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Legislative Scrutiny Committee
Committee Secretary
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Thank you for the opportunity to submit.

Our submission outlines in detail, the rationale for our response to the proposed Legislation. In summary:

- a) The proposed amendment should NOT be passed by our Legislative Assembly – it remains poor planning law that undermines community rights and provides an imbalance towards developers at the expense of our environment and amenity.
- b) The bill should definitely be amended – to include the community views and rights for amenity, environment and the right to be consulted about planning and development.
- c) The bill should be amended to include the planning not just for development of land, but protection of land for future generations and their wellbeing i.e. the intergenerational equity principle – ensuring land use for community purpose, green space, heritage and cultural significance.

We are residents of the Darwin CBD. We care very much about how Darwin grows and becomes a great place to live and work, and how planning will impact on growth and development in Darwin and how this growth and development will influence future living conditions and wellbeing.

Unfortunately, Darwin city and its residents and visitors, suffer from years of very poor planning, driven by developers and traffic engineers who do not value green space and heritage and have little regard for community amenity when planning. Our city is ugly, with boxy concrete brutal architecture high rise buildings badly located to benefit from shade, neglected median strips/verges and very poor choice of or management of trees. Trees are being chopped down and not replaced. It seems every day another tree is gone, but our government calls for technical ways to “cool and green” the city. There is a very urgent need for skilled, modern urban designers to develop the future plans for Darwin.

The NT Government recognized in its original public consultation in 2017 that the planning process was broken.

“Government has heard concerns from the community that planning laws are not delivering the best-possible developments. We understand that the community wants a planning and development system that is open, transparent and accountable; that listens to Territorians and gives confidence that the right planning decisions are being made.”

<https://haveyoursay.nt.gov.au/planningsystemreformdddcc>

Unfortunately, at this stage of the review, the Planning Amendment Bill still does not reflect community concerns or wishes and should NOT be passed. Community concerns raised repeatedly have not been incorporated in this Bill and must be in a democracy.

The proposed Act remains a development act with a strong focus on **the development of land**.

The community have consistently asked for greater balance between interests of developers and those of the community and our concerns have not been addressed.

The planning act needs to have a primary objective which is “to ensure best-practice, evidence informed planning for land use, that encompasses the need for providing amenity, community green space, protection of heritage value and environmentally sustainable development.”

A review of planning acts in other states indicates the environmental, ecological, community amenity focus that is what our community have requested at every step of this review, but have been denied. From the planning equivalent acts in other jurisdictions...

SA... 'development of land that will benefit the community...'

ACT... 'planning and land system that is consistent with social, environmental and economic aspirations of the people of the ACT'

VIC... 'use, development and **protection** of land...'

WA... 'sustainable land use and development...'

Qld... 'land use planning and development assessment to facilitate achievement of ecological sustainability...'

...further, the Qld Act defines the intergenerational equity principle... 'present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.'

There is no such commitment or protection in the proposed NT Act. There is no significant consideration for land use other than development and this is wrong and contravenes community wishes.

The Planning Act also needs to provide certainty for the future of land use. Community cannot rest assured that green space is safe from development into the future, as the Act enables rezoning of land at the whim of a developer, apparently supported by the Department. This has happened repeatedly and continues to happen despite significant community opposition. Zoning needs to take into account the community views, sustainability and ensure that zones established e.g. for recreation are maintained. A development currently in the application process, is requesting rezoning from Community Purpose to High Density Residential. This is a huge change of use that impacts on the whole community – but can be done at the whim of the Minister at present. This absolute power must be reviewed in the new Act.

The issue of 'amenity' has not been addressed in this amendment despite the significant community concerns that have been raised at public meetings and in submissions such as this.

It appears that the planning review has not taken the public consultation response seriously at all. Amenity refers to aspects such as quality of lifestyle, environment and pleasant living conditions. It is fundamental to human health and wellbeing, and takes into consideration the needs of the humans living in the area, along with native animals and plants and development. It is the main reason people choose to live in a location – people do not aspire to live in a concrete high-rise with a concrete car-park next door, and encroaching high rise apartments on all sides. Yet this is the kind of environment the current Act has encouraged and the proposed planning amendment will facilitate.

The Heart Foundation document “Healthy Active by Design” outlines fundamental principles of urban development that encompass good design for human health and wellbeing. Issues such as obesity, diabetes and heart disease are strongly linked to the environment in which people live. Mental health, now the most significant form of illness in society, is improved by access to green space and the natural environment.

Strong evidence supports open and green space to assist cooling of our tropical city and for people to find respite from heat. Where are these spaces required in the proposed Act? I refer you to the Heart Foundation guide which should provide the basis of urban planning and hence planning decisions in the Act.

Area plans are an important aspect of planning, that contain specified zones. A fundamental premise of the proposed Act is “strategic planning”. There is still no detail of what these policies, principles and plans are and as such, this Act is not ready for passing at all. The community needs to be able to view and debate and have input into these strategies, including the Area Plans, to ensure that the preferred purpose of planning is abided by.

There is a great need for planning to have INDEPENDENT review. The whole process is ultimately decided by one person – The Minister. This needs to be changed in the new Act. All parties to the decision making prior to the Minister’s final decision are GOVERNMENT APPOINTED. The DCA, the PLANNING COMMISSION and NCAT are all government appointments, and as public servants, obliged to conform to the government’s view. Hence the rubber stamping of proposals with little authentic review.

The decisions affecting Darwin and NT planning simply CANNOT rest with just one person. This is clearly an imbalance of power disproportionately favouring the Government and dependent on the whim of one person. There needs to be a qualified, impartial group of people who make these decisions, with community representation on this group.

We attended one community consultation this year on this issue, on Wednesday Nov 28th. The planning Commission presenter said that they had consulted with over a thousand people. We found this difficult to believe. The only reason we knew about this consultation is through Plan, a voluntary community group who requested this consultation meeting.

There are many examples of projects that have gone to tender or been built, or are proposed, despite significant community opposition, despite the designs being flawed, despite the fact that they will destroy historic green space that has value socially, culturally and economically. By example:

1. Barneson Boulevard which reduced by one third, the green, cool space of big old trees in Frog Hollow and destroyed historic remnants of the old primary school. Development of this road was in contradiction to the modern world’s focus on reducing reliance on cars and fossil fuels, poorly planned with increased traffic lights and slower traffic flow

and is now a hot black elephant on the increasingly hot Darwin landscape. This demonstrates a failure of planning extending over many years – the proposed plan had existed for over 25 years and was not reviewed to take in consideration the changed world in that time.

2. The Lee Point defense housing development which will destroy native bush along pristine beach and risk extinction of native animals and birds. Planning includes tiny housing lots for young families, with little community space/community amenity to alleviate loneliness in families left alone while one partner is away on duty and totally reliant on air-conditioning to survive hot tropical climes. This in a climate of shrinking population and high residential vacancies.
3. The proposed gardens development where a developer has purchased land zoned community purpose and now has submitted to rezone as high rise residential...on top of our Amphitheatre and the Botanic Gardens!

These examples demonstrate the current planning act's inability to protect community purpose land, green space, heritage and environment - the **amenity** which creates lifestyles that people want to live in. The proposed amendment also does not ensure it. Unfortunately, people will continue to leave in droves as these important things are lost to concrete high rise development, asphalt and traffic.

We need a planning process and Act that has the capacity to ensure that best-practice planning proposals are put forward. However it must also ensure that there is extensive and authentic public consultation, that the design and its implications are transparent, and that all concerns including environmental contamination and loss of cultural heritage are seriously and genuinely addressed. Interests of developers AND the community must both be considered equally, and planning decisions made in the strategic framework that is guided by modern, urban design principles and the tropical environment in which we live.

The people of Darwin need the capacity to stop poorly directed government going ahead with unpopular planning decisions. Planning must include the requirement for real consultation, enabling reasonable timeframes for stretched individuals to respond. There should be independent community members on the Planning Commission/DCA. Someone with a track record like Margaret Clinch of Plan Inc. who has the community's interests clearly front and centre. But most importantly, we need a process to enable critical review and community capacity to override poor planning decisions.

Even finding the location of current applications and instructions on how to comment is almost impossible. There was no facility on the current DIPL website to advise the community on where to respond and who to.

Additional Concerns with the proposed Planning Act

We have reviewed the proposed Act. Please note the following concerns that remain despite previous submission about them.

1. Minister's Discretion

The proposed Act retains many examples where the Minister may act with little explanation of rationale to guide them, or need to adhere to concerns such as "subject to" or as "voted by". The Minister may approve or reject a proposal but it does not specify on what grounds. The Minister should not have this power, and certainly not without any requirements for the issues to be considered.

Clause 13 A (d) and (e) on page 9 give the Minister the power to base their decision on whatever they like. This is not acceptable and must be changed.

2. Contradictions

Section 52 clause 1 on page 24 states the conditions where DCA must not give consent to a proposed development. It then contradicts that requirement in clause 2...the DCA may consent...if development is consistent with the strategic framework....

Further, it may still approve a contrary development according to clause 3 and 4. Again, this simply serves to undermine community confidence in the process. This section may as well say that DCA can approve contrary proposals, whenever it sees fit, and again is unacceptable.

3. Change of Zoning

It seems that land that is zoned for a specific use can be changed at the whim of a developer or a Minister. The Gardens proposal is an example of this. Land use that is zoned needs to be maintained, with very limited if any, ability to change. Community space, once designated community space needs to stay as such for the public to have any confidence in planning. There needs to be security of tenure of land use, to enable public confidence that the land they have purchased, will remain the valued land that they bought. How can the community have confidence that where they have chosen to live, will retain the values and characteristics that caused them to buy there in the first place? The public has a right to have this confidence.

4. Specific Terms

Certain terms can create loopholes in the requirements for development. For example, "Specific Use Zone" and "Exceptional Development Use" enable abuse of the planning rules, such as additional storeys to be built where limits exist. This needs to be stopped.

Key Questions

In the original review the following questions were asked and the responses made then and since are included in this submission to highlight the ongoing flaws. Please see 2017 comments in standard text and comments in bold for 2019 below.

Further Questions ...please read in conjunction with the above.

1. *Do you have confidence in the planning system to deliver balanced development for the NT? If not, what changes could the Government make that could improve public trust in the planning system?*

No – the example above indicates the issues

No – examples in the Dec submission above given from the proposed Planning Act indicate concerns which would create lack of public confidence in the process

2. *Do you think the planning system adequately balances competing interests such as social, environmental and economic requirements? If you don't think that it does, how can the planning system be improved to provide certainty to the various sectors of the community and balance these interests?*

NO – e.g. Blake Street/Frog Hollow/Barneson Boulevard.

Need for community voice to have a greater say. Need for independence in planning – this is NOT currently the case.

No – social, environmental and health and wellbeing and heritage value are not considered adequately in the proposed Act. Amenity must be reinstated as a key value in the new Act.

3. *Do you think planning decisions are made in a transparent way? If not, can you identify any ways we could make the decision making process more transparent?*

Absolutely not – see example above re: lack of critical review and independence at all levels. Community needs the opportunity to say NO to bad plans.

No- still absolutely not. The process needs increased community involvement in the process, needs to follow an Act without contradictions and establish independence of the parties involved.

4. *Do you believe there is adequate meaningful consultation in the NT planning system? Can you suggest any changes you think could make it better or easier for the community to participate?*

Clearly not. There needs to be a requirement for the Minister to adequately respond to community concerns and thorough public discussion of ALL the issues. Media provides a public forum but is also not independent. Government is too powerful in the process and simply overrides any opposition with media releases – there is no REAL scrutiny of decisions and designs.

No – consultation by facebook or advertising does not constitute authentic consultation. True consultation takes time and is difficult to achieve, then try other methods – e.g. establish a truly independent community consultation advisory group that provide informed input into planning decisions and plans for the future. This group already exist with the expertise, it is Plan.

Thank you again for the opportunity to have input into this review.