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Submission to the Legislative Scrutiny Committee

Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026

Submitted by:

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Northern Territory, Australia

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1. Introduction

Aboriginal Investment NT (AINT) welcomes the opportunity to provide a submission to the Legislative Scrutiny Committee on the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026 (Serial 77).

AINT supports the objective of reducing unnecessary regulatory burden and improving the efficiency of land and planning processes where this can be achieved without compromising important public interest safeguards.

However, AINT is concerned that several provisions of the Bill deliberately reduce statutory notice, exhibition, consultation, hearing and response opportunities. In the Northern Territory, these safeguards are particularly important to Aboriginal people and organisations because decisions under the planning system can affect Aboriginal land, Country, waters, cultural heritage, communities and economic interests.

AINT does not accept that statutory notice, exhibition, consultation and hearing rights are merely 'red tape'. These processes are often the only practical means by which Aboriginal people can identify and explain impacts on Country, waters, culture, communities and economic interests.



AINT views these amendments as part of a broader Northern Territory Government policy direction in which protections enabling Aboriginal participation are characterised as administrative burdens and progressively weakened. Whatever the stated intention, the cumulative effect is to achieve administrative speed and industry certainty by removing successive procedural safeguards. Those consequences will fall disproportionately on Aboriginal Territorians, particularly people in remote communities and people whose participation requires language, collective decision-making and culturally appropriate engagement.

AINT acknowledges that some technical and enforcement amendments in the Bill may improve administration or strengthen compliance. Its objection is directed to provisions that trade away participation and accountability without demonstrating that less rights-restrictive alternatives were considered.

AINT recommends that the Bill not pass in its present form and that the affected provisions be amended to preserve meaningful participation by Aboriginal organisations, Land Councils, Traditional Owners and Aboriginal communities.

2. AINT's key concern

The absence of an express removal or extinguishment of a statutory right under the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth) is not the relevant measure of the Bill's impact. Planning law can weaken the practical protection of Aboriginal interests without altering formal land title.

The relevant question is whether the Bill changes the machinery through which Aboriginal interests are identified, evidenced and considered. It does.

For Aboriginal people and organisations, participation in planning processes is an important mechanism for ensuring that:

- Aboriginal cultural and community interests are identified;
- Traditional Owner and Land Council views are properly considered;
- development proposals affecting Aboriginal land, Country, waters or communities receive appropriate scrutiny;
- Aboriginal organisations have sufficient time, accessible information and culturally appropriate opportunities to understand and respond to proposals; and
- Aboriginal economic interests are considered alongside other planning and development objectives.

Taken together across the planning system, the Bill can allow matters to proceed without exhibition, without a hearing or meeting, without a further response by submitters, under a shortened decision period and, in some cases, through powers delegated to a single member. These are cumulative reductions in accountability, not isolated administrative adjustments.

The Department's public briefing confirmed that place names classified administratively as low risk would no longer require consultation with interested persons and that the notification and response process where no planning hearing is proposed is being removed to avoid delay. AINT

therefore does not characterise these consequences as merely inadvertent (Legislative Scrutiny Committee Public Briefing Transcript, 31 August 2026, pp 4-7).

3. Clause 61 – reduced requirements for hearings on planning scheme amendments

Clause 61 replaces subsections 22(6) to (9) of the Planning Act 1999 concerning submissions and hearings.

Under existing subsection 22(6), a hearing is already conditional on the Chairperson being satisfied that it would provide further useful information. The present Act nevertheless protects submitters by requiring that:

- if the Commission intends not to conduct a hearing, it must notify the local government council and every submitter, give them a reasonable opportunity to respond, and consider those responses before deciding not to hold the hearing; and
- if a hearing is conducted, the Commission must invite the local government council and every submitter to appear and be heard.

Clause 61 removes both protections. Proposed subsection 22(7) would also allow the Commission to invite only selected submitters to a hearing. The Bill contains no requirement to notify an excluded submitter, give reasons to that person or provide a reconsideration mechanism.

AINT's concern

AINT recognises that not every submission warrants a formal hearing. However, removing notice, response and reconsideration rights, and replacing the right of every submitter to attend a hearing once held with selective invitations, materially reduces transparency and procedural fairness. This is particularly significant where a submission raises Aboriginal cultural, community, land, water or economic interests that may not be readily apparent from planning documentation or capable of being fully explained in writing.

The loss is difficult to reconcile with the Planning Act's existing objectives of appropriate public consultation, an accessible planning system, responsible use of land and water, conservation of places of cultural value, and fair and open decision-making (section 2A).

Recommendation 1

Clause 61 should be amended to preserve existing subsections 22(7) to (9) for all submitters. In addition, the Act should require a hearing where a submission raises a material Aboriginal land, Country, water, cultural, community or economic interest, unless the affected Traditional Owner or representative Aboriginal body agrees in writing that a hearing is unnecessary.

If the Commission decides that no hearing is required, it should be required to give affected submitters written reasons and a reasonable opportunity to seek reconsideration before the matter proceeds.

The Committee should also note that section 30N continues to require a hearing, invitation of every submitter and procedural fairness for concurrent applications. That provision provides a stronger and more appropriate model where Aboriginal interests are materially affected.

4. Clause 66 – expanded ability to avoid statutory exhibition for exceptional development permits

An exceptional development permit may authorise development or use that would otherwise be unlawful under the relevant planning scheme (section 38(2)). Under existing section 39(1)(b), only an application to vary an existing exceptional development permit may be treated as 'not so significant as to require exhibition'. Clause 66 removes that limitation, allowing an original exceptional development permit application to bypass exhibition.

This is a substantial expansion of the circumstances in which development outside the ordinary planning rules may proceed without public notice, submissions, consultation or a hearing.

AINT's concern

Public exhibition can be an important mechanism for Aboriginal organisations and communities to become aware of proposed developments and determine whether they may affect their interests.

The phrase 'not so significant' is not defined and clause 66 provides no statutory criteria, notification requirement, reasons requirement or review mechanism. Significance must not be assessed solely by reference to the scale or technical characteristics of a development. A proposal may be relatively small in physical or economic terms but nevertheless have significant consequences for Aboriginal culture, land, waters, communities or economic opportunity.

This is particularly relevant in the Northern Territory, where development can occur on or near Aboriginal land, sacred sites, waterways, coastal Country, Aboriginal communities and places with cultural significance not apparent from planning records.

Recommendation 2

AINT recommends that original applications for exceptional development permits remain subject to statutory exhibition. At a minimum, the Act itself should provide that an application cannot be treated as 'not so significant' where it may materially affect:

- Aboriginal communities;
- Aboriginal land, native title or other interests in land;
- Traditional Owner interests;
- Aboriginal cultural heritage, sacred sites, Country or waters; or
- Aboriginal economic interests.

Any decision not to exhibit should be accompanied by published reasons addressing each statutory criterion and should be open to reconsideration before a permit is granted.

5. Clause 69 – reduced opportunities for submitters to provide further evidence

Clause 69 replaces subsections 50(1) to (3) of the Planning Act concerning oral evidence and information for development applications.

Under the existing section, an ordinary submitter may be invited to give evidence, while a local government council that makes a submission must be invited. Clause 69 makes a meeting mandatory only where the Minister or Chair considers that it would aid understanding or provide useful evidence or information. If a meeting is held, every invitation becomes discretionary.

AINT's concern

AINT recognises the need for proportionate decision-making. However, the proposed approach gives the same decision-maker control over whether oral engagement would be useful and which submitters, if any, will be heard. It provides no Aboriginal-interest trigger, notice requirement, reasons requirement or reconsideration process.

For Aboriginal organisations and communities, a written submission may not always be sufficient to convey:

- cultural knowledge;
- local community impacts;
- Traditional Owner perspectives;
- the significance of particular places or areas; or
- the potential economic consequences of a proposal.

The ability to provide evidence orally, through an appropriate representative or interpreter, and to respond to issues raised by a development proposal can therefore be particularly important.

Section 51 continues to require consideration of cultural and heritage values and relevant Water Act beneficial uses, standards and objectives. Those substantive considerations are not a substitute for participation: a consent authority cannot properly consider information it has not obtained or understood.

Recommendation 3

AINT recommends that clause 69 require a meeting where a submission raises a material Aboriginal cultural, community, land, water or economic interest, unless the affected Traditional Owner or representative Aboriginal body agrees in writing that a meeting is unnecessary. Every Aboriginal submitter raising such an interest should be invited to attend and give evidence.

Where a meeting is not held, affected submitters should receive written reasons and a reasonable opportunity to request reconsideration. Meetings should be capable of occurring on Country, remotely, through an interpreter or in another culturally appropriate form.



6. Clauses 62, 74 and 79 - cumulative acceleration, delegation and transitional application

Clause 62 reduces the period for the Minister to decide a planning scheme amendment from 90 days to 30 days. A shorter decision period is not inherently objectionable, but it compounds the other participation reductions and may discourage further inquiry where Aboriginal cultural, land or water information remains unresolved.

Clause 74 inserts section 81CA, allowing the Planning Commission, by resolution, to delegate any of its powers and functions to the Chairperson or any other member. The provision contains no exclusions for hearings, consultation, reports on planning scheme amendments, significant development work or other functions intended to benefit from collective expertise and community perspectives.

Clause 79 applies the amended sections 22, 39 and 50 to some submissions and applications made before commencement where the relevant procedural decision has not yet occurred. People who participated in reliance on the existing safeguards may therefore lose those safeguards partway through the process.

AINT's concern

Viewed with clauses 61, 66 and 69, these provisions produce a cumulative shift: less time, fewer participation checkpoints, broader individual discretion and reduced collective oversight. Their impact should be assessed together rather than as isolated administrative amendments.

Recommendation 4

Clause 74 should be confined to genuinely administrative functions. Hearings, consultation decisions, reports and recommendations on planning scheme amendments, and significant development functions should remain non-delegable. All delegations should be published in a register.

Clause 79 should preserve the existing law for every application, request or submission made before commencement. The 30-day period in clause 62 should also be capable of extension where further Aboriginal consultation, cultural information or water-impact assessment is reasonably required.

7. Clauses 70 to 72 - accountability, show-cause periods and enforcement

Clause 70 inserts proposed section 76KA, giving an authorised officer personal civil and criminal immunity for an act or omission done in good faith, including a purported exercise of power or performance of a function. Proposed subsection 76KA(2) preserves any liability the Territory would otherwise have.



AINT recognises the policy rationale for protecting officers acting appropriately in good faith. The concern should nevertheless be directed to the breadth of personal criminal immunity and protection for purported exercises of power, and whether adequate justification and safeguards are provided.

Clause 71 shortens the minimum response period under the planning show-cause process from 20 business days to 20 calendar days. That reduction may be significant for people in remote communities who require advice, language support, travel or collective decision-making before responding.

Clause 72 creates a useful additional pathway for an authorised officer to refer an alleged contravention to a consent authority. However, the consent authority may refuse to investigate without an express obligation to give reasons or notify the referring officer, complainant or affected community. This could weaken confidence in enforcement where unauthorised development affects Country, culture, heritage or waters.

The Committee should also separately examine the Building Act provisions in clauses 8, 10 and 11 against its protection-against-self-incrimination criterion. Clause 84 should require consent to electronic service and reasonable failed-delivery safeguards before a valuation notice is deemed given, so that objection time does not run merely because an email was sent but not received.

Recommendation 5

AINT recommends that clause 70 be amended or supported by clear justification demonstrating why personal criminal immunity and protection for purported exercises of power are necessary. The provision should expressly exclude recklessness, gross negligence and knowing unlawful conduct, while preserving judicial review and Territory liability.

Clause 71 should retain 20 business days, with power to extend for remoteness, cultural engagement or other reasonable circumstances. Clause 72 should require written reasons and notification where an investigation is refused, particularly where material Aboriginal cultural, land, community or water interests may be affected.

8. Place names - preserving Aboriginal authority and participation

AINT also notes the amendments to the ***Place Names Act 1967***.

Under existing section 9, the Place Names Committee must require the proponent or another appropriate person to seek and report the views of interested persons before making a recommendation. Section 9(4) expressly includes the relevant Land Council for places outside a local government area and an organisation required to be consulted under an applicable agreement. Within a local government area, the local council - not the Land Council - is the expressly listed interested person. Section 11A also addresses the naming or renaming of an Aboriginal community requested by an organisation representing that community.

Clauses 51 to 55 route roads, streets, lanes, trails, thoroughfares and public parks or gardens through a new Surveyor-General pathway. Proposed section 10A does not reproduce the existing

general requirement to seek the views of interested persons. Its express safeguards are limited to owner agreement for certain privately vested roads and seeking family or descendant views for commemorative names.

AINT does not oppose genuinely administrative streamlining. However, 'low risk' is not a statutory risk test in the Bill. Roads and public parks or gardens are routed by asset category even where a proposed Aboriginal name, the place itself or the surrounding Country carries cultural, linguistic or historical significance.

At the public briefing, the Department stated both that low-risk place names would no longer require consultation with interested persons and that names involving Indigenous names or Indigenous land would continue to require consultation. The second assurance is not expressed in proposed section 10A. Important protection of Aboriginal authority should appear in the Act, not depend on administrative practice, guidelines or an individual Surveyor-General's decision to refer a matter to the Committee.

Recommendation 6

The Bill should provide that any Aboriginal-language name, name proposed for Aboriginal land, or name concerning a place with Aboriginal cultural, linguistic or historical significance must be referred to the Place Names Committee. The proponent must consult the relevant Traditional Owners, the applicable Land Council and an appropriate local Aboriginal or language organisation, whether the place is inside or outside a local government area.

Before approval, the responsible body should obtain written confirmation of cultural authority to use the name, its meaning and appropriate orthography, and provide a report of consultation and reasons. Notice of approved Aboriginal names should be published in the Gazette and on the Agency website and given directly to the Aboriginal bodies consulted.

9. Aboriginal economic development

AINT's interest in these amendments also arises from the relationship between planning regulation and Aboriginal economic development.

Efficient planning and approval processes can be highly beneficial to Aboriginal organisations and businesses seeking to develop land, establish enterprises, attract investment and deliver infrastructure. Regulatory efficiency should benefit Aboriginal proponents as well as other developers, but it must not be achieved by weakening the safeguards through which Aboriginal people protect their own interests.

A system that reduces opportunities for Aboriginal organisations to participate in decisions affecting land and communities may ultimately undermine the objective of creating a more enabling environment for Aboriginal economic development.

AINT therefore encourages the Committee and Government to distinguish between removing unnecessary administrative burden, and removing safeguards that enable affected people to participate in decisions about their land, communities and economic interests.

AINT considers that the former is desirable; the latter requires considerably greater scrutiny.

10. Legislative scrutiny framework

The Committee's Terms of Reference require it to consider whether the Bill should pass or be amended and whether it has sufficient regard to individual rights and liberties. The following criteria are directly engaged:

- administrative powers affecting rights should be sufficiently defined and subject to appropriate review - criterion (A);
- the Bill should be consistent with natural justice - criterion (B);
- administrative power should be delegated only in appropriate cases and to appropriate persons - criterion (C);
- rights and liberties should not be adversely affected retrospectively - criterion (G);
- immunity should not be conferred without adequate justification - criterion (H);
- the Bill should have sufficient regard to Aboriginal and Torres Strait Islander tradition - criterion (J); and
- the Bill should be unambiguous and drafted with sufficient clarity and precision - criterion (K).

These criteria provide the appropriate framework. The issue is not confined to whether the Bill formally extinguishes a right. It is whether broad discretion, reduced participation and transitional application have sufficient regard to the practical rights and traditions of Aboriginal Territorians.

Recommendation 7

The Bill should not proceed until the Government has published an Aboriginal rights and traditions impact assessment, demonstrated the administrative problem each participation reduction is intended to solve, considered less restrictive alternatives, and undertaken targeted consultation with the four Northern Territory Land Councils, Aboriginal peak bodies, relevant Traditional Owner organisations and urban Aboriginal representative bodies.

The amendments should also be subject to an independent review within 18 months of commencement, including their effect on Aboriginal participation, cultural and water interests, decision quality, legal challenge and actual time or cost savings.

11. Conclusion

AINT supports genuine administrative efficiency. It does not support treating statutory participation, consultation, exhibition and accountability protections as red tape. The Bill should not pass in its present form because several provisions reduce the practical means by which Aboriginal people protect Country, waters, culture, communities and economic interests.

In particular, AINT recommends amendments to:

- Clause 61 - preserve notice, response and reconsideration rights and the invitation of every submitter where a hearing occurs, with a mandatory hearing trigger for material Aboriginal interests.



- Clause 66 - retain exhibition for original exceptional development permit applications and prohibit non-exhibition where Aboriginal cultural, community, land, water or economic interests may be affected.
- Clause 69 - require a culturally appropriate meeting and invitation of affected Aboriginal submitters where material Aboriginal interests are raised.
- Clauses 70 to 72 - confine immunity, retain 20 business days for show-cause responses, and require reasons when an investigation referral is refused.
- Place Names amendments - require statutory Traditional Owner, Land Council and Aboriginal organisation consultation whenever an Aboriginal name or Aboriginal cultural, linguistic or historical interest is involved.
- Clause 62 - retain sufficient time or provide an extension where Aboriginal consultation, cultural information or water assessment remains outstanding.
- Clause 74 - prevent delegation of core consultation, hearing, reporting and significant-planning functions to a single member.
- Clause 79 - preserve existing procedural safeguards for all matters commenced before the amendments take effect.
- The Bill as a whole - require an Aboriginal rights and traditions impact assessment, targeted consultation and an independent post-commencement review.

AINT's overarching position is that laws requiring government to listen, inform itself and explain its decisions are not unnecessary burdens. They are basic safeguards, particularly in a jurisdiction where Aboriginal people hold enduring rights, responsibilities and interests across land and waters.

The Northern Territory's planning system should facilitate development and investment, including Aboriginal-led development, without continuing to degrade the laws, rules and institutions that protect Aboriginal people, their Country and waters. Efficiency should be achieved through better administration, not by silencing affected people or removing scrutiny.

Nigel Browne
Chief Executive Officer

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