

Submission - Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026 (Serial 77)

To the Legislative Scrutiny Committee, Legislative Assembly of the Northern Territory;

I follow the Territory's planning system closely and take part in it. I make submissions, and I read the decisions. Much of the Bill is sensible administration and I say nothing against it. Here I address the parts of this Bill that change what people like me, and people affected by planning decisions, are entitled to know and to say. Five comments follow. Each ends with a suggested fix; none requires abandoning what the Bill is trying to do.

1: An original permit can skip exhibition - *I can't find how it is then granted*

An exceptional development permit authorises development that the planning scheme otherwise prohibits (s 38(2)(a)). For a permit of that kind, section 40(1) bars the Minister from granting one unless it is "*preferable to issue the permit than to amend the relevant planning scheme*". Exhibition is the only public step before the decision is made: the exhibition, submission and hearing machinery applies only where "*the Minister decides to place a proposal on exhibition*" (s 39(3)). Today the Minister may dispense with exhibition only where the application is "*for a variation of a permit*" (s 39(1)(b)). Clause 66 deletes that limitation. It makes no matching change to the grant provisions.

When I first read clause 66 I took it for a small change, so I went to section 40 to see how a permit is actually granted once exhibition has been skipped, and I could not find the step.

- Section 40(2) deals with a proposal that "*has been on exhibition and the Minister has considered the matters referred to in section 26(2)*" - not this case.
- Section 40(4) deals with a never-exhibited proposal, but only "*a proposal to vary an exceptional development permit*" - not an original.
- The nearest thing left is section 40(5), which says a permit "*may be granted or varied subject to the conditions the Minister thinks fit*". Read where it sits - after the subsections that allocate the actual grant decisions to particular cases - that looks like a power to put conditions on a grant made somewhere else, not a power to make the grant. The ambiguity should be resolved on the face of the Bill, not left to argument.

On my reading, then, a decision under amended section 39(1)(b) that an original application need not be exhibited runs into nothing that can grant it. I may be missing something - but if not, the Bill has a gap that should be fixed before it passes.

The permits at stake are not hypothetical, and not all small. The department's register of recent decisions (on 1st September I found 38 decisions, spanning March 2024 - August 2026, with 37 approved) runs from carports and two-lot subdivisions to original permits for 144 multiple dwellings in four six-storey and one five-storey buildings on Todd Street, Alice Springs (EDP2024/0081, approved 11 February 2025), and a 256-person workers' village on Agriculture-zoned land at RAAF Base Tindal (EDP24/0005, approved 26 March 2024). Each of those was exhibited because the current section leaves the Minister no power to dispense for originals.

The best-known permit in the class is one I participated in: the Darwin LNG facility at Wickham Point: EDP 02/0015, issued 11 November 2002 for a proposed 10 MTPA LNG facility. The Government's announcement of 13 November 2002 records it was granted following "an extensive

public consultation period and public hearing conducted by the Development Consent Authority” which “resulted in 1642 submissions” (one of them mine). It is still the site’s standing planning instrument (varied as recently as 29 February 2024, EDP02/0015I). I acknowledge that 2002 process ran under the differently-structured pre-2005 provisions, so I cite it for what public process around a permit of this kind has looked like, not as the operation of the present section. Todd Street and Tindal are the present section at work.

The dispensation power draws no line between a carport and a 144-dwelling development: it leaves the loss of the statutory submission and hearing process to the Minister's significance assessment, with no class of proposal for which exhibition stays mandatory. Clear rules about when exhibition can be skipped, and telling the public when that happens and why, would preserve the Bill’s purpose without the cost.

Recommendation 1: the Department identify to the Committee the provision under which a never-exhibited original exceptional development permit would be granted; if none exists, the Bill be amended to supply one or clause 66 be withdrawn.

Recommendation 2: if the power is to exist for original permits, that criteria for the significance opinion be prescribed, that each decision to dispense with exhibition be published with reasons, and that classes of proposal engaging third-party interests be excluded.

2: entitlements removed - including from submissions already lodged

Clause 61 replaces section 22(6)-(9). The Explanatory Statement discloses the removal of the duties to notify submitters before deciding not to hold a hearing, hear them on that, and consider their responses. It does not disclose that current section 22(9) - “*the Commission ... must invite the local government council and each person or body who made a submission to appear at the hearing and be heard*” - is also deleted, replaced by “*the Commission may invite any person or body who made a submission*” (new s 22(7)). The guaranteed invitation becomes a discretion with no stated selection criteria. Two things should be said in fairness: the new hearing trigger in s 22(6)(b) is verbally wider than the current one (a hearing must be held where it “*would aid the Commission’s understanding ... or provide further useful evidence or information*”), and the surviving s 22(10) still requires any hearing to be conducted with procedural fairness, which may constrain how invitations are selected in a given case. Neither replaces the entitlement that is being removed. Clause 69 does the equivalent for development applications: it deletes, with no mention in the Statement, the one invitation that is today mandatory - a submitting local government council’s (current s 50(2)) - while the new s 50(1) can in some circumstances require a meeting the current section only permits.

The transitional provisions then reach back. New section 221(2) applies the reduced section 22 to a submission “*made under that section before the commencement if the Commission had not made a decision whether to conduct a hearing in relation to the submission before the commencement*”, and new section 221(8) does the same where a submission was made to a development application under section 49 but no section 50 meeting had been held before commencement. People who lodged submissions under the current law, relying on the entitlements it gives them, lose those entitlements mid-process. The reach-back is not limited to submissions: new section 221(7) applies the amended exhibition provisions to an application for an original permit lodged before commencement but not yet decided, so a proposal the public expected to see exhibited can have exhibition dispensed with mid-process. I only found this by reading the transitional clause itself: the note on clause 79 describes it as “*transitional arrangements*” and says nothing about submissions already made.

Recommendation 3: retain ss 22(9) and 50(2); if the no-hearing notification loop is to go, require published reasons where a hearing or meeting is declined despite submissions; and amend clause 79 so that submissions made before commencement are dealt with under the provisions in force when they were made.

3: The show-cause response window

Clause 71 omits “*business*” from section 77A(3), so the minimum period to respond to a show cause notice before an enforcement notice issues falls from 20 business days (about 28 calendar days) to 20 calendar days. The Explanatory Statement says the timeframe “will instead be measured in calendar days”, which is accurate as far as it goes; what it does not say is that this shortens the principal pre-issue protection by roughly a third, and by more across holiday periods. The notice, response and consideration duties in s 77A otherwise survive, and merits review after issue remains. The change is to the time a person has to use them.

Recommendation 4: that the Department justify the shortened period, and, unless the reduced period can be shown to be adequate, that “business” be retained in section 77A(3).

4: Place naming: who must be asked, and who no longer must be

Clauses 51 to 57 move the reporting and recommendation function for roads and similar ways (s 4A(1)(c)), and for parks and gardens (which clause 51 re-carves into a new s 4A(1)(d)), from the Place Names Committee to the Surveyor-General (new s 10A); the Minister still approves. Reserves and recreation grounds (new s 4A(1)(da)) stay with the Committee.

Before the Committee reports on any name today, section 9(1A) requires the views of “*interested persons*” to be sought, and section 9(4) says who that includes: the local government council for places within a council area, “*the Land Council, within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)*” for places outside one, and any organisation an agreement with the Territory requires to be consulted on naming. Section 9(2) then requires representations received to be forwarded to the Minister with the report.

Two of those safeguards survive the move to the Surveyor-General: the private owner’s agreement for a private road (s 10A(3)) and, for a commemorative name, seeking the family’s views (s 10A(4)). The duty to seek interested persons’ views, and the duty to forward what they say, do not appear in new section 10A at all. Section 10A(2) lets the Surveyor-General hand a particular place to the Committee instead, and the older safeguards would then apply - but the Bill leaves that entirely to the Surveyor-General’s choice. The Explanatory Statement says section 10A “*includes requirements in line with section 9(1B)(a) and 9(4)(e)*” (ES, cl 53) - accurate as to what was carried over, silent as to what was not. Naming roads and parks is where commemoration and dual naming arise most often, and the duty to ask is what the Bill removes.

Two further matters: if the Minister chooses to delegate under new section 11A(1A), the Surveyor-General can approve recommendations the Surveyor-General made; and new section 4A(2)(ba) takes parks and reserves declared under section 12 of the Territory Parks and Wildlife Conservation Act 1976 out of this Act altogether, and I could not find what naming process would apply to them instead.

Recommendation 5: give the Surveyor-General's naming route the same duty the Committee already carries - to seek the views of interested persons, and to forward what they say to the Minister, as sections 9(1A), (2) and (4) require; and either keep section 10A recommendations out of the section 11A(1A) delegation or require any delegated approval to be published with a record of who was consulted.

5: I could not rely on the Explanatory Statement

I read the Explanatory Statement first, as anyone does, and in preparing these comments I found I could not trust it: the notes that mattered most to me either pointed to the wrong provision or left out the operative change.

The note on clause 61 lists some of what is removed from section 22 and not the loss of the guaranteed invitation (Comment 2); the note on clause 79 says "transitional arrangements" and not that existing submissions are affected (Comment 2); the note on clause 53 describes what was carried over and not what was left behind (Comment 4); and more than once a note sent me to a clause that did not contain the amendment it described.

A member reading the Statement in the time this inquiry allows would be misled on exactly the points this submission raises.

Recommendation 6: that a corrected Explanatory Statement issue before the second reading debate resumes.

I remain interested in contributing further to improved decision making.

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