/Input
1.7 More robust planning scheme amendment processes	» Policy or the Area Plan should be a key criteria to inform the Ministers decision. » A comment was provided in a workshop that there should be a public record of all decisions made, so the Minister or next Minister can understand previous decisions. » In written submissions and workshops there was support for the development of clear criteria that the Minister should consider in decision making.
1.8 Improved integration of planning and infrastructure	» In workshops, particularly in regional areas, the comment was that Area Plans need to have the direction to show infrastructure and the contribution for infrastructure. » Written submissions and comments in workshop emphasised that infrastructure should also include social and community infrastructure. » The planning reform is supported.

> ... for example, the consistent application of ESD and environmental assessment principles across planning and environmental legislation would provide greater cohesion around land use and development.

3.2.4   Industry

The majority of the development industry supported the planning reform package with strong support for integrating planning and infrastructure with funding from government at the strategic planning and Area Plan stage.

Table 4   Industry

Planning Reforms - Priority	Comments/Input
1.1 Demystify the role and processes of the NT Planning Commission	» In relation to the engagement charter, comments provided in workshops was a majority view that there was little consultation, or update on progress, after the submissions has been made, and that sometimes the timeframe for decisions on a policy or PSA is long. » Comments in written submissions or feedback at workshops stated that strategic planning needs to be undertaken in a reasonable timeframe. » Comments primarily in regional/remote areas indicated that the consultation charter should be culturally appropriate and undertaken as early as possible. » Feedback at a workshop in the regional areas was that Area Plans should be robust, provide more detail so to be less ambiguous, but also allow for

Planning Reforms - Priority	Comments/Input
	innovation of development ideas as technology changes.
1.2 Improve the clarity and availability of information about the NT planning system, particularly amendments to the scheme, including rezoning of land.	» Comments from virtually all workshops indicated that clarity on planning terms would be useful. One professional group made a submission to request that there should be clear definitions in the NTPS and that there should be new terminology included in the Planning Scheme, such as shop-top housing or terrace housing, to keep up with development outcomes.
1.3 Clarify the purpose of the Act and clearly establish the structure and guiding principles of the NT planning system	» In most workshops, there were mixed views across participants about whether the objectives in the Act should change. However, achieving economic development and growth, housing affordability and providing appropriate land supply and encouraging fair and open decision making were considered priorities in workshops. » In particular, a comment was made at the greater Darwin workshop and in Alice Springs that the objectives should also aim for better quality-built environment. » In written submissions and in workshops, there was support for the reforms but overwhelmingly the comments indicated a need for statutory timeframes to be included for the Ministers' decision of a PSA. » In regional workshops, the objectives and principles in the Act was supported with comments that the principles should not be motherhood, and should support innovation.
1.4 Define the contents of a Planning Scheme	» Some written submission commented that there is a need to relook at additional uses in the Zones and when consent is required in the Planning Scheme. » In written submissions it was commented that policy documents may be too vague and thus limit the effectiveness of policy.
1.5 Clarify the hierarchy and role of policy in the NT Planning Scheme	» In written submissions, there was support for clearly articulating a hierarchy of planning policy so to provide a level of understanding on the application of policy on a range of matters. Further one submission indicated that by clarifying policy and the hierarchy, it will reduce the probability of the planning system being undermined. » Comments in workshops and in submissions was that there is a need to clearly articulate policy and the relationship to PSAs and EDPs. » Comments from workshops were that good design outcomes should be included within policy or guidelines to support Zones. » In the regional workshop, comments provided that the reforms should allow for innovation and not be

Planning Reforms - Priority	Comments/Input
	too conservative, as trends and techniques change.
	» Comments from regional workshops included that the government in many areas is the developer and thus should set the precedent and benchmark for the hierarchy and role in planning.
	» Some professional planners in written submissions were of the view that consolidating policy documents into one location within the NTPS and having hyperlinks, could assist the planning system.
	» One submission highlighted the need for strategic policy to set the framework to allow for entertainment precincts and zones in the planning scheme so to ensure policy and controls relating to entertainment, music, noise, design etc.
1.6 Strengthen the linkages between strategic planning and development assessment	» Clear policy and linked to funding by different agencies is critical between the strategic planning and the development application process.
	» A written submission stressed the importance that the planning scheme needs to encourage good design and should not just be a "tick the box" approval to implement policy.
	» All workshops supported this policy reform. With written comments querying the need for the "special circumstance" clause, whilst other submissions commented that it is appropriate that consent to a development that is contrary to policy should only be given if the Minister gives approval.
1.7 More robust planning scheme amendment processes	» In all workshops and most submissions there was support for there to be clear criteria to guide decision making by the Minister. This can provide consistency in developments.
	» It was commented that the Minister's criteria could include community benefit, amenity benefit, local content and character.
	» Outlining the reasons for the decision of the Minister is supported.
	» In all workshops and in all submissions the comments were that there is a need for timeframes for the Ministers' consideration of a PSA and EDP. The development industry in particular at the workshops, emphasized this was a priority action of the reform.
	» Comments in workshops and submissions supported the department's report and NTPC report to the Minister should be publicly available.
1.8 Improved integration of planning and infrastructure	» All workshops and submissions supported the clear need to plan for infrastructure, land use and social infrastructure at the strategic planning stage. However, one comment was made, to ensure

Planning Reforms - Priority	Comments/Input
	community planning implications do not overly complicate the statutory planning matters.
	» Most developers provided the comment that to ensure housing affordability, government should undertake the headwork costs and major roads.
	» At workshops there was support for the need for more coordination between agencies and funding of infrastructure at Land use or Area Plans.
	» At workshops, comments included that it was necessary to include agency consultation early in the process, and to confirm their role in decision making to ensure more certainty and transparency in planning.
	» In regional workshops, comments included that PSAs should ensure infrastructure is provided to make people want to move to the Territory.
	» At workshops, feedback outlined that it was necessary to ensure interagency collaboration in planning and infrastructure, whether ground water issues, or car parking, in order to provide certainty and reduce timeframes. Currently there are delay in projects and increase time and cost.
	» At workshops, an issue was raised about the role of other agencies (such as Power and Water or Transport) in planning decision making, as the agencies role in the strategic planning process was unclear.
	» A written submission stated that to achieve this reform it will be necessary to review Part 6 of the Act, and for the inclusion to be made for the making of strategic infrastructure plans, and not just about developer contribution plans.

… better integrated planning and infrastructure, particularly the coordination and funding of infrastructure as it relates to Area Plans, will improve landowners understanding of development constraints, timing and requirements for contributions, and better manage expectations.

4 Development Assessment and Application Process

This section outlines the consultation outcomes, namely comments and feedback from written submissions, online survey submissions and feedback at workshops, specific to the theme of Development Applications.

4.1 Overview

Most of the feedback and comments from the online survey, written submissions and in workshops during the consultation of the P1PRP was given in relation to this section of the reforms. The feedback provided on this package of reform varied from supporting all items of the reforms to no support for some of the items by certain stakeholders.

The following summary can be provided:

» The primary comments from local government are that councils need to be more than a "referral agency", and need more concurrence powers to ensure the DCA includes their conditions into the permit and understand the assets councils are receiving from developments.

» Regional and remote councils commented that the planning reforms need to provide more clarity and certainty for their areas, specifically in relation to decision making by the DCA and the Minister in remote areas. The planning reforms also need to provide more direction with regard to development on Land Trust land.

» Feedback provided by submissions or at workshops indicated limited support for the "high impact development" category. In particular, in both submissions and at workshops, comments indicated that the potential criteria and definition of this type of development needs to be reconsidered. However, some local government and community groups supported the pre-application consultation (subject to more guidance about the extent of consultation). There was minimal support from industry for pre-consultation due to the associated additional costs and extension of timeframes.

» The community supported the reforms relating to the post exhibition contact between the planning officer and the submitter. Feedback from developers was that the post exhibition conference should also occur between referral agencies. Some community groups at workshops stated that the applicant and submitters conference should be mandatory. The industry groups, in workshops and submissions, generally supported the concept of the post exhibition conference to discuss issues and clarify information, however recommended that this part of the planning process have strict legislative timeframes so as to not unduly delay the project.

» There was support for local notification, with councils indicating that the notification should be extended to not just the adjacent neighbours but properties across the road. Many community groups provided feedback that the local notification should also be advertised in the newspaper.

» Most of the comments received at workshops supported expanding the use of electronics services. However, most people indicated that the notices or exhibition should still occur in the traditional manner through the local newspaper. Regional and remote participants suggested that consideration also be given to formal notification in community halls or the like.

» Industry groups were generally supportive of the planning reforms. Identified as a critical element was the process for determining the conditions of consent. Industry groups commented that the conditions of the permit cannot just be a "cut and paste approach" but the conditions need to be relevant to the development. Even more critical for the development industry is managing the time taken for agencies or councils to negotiate and sign off on the conditions of consent. In workshops, industry groups indicated this process, which may include referral to the land titles office and the Office of the Surveyor General, can cause a delay of up to 8 weeks. Legislation that provides for a time limitation to obtain comments as well as for the clearance of conditions by council and referral agencies, was recommended.

» Each category of development application (high impact, local notification and standard) were discussed at the workshops and received a broad mix of views. However industry, councils and professionals all felt that the process should ensure good design outcomes.

» Some planning professionals and community not-for-profits, particularly in written submissions, were of the view that there should be better integration of planning systems with environmental impact assessment processes. This followed with comments that when assessing the high impact development category, the development category should be according to the likely impact on the environment.

» The Development Consent Authority confirmed their current role should not change, but there were mixed views as to whether the name should change.

» The proposed reform of the Development Consent Authority (DCA) received the most varied feedback and the greatest number of comments. In summary:

> There is majority support that the chairperson of the DCA should not have to be a lawyer.

> There is support for specialist panel members with general agreement around the skills needed. There was comment, particularly by the professional industry, that the specialist members should not be a separate 'expert panel' but have the skills required of all DCA members. The DCA members indicated that they support having an expert panel.

> The community and councils expressed confusion about their respective representatives on the DCA and whether they represented the views or interests of council or the broader community's view.

> Some remote councils commented that there should be a DCA for their areas to represent them in the decision-making process.

> There is support for a code of conduct and training and education of DCA members. In particular, community groups indicated the need for DCA members to declare any conflicts of interest.

> There was a mix of views, both in workshops and in written submissions, as to whether the voting of DCA members should be made public. The DCA submission did not support public voting so as to not politicise the DCA or impact private individuals on the DCA.

> Concerns were raised by the community and councils that the timing around the release of reports to, or from, the DCA, as well as the timing and period of notification of any changes to a development application, is insufficient and the processes need improvement.

> Some community groups commented in workshops that the Development Assessment Services (DAS) report to the DCA should not provide a recommendation, but rather the DCA should hear the submissions prior to making the decision.

> Industry provided comments at workshops and also in written submissions, that the DCA should concentrate on the conditions of the permit and ensure they are relevant, as well as outline which agency should 'sign them off', prior to granting consent. Councils provided comments that due to the importance of their key assets and relaxation of parking, the DCA should adopt the council's conditions related to infrastructure and ensure consideration for their determination on car parking reductions.

» The submission by the DCA members themselves provided support for many of the proposed changes, but there were varying views on whether DCA members should have experience in a planning related field.

4.2　Summary of key feedback and comments

The tables below provide a summary of the feedback from the survey, submissions and workshops relating to development application process.

4.2.1　Council/Local Government

Table 5　Council/ Local Government

Development Application Processes	Comments/input
2.1　Improve information on development assessment processes	» Supported - there is a need to improve information being submitted in development applications. » Councils suggested in the workshops that there should be a checklist of requirements for a development application to be submitted. They indicated that complete applications, with all reports, should be provided with a DA so to improve the quality of applications.
2.2　Pre-application consultation by applicants	» Councils, in workshops and in written submissions, stated that they had concerns regarding the high development impact category. However, in workshops, they indicated that if it is to proceed then pre-application consultation with Council is critical. » One urban council suggested an initiative of a pre-lodgement meeting; which can act as an incentive to development industry by reducing the assessment time. » In relation to High Impact Development, the comments provided at workshops requested that the criteria should be different in regional and remote areas, to that of urban areas. However, in all workshops, the view of participants was that the criteria should be examined in more detail, and the potential impacts considered more fully. Some councils in workshops stated that if this category is to be retained, it should be renamed. » Councils, in workshops and in written submissions support pre-engagement consultation with development applications but suggested that clear guidelines need to be developed for applicants for pre-consultation.
2.3　Simplify notification requirements for minor developments	» This reform was supported by all Councils, with a suggestion by two Councils that local notification should also occur to properties across the road and not just the directly adjacent properties » Some urban councils indicated that multiple dwelling (MD) is not supported as a local notification category, whilst some regional councils indicated this category should not include flood impacted development.

	» Some councils, in their written submissions, also indicated that notification should be provided to owners and tenants. » Written submission by a council wished to confirm that councils will still be notified and have the opportunity to comment under S48 and 49(3) of the Act.
2.4 Update requirements for signs placed on land	» Supported.
2.5 Expand the role of electronic services for development notifications and formal correspondence	» Supported. » Regional and remote councils suggested that exhibition notices/signs are also placed on local community boards or community centres. » A submission noted that there is no requirement that submissions must be made during the exhibition period, and in some cases, submissions are made on the day of a hearing. It is considered that this should be clarified in the legislation.
2.6 Promote contact between Planning Officers and submitters on development applications	» No comment was received on this item
2.7 Facilitate post exhibition / pre-determination conferences between applicants and submitters	» The contact between Planning Officers and submitters on development applications, including post-exhibition and pre-determination conferences is supported and considered sound by all councils. However, most councils in written submissions indicated that suitable documentation of the post exhibition process. Councils indicated that the outcomes will become key to its success of this process. For this reason, the requirements for documentation should be confirmed prior to the practice commencing.
2.8 Reform the Development Consent Authority	» There were varying views on the reforms associated with the DCA, particularly by some councils relating to whether the voting of members should be publicly known. » There were also divergent views on the local representation on DCA and whether the person is representing council or the community. Most councils during workshops requested clarification be made in the legislation. However, the following were generally consistent views/comments taken from workshops and written submissions: > Support for the introduction of specialist members and the skills within the DCA. > DCA chairperson should not have to be a lawyer. > Support for the Code of Conduct and ongoing training for DCA members. > The name of the DCA should not be changed, as currently the name gives the interpretation of their role. However, during one workshop

	some Councils suggested maybe the name should change to Planning Consent Authority.
	» All councils recommended that a process be developed to ensure all submitters and service authorities receive any revised information about the development application prior to any DCA hearing on the application.
	» There was support for the reports to be redistributed when a change is made to the development application.
	» The regional councils were of the view that the Minister for Planning should consider including a local representative or local authority when making a decision. Alternatively, it was suggested that a DCA be established.
	» Regional Councils were of the view that the exhibition period should be longer than 14 days.
	» There was confusion by regional councils about whether councils can comment or should be a referral agency, and the associated third-party appeal right for all councils.
	» There was a view amongst some councils at workshops that issues should be dealt with prior to DCA, resulting in less conditions precedent in the permit/decision. Further, if there were conditions precedent, then the permit needs to be clear as to what works should be done.
	» Many councils at workshops supported the deferral clauses to avoid condition precedent.
	» DCA should consider maintenance responsibilities to Councils in their decision making. Regional councils suggested at workshops that the DCA make the conditions of consent clear to it can be understood what conditions are being cleared.

> While councils support the concept of pre-application consultation for some applications, there were concerns about the practicality and effectiveness of this requirement if some applicants do not have the required skills and experience. Without adequate guidelines and controls, here is also the risk of bias in consultation. The final recommendations should provide more information about the type and extent of consultation expected.

4.2.2   Planning Commission and Development Consent Authority

In general, the Planning Commission were supportive of different development categories, types of applications and sizes of applications having different exhibition timeframes.

Table 6   Planning Commission and Development Consent Authority

Planning Reform Priority	Comment/Input
2.1 Improve information on development assessment processes	» No comment was received on this item
2.2 Pre-application consultation by applicants	» The NTPC during the workshops felt that High Impact Development seems to pre-empt the level of impact prior to the detailed assessment occurring. This could lead to emotional views rather than factual assessment. » NTPC stated that pre-consultation on large projects is supported. » NTPC commented that the consultation outcome reports should be exhibited with the development application.
2.3 Simplify notification requirements for minor developments	» NTPC supported this category but was of the view that it should not include multiple dwellings.
2.4 Update requirements for signs placed on land	» NTPC supported the reform, however the placing of the sign should be the responsibility of the government, and not the applicant.
2.5 Expand the role of electronic services for development notifications and formal correspondence	» NTPC supported the reform.
2.6 Promote contact between Planning Officers and submitters on development applications	» No comment was received on this item
2.7 Facilitate post exhibition / pre-determination conferences between applicants and submitters	» NTPC support the post exhibition consultation meeting. » Majority of the DCA members supported the principle of voluntary meetings between the planning officer, developer and submitters.
2.8 Reform the Development Consent Authority	Planning Commission commented: - » Based on experiences in other states, the Commission commented that the DCA should not have a legal person as the chair, but the chairperson should have more planning experience. » Some members of the Commission commented that having voting of a matter in the public is divisive and therefore this Item of the reform is not supported. » To ensure transparency, the Commission supported the reform for the decision of the DCA to be made public. DCA commented: - » There was no agreement/mix of views between members about the need to retain or change the name of the DCA. » There was strong agreement for the need for training and development of DCA members.

Planning Reform Priority	Comment/Input
	» There were mixed views as to whether DCA members must have experience relating to planning. One comment was that in some regional areas there is difficulty in getting members, and thus it may be difficult to enforce a qualification.
	» There were more comments in support of specialist members being on, or called, when needed to provide advice to the DCA, rather than on the DCA.
	» There was a mix of views as to whether the chair of the DCA should have a legal qualification.
	» There was strong support for the DAS report to be rebranded to outline that it was a DAS recommendation to the DCA.
	» There was mix of views on whether the DCA should provide an annual report to the Minister. Some commented that they thought it was already occurring. Some viewed the annual report as not required, as an annual report is normally for agencies that have a budget and a strategic plan to report against.
	» Majority of the DCA members commented that the decision should not be announced at the DCA hearing, but rather should be more professional and in writing. The DCA also indicated that the clear reason for not announcing on the day is that the DCA must consider all information, including the objectors and applicant at the hearing, as well as the DAS report. The comments received in the submission were that rushing a decision to announce it on the day of the hearing does not improve transparency.
	» Majority of the members who provided comments indicated that voting by individuals should not be made in public as there is a danger of politicising the decision making process, and there may be practical concerns for recording personal votes.
	» Majority of the members supported the principle of voluntary meetings between the planning officer, developer and submitters.
	» Majority supported the proposal that planning should be more outcome based and more emphasis should be on policy to inform the outcome. However, there were comments that if the DCA have to rely more on policy than on the Planning Scheme, this outcome will create tensions and uncertainty. The DCA commented that policy means merit-based appeals and discretionary decision making can reduce certainty and accountability. Further, this approach creates further complexities for the public trying to understand decision making.

4.2.3 **Community**

During workshops, the community groups had a mix of views regarding the items of the reforms within this theme.

Table 7   Community

Planning Reform – Priority Development Application Processes	Comments/input
2.1 Improve information on development assessment processes	» No comment was received on this item
2.2 Pre-application consultation by applicants	» There were mixed views on the high development category, and many comments during the workshops about the definition or criteria. In written submissions, some NGO groups indicated that clear thresholds or triggers to ensure the development that has environment, economic and social impacts are not subject to self-assessable provisions by the applicant. » Comments at workshops and in some written submissions indicated that pre- consultation process was necessary/essential. » Some written comments indicated that DAS should undertake the consultation or there should be guidelines to lead the consultation. » High impact development should also include a criteria where development is clearing vegetation or has an environmental impact.
2.3 Simplify notification requirements for minor developments	» There was a mix of responses from support for the proposed reforms (one resident wrote in a submission "streamlining is a good thing"), to notification should also include a notice on the community board and a notice in the local newspaper. There were some written submissions that did not support this category of development. » In workshops, many community groups indicated that local notification should also be required to place signs on fences. » In some regional areas, the comments at workshops was that the type of criteria for the category was going in the right direction, however possibly local applications should be considered by DAS.
2.4 Update requirements for signs placed on land	» Comments provided at workshops and in written on line surveys supported the need for improved signs. » A community group in the regional area in a workshop said that there should be guidelines provided on the location of notices.
2.5 Expand the role of electronic services for development notifications and formal correspondence	» There was support provided in workshops and in written submissions for electronic services,

Planning Reform – Priority Development Application Processes	Comments/input
	however there was emphasis that the notices should still be in the newspaper. » One written submission stated that E-portal can also include EIS. » At workshops in regional and remote areas, the representatives indicated that the reforms should include allowance for exhibition in community halls, noticeboards, email and the website. » Most community groups in workshops felt that the exhibition period should be extended. The exhibition period should be more than 14 days.
2.6 Promote contact between Planning Officers and submitters on development applications	» Supported.
2.7 Facilitate post exhibition / pre-determination conferences between applicants and submitters	» This reform was supported by community at workshops, and comments were provided that this process should be mandatory.
2.8 Reform the Development Consent Authority	» Virtually all community submissions and at workshops indicated that the chair of the DCA does not need to be a lawyer. » Comments provided at workshops included that the DCA should provide less conditions precedent in the permit, but rather issues should be resolved prior to a granting of consent. » Some community groups in urban areas commented at workshops that the DCA voting should be transparent. » General support was provided at workshops for training to occur for DCA members. » At one workshop community representatives suggested that meetings should also be live stream so more people can watch the DCA, alternatively DCA meetings should be held outside working hours. » Comments in workshops and in written submissions requested clarity on the local community or council member. Comment at a regional workshop was made that perhaps the council should make a formal presentation so to clarify their role/position on a development application. » Specialist panel should be well balanced. » DCA members should declare their conflicts of interest. » DCA should not have recommendations put before it. The DCA should listen to submissions prior to determining the decision. » The DCA should provide any further information to the community if there is an amended time or

Planning Reform – Priority Development Application Processes	Comments/input
	deferral of the application, and also inform the community of the timeframe.
	» DCA should email decision, minutes and report to submitters.
	» Submitters or applicants should swear an oath when speaking at the DCA to disclose the truth, to ensure accountability at the DCA.

Having open and accessible planning and infrastructure development processes is vital. Using plain english and other language support is also critical. Updating websites regularly, sending emails to interested parties and providing more information on signs, in local papers and on noticeboards to educate the community is what it should be about…….

4.2.4 Industry

Industry, in workshops and in written submissions, supported some elements of the reform package but did not support pre-application consultation due to the additional costs and timeframe. The second major issue for the industry was the need to include statutory timeframes for referral agencies and councils because with no timelines there are significant delays. Further, the industry provided feedback that:

» There is a need for timeframes to be provided for government agencies to provide comments, as currently there are significant delays.

» Accountability, compliance and justification should be equal for the applicant and the service authority.

» Once submitted, the authority's submission should be honoured and maintained, as any retrospective changes typically results in delays and increased costs and risks.

In the regional areas, feedback indicated the need to ensure that the planning reforms did not impact innovation or good design outcomes.

Table 8   Industry

Planning Reform – Priority Development Application Processes	Comments/input
2.1 Improve information on development assessment processes	» This reform was supported, as the industry is of the view that there is confusion by communities about the development application process.
2.2 Pre-application consultation by applicants	» Pre-application consultation is not supported by the majority of industry, whether the comments were made at workshops or in written submissions. The industry commented that pre-application consultation creates extra time and cost which cannot be afforded.
	» In relation to high impact development:
	> Comments at workshops and in written submissions queried and generally did not support the category of High Impact

Planning Reform – Priority Development Application Processes	Comments/input
	Development. Comments included whether such a category was warranted, to request for better criteria and definitions.
	> Comments made at workshops indicated that if the development complies with policy, then it should not be high impact development.
	> There should be more emphasis on design guidelines.
	> Comments made at some professional industry workshops indicated that there should be better integration of this category with the environmental impact assessment process.
	> At workshops in urban and regional areas, comments were made that the level of impact of a development is situational. It was therefore commented that the criteria for the high impact category needs to be reconsidered.
2.3 Simplify notification requirements for minor developments	» There was support for this category in a workshop by a representative because it was felt that the people who can be affected are consulted.
2.4 Update requirements for signs placed on land	» A written comment requested additional information. The submitter was concerned about the notable time and cost implication to the application process.
2.5 Expand the role of electronic services for development notifications and formal correspondence	» Supported, with more information on the website.
2.6 Promote contact between Planning Officers and submitters on development applications	» This initiative was supported at industry workshops. » Comments at workshops were that there should be clear and consistent advice and approach by DAS, if this is to occur.
2.7 Facilitate post exhibition / pre-determination conferences between applicants and submitters	» Facilitate discussion post exhibition was generally supported during the workshop and in written submissions. However, comments were made that the facilitated discussions should have a time period in which to occur so as not to extent the overall time for a project. Further it was commented that the discussions should be voluntary and not mandatory. » Further comments were provided at a workshop that a post exhibition meeting with applicant and agency/councils could be useful in order to discuss/resolve issues.
2.8 Reform the Development Consent Authority	» Comments provided at workshops was that the DCA should not change its name. » In all workshops and written submissions comments indicated that the chair of the DCA does not have to be a legal professional.

Planning Reform – Priority Development Application Processes	Comments/input
	» Professional industry groups commented at workshops that there should be an improved manner in which to record decisions and disseminate decisions post DCA meeting.
	» At workshops and in written submissions there is support for the principle of specialist members on DCA, and even a design panel. This should give confidence to the outcome.
	» Comments at a workshop indicated that having specialist members should not make the planning process more complex.
	» There was a very strong view and comment at workshops, as well as in submissions, that there should be timeframes included for agency and councils to provide their comment within the exhibition period and have a timeframe to clear conditions of conditions for a permit.
	» At workshops there were comments that DCA should look at conditions of consent and make sure they are relevant and to clearly outline which agency is to sign off the condition.
	» In the regional workshops, comments were made to establish a remote DCA for remote and regional areas, and to allow for local decision making.
	» Written submissions supported the Code of Conduct for DCA, but also that the members of the public who wish to address the DCA should be given a maximum time.

Statutory and Service Authority bodies should be given timeframes to provide submissions. This will make the planning system quicker and more efficient.

The Authority's submission and agreement should only be subject to retrospective changes in exceptional circumstances or when the development application has changed.

5   Review of Decisions

This section outlines the consultation outcomes, namely comments and feedback from written submissions, online survey submissions and feedback at workshops, specific to the review of planning decisions (appeal process)

5.1   Overview

In general, this theme of the P1PRP obtained the least amount of feedback at workshops and in written submissions. However, the most feedback, particularly via written submission, was received on *third party appeal rights*.

The following is a summary of the feedback provided:

» There was mixed comment relating to the planning reforms associated with third party appeal rights. Community groups, in both workshops and submissions, provided comments that the reforms had not gone far enough and should expand to include zones or additional uses to which third party appeal can apply. In rural and regional areas, the recommendation, particularly from community groups, was to include Rural Zones as a category for third party appeal rights.

» Councils support the proposed recommendations for the review, appreciating the balance between the right of appeal and the right of an applicant to proceed with an approved development. Industry groups gave negative feedback at workshops and did not support the reform, recommending retaining the status quo.

» There was general support provided in workshops, and in some submissions, from most participants regarding time limiting deferrals. There was one specific piece of feedback from industry groups during a workshop that there needs to be specific requirements that agencies and councils must work to any mandated timeframes.

» Most councils and community groups in workshops provided comments that EDPs and concurrent applications are confusing and the reform package had not gone far enough to address this. Concerns were also raised that proposals to address these issues have been deferred to a later stage in the reform process. Industry recommended that there be a timeframe for decisions not only on concurrent applications but also for the Minister to make a decision on an EDP.

» Council in their written submissions, strongly support amendments to the concurrent application process such that a parcel of land proposed for rezoning would not be formally rezoned until the concurrent subdivision or development is carried out on the site.

» The NTPC supported the reform package for reviewing decisions.

5.2   Summary of key feedback and comments

The tables below provide a summary of the feedback from the survey, written submissions and workshops relating to review of decisions.

5.2.1   Council/Local Government

All participants from councils supported the package of reforms, but the most important priority was EDPs and concurrent applications.

Table 9   Council/ Local Government

Planning Reforms – Priority Review of Decisions	Comment/Feedback
3.1 Review of third-party appeal rights	» Council comments supported the proposed reform with comments made in workshops to consider extending the appeal for certain impacts.
3.2 Time limiting deferrals	» Councils in the workshops commented that reasonable time for councils should be given to comment when a development application was re-submitted.
3.3 Exceptional Development Permits and Concurrent Applications	» In some regional areas there was comment that EDPs and concurrent applications are confusing. » At a workshop for the regional areas there was a suggestion that EDPs should fulfil a "public interest test".

5.2.2   Planning Commission and Development Consent Authority

Table 10   Planning Commission and Development Consent Authority

Review of Decisions	Comment/Feedback
3.1 Review of third-party appeal rights	» No comment was received on this item
3.2 Time limiting deferrals	» No comment was received on this item
3.3 Exceptional Development Permits and Concurrent Applications	» The NTPC commented that EDPs and concurrent applications are different processes and should be separated in the planning reform. » Policy should set the precedent, and thus the DA should not be determined until the PSA is approved by the Minister. » The DCA commented that concurrent applications are not streamlined, creates confusion of the role of the DCA and there is potential for poor decision making. The DCA also commented that submitters find it difficult to differentiate between comments for a rezoning or a development application.

5.2.3   Community

Table 11   Community

Review of Decisions	Comment/Feedback
3.1 Review of third-party appeal rights	» Most of the submissions commented that third party appeals should be broadened, and in particular to include Rural Zone or CB Zone. » Some suggested at workshops that third party appeals should be expanded to include EDP and PSA.

Review of Decisions	Comment/Feedback
	» In regional areas, comments provided at a workshop indicated that the planning reforms should include the monitoring of the permit and that sanctions should apply if they are not complied with.
	» One NGO commented that the reforms have not considered an open standing judicial review of decisions, which enables any person to have access to the court to hold government decision makers to account.
3.2 Time limiting deferrals	» In the event of a deferral, the community commented at workshops that they need to have an opportunity to consider the further information in advance of the consideration by the DCA.
3.3 Exceptional Development Permits and Concurrent Applications	» Most written submissions commented that the reform did not go far enough and that changes cannot be delayed until Phase 2.
	» At workshops the comments were that concurrent applications are confusing.
	» At a workshop it was commented that there should be a public benefit test as a criteria for EDPs.
	» Comments made at workshops supported that the reports for EDPs should be publicly available.

> ⌯ Proposals to respond to issues with EDPs and concurrent applications are deferred until a later stage of reform. This is of concern because these issues are a central reason for the low level of trust for the planning system

5.2.4   Industry

The industry groups, in comments made in workshops or in written submissions, generally did not support expanding third party appeal rights, nor the reforms relating to EDPs or concurrent applications. Further, industry suggested greater streamlining of the appeals process. It was also considered that delegated authority may be granted in some instances.

Table 12   Industry

Review of Decisions	Comment/Feedback
3.1 Review of third-party appeal rights.	» At workshops, comments were made that there should be an ability to claim costs from third party appeals particularly when there are delays to a development.
	» The majority of industry commented that there should not be any extension to third party appeal rights beyond the current.
	» NTCAT should be constituted with specialist planning skills.

Review of Decisions	Comment/Feedback
3.2 Time limiting deferrals	» If time limiting referrals are included, then the agencies should have stipulated timeframes to respond, so they cannot continually extend timeframes. If agencies do not respond in a specific period, it should be deemed that there are no comments.
	» The development industry, in particular, were concerned that if the DCA deferred an application and provided a new timeframe for the application to come back to the DCA, that the external agencies should respond or deal with the issue within that timeframe. The industry requested this issue be considered in more detail in the planning reforms.
3.3 Exceptional Development Permits and Concurrent Applications	» Support for making the NTPC report for EDPs and PSAs publicly available.
	» Written submissions confirmed that feedback at workshops that timeframes for Minister's decision on EDPs was important.
	» Comments at workshops suggested that the EDP and Concurrent Application reform should go further, and be more streamlined.
	» Some felt that the system was working well, however that the political environment hindered the process, in particular the timeframe.

6 Compliance and Enforcement

This section outlines the consultation outcomes, namely comments and feedback from written submissions, online survey submissions and feedback at workshops, specific to the theme of compliance and enforcement.

6.1 Overview

The majority of the planning reforms included under the compliance and enforcement theme in the P1PRP were supported. In particular, the following comments or suggestions were made:

» Councils and community groups support enhancing the enforcement powers of the DCA with the associated delegation given to the Department of Planning, Infrastructure and Logistics to undertake enforcement. The community and development industry noted that enforcement does need additional resources to be effective.

» Many councils supported the role of the DCA in enforcement but commented that they were hesitant to take on the role of Authorised Officer, if requested, noting they do not decide development applications. Whilst in some regional and urban areas councils provided feedback that funding from the government would be needed if this role is to be undertaken.

» Although the comments provided more support to *existing use rights* reform, some residents provided feedback that the uses may be incompatible and negatively impact the amenity of the area. Community groups commented that the conditions of the permit should be known or transparent to the community, so that it is clear what uses are proposed. Hospitality NT suggested that live music and entertainment venues and their long-standing contribution to the NT, should be recognised as a use category within existing use rights.

» Some community groups, NGOs and legal professionals indicated that if the use was lawful at the time of decision, the approved right cannot be taken away. They requested that the existing use right may need to be clarified. Feedback by the legal profession and planning professionals questioned the validity of the 15-year period as a basis for establishing existing use rights.

» Comments and written submissions by community, council and industry groups indicated limited support for the liability of office holders.

» Feedback at workshops identified the need for NTCAT to consider legal and planning issues. Professional and industry groups recommended NTCAT consider the addition of a planning commissioner or planning skills.

» Some community groups provided feedback that the DCA should have the power to take action if false or misleading information is given at a DCA hearing.

6.2 Summary of key feedback and comments

The tables below provide a summary of the feedback from the survey, submissions and workshops relating to compliance and enforcement.

6.2.1 Councils/Local Government

Local councils were supportive of all the proposed planning reforms, and listed 4.1. and 4.5 as the key priorities.

Table 13 Councils/Local Government

Compliance and Enforcement	Feedback/comments
4.1 Existing Use Rights	» Supported the existing use right reforms with the granting of a Certificate of Compliance.
4.2 Enforcement and the role of the DCA	» At the workshops, there was support for greater enforcement, however it was indicated that the DCA or NT Government will need more resources. » In particular, in written submissions, councils noted their support for enforcement with the requirements of the NTPS, NT Planning Act and Development Permits. Councils noted that non-compliance with the NTPS and Development Permits can result in legacy issues for council in protecting and planning for community assets and providing suitable services to the community. » Councils supported enforcement of planning decisions being undertaken by the NTG and/or DCA as the decision-making authority. » In remote and regional areas, the workshop participants indicated that education will be needed prior to enforcement in regional and remote areas. » In regional and remote areas, it was noted that enforcement should be extended to sacred sites.
4.3 Appeals and the role of the NTCAT	» Supported.
4.4 The role of Authorised Officers	» There should be greater enforcement, however the NT Government should do the enforcement. » If the authorised officer is allocated to a council person, then there is a need to discuss reputational aspects and funding for councils. However, there was an opposing view that the authorised officer should not be from council as they are not part of the consent authority and the role could lead to complexities for council.
4.5 Revision of penalty units	» Support increase in penalty units.
4.6 Introduction of penalty infringement notices	» Councils requested additional information as to what the penalty may be if the infringement notice is not paid.
4.7 Deeming Provisions	» Most councils during workshops commented that more onus should be on the land owner, as well as enforcing a statutory declaration when it is not the owner.
4.8 Liability of office holders	» Comments from all councils at workshops were generally that this reform item should be reconsidered, and possibly applied to on larger developments. This reform was not supported.
4.9 Time to commence prosecution	» No comment was received on this item

6.2.2   Planning Commission and Development Consent Authority

The Planning Commission did not have significant comments to make on enforcement as it is not their role or responsibility.

The majority of the DCA members supported the full planning reform theme of enforcement and compliance. There are two aspects where further comments were provided. The first is that there was no consensus as to whether body corporates should be held liable for failure to exercise due diligence. The second is that complainants must remain anonymous. This is particularly important in small communities.

Table 14   Planning Commission and Development Consent Authority

Planning Reform – Priority Compliance and Enforcement	Feedback/comments
4.1 Existing Use Rights	» The NTPC supported that existing use rights occur in most other states, and further criteria should be considered, if necessary. » The DCA members supported the reform generally, but queried the reason for the 15 years.
4.2 Enforcement and the role of the DCA	» The NTPC commented that enforcement should be the role of the Department of Planning, Infrastructure and Logistics on the request of the DCA. » The DCA members strongly supported this reform.
4.3 Appeals and the role of the NTCAT	» No comment was received on this item
4.4 The role of Authorised Officers	» No comment was received on this item
4.5 Revision of penalty units	» No comment was received on this item
4.6 Introduction of penalty infringement notices	» No comment was received on this item
4.7 Deeming Provisions	» DCA members felt that the occupier should be responsible, and not necessarily the owner.
4.8 Liability of office holders	» Not supported by the NTPC. » Mix of comments provided by the DCA members.
4.9 Time to commence prosecution	» No comment was received on this item

6.2.3   Community

In addition to the overview, the community in the regional areas were of the view that the conditions of consent should be available so that community can understand or assist in enforcing, particularly the existing use rights.

Table 15   Community

Planning Reforms – Priority Compliance and Enforcement	Feedback/comments
4.1 Existing Use Rights	» There was a mix of views in workshops on existing use rights, however some expressed in written online survey submissions that they should not be permitted if it is an incompatible land use.

Planning Reforms – Priority Compliance and Enforcement	Feedback/comments
	» In regional areas, the community groups at workshops support the Certificate to include firm conditions.
4.2 Enforcement and the role of the DCA	» Comments at workshops and submissions showed support for more enforcement.
	» Communities acknowledged that Government will need additional resources.
	» One community group and an NGO submission indicated that the DCA should also be able to provide a penalty to a person who gives false or misleading information at a hearing.
	» One written submission suggested the introduction of civil enforcement abilities in the Act, so the public can seek the ability to stop breaches form occurring.
4.3 Appeals and the role of the NTCAT	» Comments at workshops and a few written submissions indicated that NTCAT should also have a Planning Commissioner and consider planning matters, not just legal matters.
	» NGOs commented that the time for appeals should be the same for the third party as it is for the applicant.
4.4 The role of Authorised Officers	» No comment was received on this item
4.5 Revision of penalty units	» This reform is supported.
4.6 Introduction of penalty infringement notices	» This reform is supported.
4.7 Deeming Provisions	» No comment was received on this item
4.8 Liability of office holders	» The community at workshops provided comments that the office holders of the Body Corporate should not take the liability for non-compliances.
	» Submitted on the online survey commented that it would be unfair to enforce the Body Corporate responsibility, as generally the office holders are only there as they have to have a Body Corporate under the Associations Act. This reform was generally not supported.
4.9 Time to commence prosecution	» No comment was received on this item

Exceptional development permits, spot rezoning and continuing permits are decisions that allow an exception to an otherwise clear prohibition. These exceptions to consistency and certainty in the law should only be exercised in the event they can fulfil a public interest test. It is not clear why the review of EDPs has been postponed until the second stage. EDPs are a significant weakness in the accountability of the system and the refusal to address them from the beginning is concerning

> This Planning reform confirms that tightening compliance is long overdue. New powers, authorities and tools are urgently needed, as well as the will to prosecute….

6.2.4 Industry

There were mixed views in relation to compliance and enforcement, however most participants felt that the Planning Act should include more about enforcement and be linked with other legislation.

Table 16 Industry

Planning Reforms – Priority Compliance and Enforcement		Feedback/comments
4.1	Existing Use Rights	» At workshops, the industry groups commented that the continuous 15-year criteria would be hard to demonstrate. Comments were made that perhaps there should be no statutory timeframe.
4.2	Enforcement and the role of the DCA	» This reform is supported, however additional resources will be needed.
4.3	Appeals and the role of the NTCAT	» Comments at workshops suggested that NTCAT role should be reviewed so to include decision on planning basis and not just legal. Further it was suggested that limitations of what can be disputed with NTCAT should be reviewed. » Industry groups comments at workshops that expansion of third-party appeals will increase the cost and time.
4.4	The role of Authorised Officers	» No comment was received on this item
4.5	Revision of penalty units	» No comment was received on this item
4.6	Introduction of penalty infringement notices	» No comment was received on this item
4.7	Deeming Provisions	» At workshops, the industry groups requested more clarity relating to this reform.
4.8	Liability of office holders	» Comments at workshops were made, in urban and regional areas, that many body corporate office holders volunteer, and thus it is unlikely that many would offer to be office holders in this circumstance. It was suggested that this reform apply to certain scale developments.
4.9	Time to commence prosecution	» No comment was received on this item

> The action under 4.1.2. undermines the essential principle that development undertaken lawfully should remain lawful when a new planning scheme is introduced or planning scheme changes

7 **Summary and Conclusion**

The community consultation and exhibition of the Northern Territory Government's Phase 1 Priority Reform paper reached more than 100 people through online surveys, written submissions or attendance at workshops.

Elton Consulting has captured and presented all inputs and discussions under the planning reforms theme of:

» Strategic Land Use Planning and NTPS.

» Development Assessment and Application process.

» Review of Decisions.

» Compliance and Enforcement.

Feedback and comments across the four reform themes from all participants generally support Phase 1 - Planning Reforms, acknowledging the objectives set out by the government.

Table 17   Six principles of the planning reforms

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

The community and key stakeholders provided feedback and input on all four themes of the reforms. Most of the feedback related to the planning reforms themes of *Strategic Land Use Planning and the NTPS* and *Development Assessment and Application Processes*. Feedback from councils, community and industry provided on *Review of Decisions* and *Compliance and Enforcement* showed support for the reforms.

The feedback and comments provided by those in regional and remote areas compared to those in urban areas was similar expect for: -

» Regional and remote respondents commented on the strategic planning mismatch in their areas.

» Regional and remote respondents recommended local representative in decision making in regional and remote areas.

» Regional and remote respondents suggested the possible extension of timeframes for council comment for reason of resourcing.

Feedback and comments provided by each type of stakeholder group, whether in rural or urban areas, was largely consistent in their support, comments or opposition to the planning reforms. There were however, differences between comments and inputs provided by the stakeholder groups, namely community, council or industry.

This report provides a summary of the community and key stakeholder feedback and comments on the P1PRP relating to all four planning reform themes, and is presented to Northern Territory Government to consider as the planning reforms progress.