

Appendix 1: Jurisdiction-Specific Reform Plan Template

National Competition Policy – Bilateral Schedule

FEDERATION FUNDING AGREEMENT – AFFORDABLE HOUSING,
COMMUNITY SERVICES AND OTHER**Table 1: Formalities and operation of schedule**

Parties	Commonwealth Northern Territory						
Duration	This Schedule is expected to expire on 31 December 2034.						
Purpose	This Schedule will support the delivery of the National Competition Policy multilateral Schedule. It contains the Northern Territory’s Jurisdiction-Specific Reform Plan that details how the Northern Territory will deliver the Objectives and Performance Requirements of the multilateral Schedule.						
Estimated financial contributions	Table 1 (\$ million)			% of maximum funding allocation	Maximum funding allocation (\$ million)		
	Liberalise and standardise commercial zoning rules and review planning requirements to ensure they do not distort competition						
	Output 1	Performance milestone 1		0%	0.0		
		Performance milestone 2		20%	1.168		
	Estimated total budget			1.168			
	Table 2 (\$ million)						
		2026-2027	2027-2028	2028-2029	2029-2030	2030-2031	Total
	Estimated total budget	1.168	0.0	0.0	0.0	0.0	1.168
	Less estimated National Partnership Payments	1.168	0.0	0.0	0.0	0.0	1.168
	2027-2027: Planning and Zoning reform, Project 1						

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Table 2: Performance requirements		Delivery Mechanism		
Reform – Liberalise and standardise commercial zoning rules and review planning requirements to ensure they do not distort competition				
Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Project 1: Implement measures to limit anti-competitive objections to development	2. State and Territory Parties respectively implement reforms to limit anti-competitive objections to commercial development	Reform action: Removal of third-party merits review in industry development and environment legislation. The reform action qualifies as a new reform and aligns with the Commercial Zoning and Planning Guidelines (the Guidelines) for Project 1 – stop nuisance objections to developments that are not in the public interest. For example, Parties: a) Limit third party appeals to issues that were subject to development assessment consideration. I. Appeals on matters resolved during planning processes should not be considered. II. Compliant development assessments cannot be appealed. III. Prohibit appeals if the appealing party did not lodge an objection to the development application. b) Require third party appeals processes to clearly identify appellants and their grounds for appeal. The grounds for appeal should be framed with respect to the public interest. The Northern Territory has undertaken reforms to remove standing for third-parties to initiate merits review which directly aligns with Guideline 1.a). This action also means Guideline 1.b) is not relevant to the Territory as third parties do not have standing to initiate third party merit reviews. Refer to appendix 2 for further information.	8/04/2025	There are no dependencies for this reform.

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The Parties have confirmed their commitment to this schedule as follows:

*Signed for and on behalf of the Commonwealth
of Australia by*



The Honourable Dr Jim Chalmers MP
Treasurer

29 / 10 / 2025

*Signed for and on behalf of the
Northern Territory by*



The Honourable Bill Yan MP
Treasurer

15 / 11 / 2025

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Annexure A

The Party is not seeking a determination of the maximum funding allocation for these Performance Requirements at this stage.

Table 2: Performance requirements		Delivery Mechanism		
Reform: Liberalise and standardise commercial zoning rules and review planning requirements to ensure they do not distort competition				
Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Project 2: Remove anti-competitive considerations from planning, rezoning and development processes	1. State and Territory Parties review their respective planning, rezoning and development processes against Guidelines to identify how to achieve the Project 2 Output. 2. State and Territory implement reforms to remove anti-competitive elements from their planning, rezoning and development process.	Subject to identification of reforms to remove anti-competitive elements from planning, rezoning and development process, the NT will update its JSRP accordingly with an implementation approach. Initial consideration to identify reforms aimed at removing anti-competitive considerations from planning, rezoning and development processes may include: • Reviewing Part 1 Guidance of NT Planning Scheme 2020, including a review of the zone purpose statements and outcomes. • Assessing size limitations on Education Establishments in Zone CB (Central Business) and Zone C (Commercial), currently capped in some instances in the NT Planning Scheme 2020. • Auditing the NT Planning Scheme 2020 and supporting resources/processes to ensure there are no residual controls or processes that enable commercial viability, competition or proximity restrictions to be taken into account. • Finalise and implement a Strategic Planning Policy for the preparation of Northern Territory Planning Commission strategic land use plans and planning policies across the NT.	Q1 FY 2027	There are no dependencies currently identified for this reform.

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Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Project 3: In development control instruments, increase the number of purposes for which land can be used.	1. State and Territory Parties review their development control instruments against Guidelines to identify how to achieve the Project 3 Output. 2. State and Territory Parties in their respective development control instruments implement reforms to increase the number of commercial purposes for which land can be used in local government areas.	Subject to identification of reforms to remove anti-competitive elements from planning, rezoning and development process, the NT will update its JSRP accordingly with an implementation approach. Initial consideration may be given to reviewing: • NT Planning Scheme definitions to improve flexibility and clarity of defined uses • Planning assessment categories (permitted, merit assessable, impact assessable, prohibited) to ensure categories are aligned with expected outcome for uses in zones and identify opportunities to simplify planning pathways for compliant developments. • Use of 'must not consent' within development requirements, including the potential to provide improved guidance and assessment criteria for consent authority. Part 1 Guidance of NT Planning Scheme 2020, including to ensure there are no barriers to implementing interchangeable commercial uses.	Q1 FY 2027	There are no dependencies currently identified for this reform.
Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Project 4: Streamline criteria and processes for development assessment and rezoning	1. State and Territory Parties review their respective criteria and processes for development assessment and rezoning against Guidelines to identify how to achieve the Project 4 Output. 2. State and Territory Parties implement reforms to streamline their respective	Subject to identification of reforms to remove anti-competitive elements from planning, rezoning and development process, the NT will update its JSRP accordingly with an implementation approach. Initial consideration may be given to review:	Q1 FY 2027	There are no dependencies currently identified for this reform.

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	criteria and processes for commercial development assessment and rezoning in local government areas.	- the NT Planning Scheme definitions to enable land uses to be best controls by appropriate NT Planning Scheme Controls. - assessment categories (permitted, merit assessable, impact assessable, prohibited) to ensure categories are aligned with expected outcome for uses in zones and identify opportunities to simplify planning pathways for compliant developments. - the use of 'must not consent' within development requirements, including the potential to provide improved guidance and assessment criteria for consent authority - Part 1 Guidance of NT Planning Scheme 2020, including to ensure the administration of the NT Planning Scheme doesn't have any unintended consequences to permitted uses.		
Reform: Lower barriers to the adoption of overseas standards in regulation				
Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Project 1: Establish and apply the Guidelines for recognising and adopting voluntary standards (including international and overseas voluntary standards in legislation)	- State and Territory Parties consult government and industry stakeholders on the draft Guidelines. - Based on identification of priority areas through the Council on Federal Financial Relations (CFFR), State and Territory Parties review references to voluntary standards in their respective legislation. - State and Territory Parties implement measures in their	Subject to identification of priority areas through CFFR and finalisation of Guidelines, the NT will consider its position on delivering this project. The NT will update its JSRP with an implementation approach, subject to its position on implementing reform actions to deliver the associated Performance Requirements.	TBC	TBC

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	respective legislation to reduce regulatory compliance costs and improve competition.			
Reform: Lower barriers to modern methods of construction				
Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Project 1: Legislate nationally consistent definitions of prefabricated and modular construction.	1. State and Territory Parties, through the Australian Building Codes Board (ABCB), participate in the development of a national definition of prefabricated and modular construction through the National Construction Code. 2. State and Territory Parties adopt the national definition of prefabricated and modular construction in their relevant legislation to create a nationally consistent definition.	The NT continues to engage with the ABCB on performance milestone 1 –the development of consistent national definitions of prefabricated and modular construction in the National Construction Code. Subject to the finalisation of national definition of prefabricated and modular construction, the NT will consider its position on delivering performance milestone 2 and will update its JSRP accordingly with an implementation approach.	TBC	1. Coordination with ABCB and other jurisdictions 2. Finalisation of national definition.
Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Project 2: National voluntary manufacturer certification scheme to verify compliance with the National Competition Code and ensure a chain of responsibility between off-site and on-site construction.	1. State and Territory Parties remove any legislative barriers to the acceptance of manufacturer's certificates of National Construction Code compliance where these certificates are issued in accordance with the national manufacturer certification scheme.	Delivery of these Performance Requirements is contingent on the delivery of Project 1: Legislate nationally consistent definitions of prefabricated and modular construction. Subject to the finalisation of national definition of prefabricated and modular construction through the National Construction Code, the NT will consider its position on delivering performance milestone 1 and will update its JSRP accordingly with an implementation approach.	TBC	1. Finalisation of National Scheme and endorsement.

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Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Project 3: Regulatory neutrality between modern and conventional methods of construction in state and territory planning and building legislation, including that of Local Government Planning Schemes	1. State and Territory Parties, through the Planning Ministers' Meeting, review their respective planning systems with respect to off-site construction methods to identify where the regulatory burden materially exceeds that for on-site construction methods and does not appropriately balance this additional burden with the costs (including restrictions to competition). 2. State and Territory Parties, through the Planning Ministers' Meeting, participate in developing Guidelines that detail reforms required to remove unnecessarily burdensome regulatory requirements for off-site construction based on issues identified in the jurisdictional legislation reviews. 3. After completing Performance Milestones 1 and 2, State and Territory Parties amend their respective planning systems to achieve regulatory neutrality.	The NT will engage, via the Planning Minister's Meeting, on performance milestones 1 & 2. Subject to the completion of the planning systems review and development of Guidelines, the NT will consider its position on delivering performance milestone 3 and will update its JSRP accordingly with an implementation approach.	TBC	TBC
Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Project 4: Regulatory neutrality between modern	1. State and Territory Parties lead a review of house and building consumer protections through the	The NT will engage, via the Building Minister's Meeting, on performance milestones 1 & 2.	TBC	TBC

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and conventional methods of construction in house and building consumer protections	Building Ministers' Meeting to identify disparities between consumer protections for modern 2. State and Territory Parties participate in developing Guidelines through the Building Ministers' Meeting that detail reforms required to establish regulatory neutrality between modern and conventional methods of construction in house and building consumer protections, based on the issues identified in the review. 3. After completing Performance Milestones 1 and 2, State and Territory Parties amend their respective consumer protections for houses and buildings including to provide appropriate enforcement mechanisms.	Subject to the completion of the housing and building consumer protections review and finalization of Guidelines, the NT will consider its position on delivering performance milestone 3 and will update its JSRP accordingly with an implementation approach.		
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Reform: National Competition Principles				
Output	Performance Milestones	Implementation approach	Delivery date	Dependencies
Implement the National Competition Principles	1. State and Territory Parties will provide evidence that they have: a. Updated policies and processes to assess the competition impacts of their major policy decision, per the requirements in Schedule 1 of the Intergovernmental Agreement on National Competition Policy. b. Updated their competitive neutrality policies and processes per the requirements in Schedule 4 of the Intergovernmental Agreement on National Competition Policy c. established or updated processes to ensure regulators in their jurisdictions consider the impact of their decisions on national competition where necessary over the requirements in Schedule 5 of the Intergovernmental Agreement on National Competition Policy; and d. established or updated an efficient charging guide for government-delivered goods and services where necessary, per the requirements in Schedule 6 of the Intergovernmental Agreement on National Competition Policy.	The NT will publish a timetable by end 2025 that will identify how the revitalised National Competition Principles are to be implemented. The NT will update this JSRP to specify the implementation actions required to give effect to the revitalised National Competition Principles.	Publication of timetable: end 2025 Implementation of Principles: end 2026	TBC

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Project 1: Implement measures to limit anti-competitive objections to development

Background

The Northern Territory Planning Scheme, administered under the *Planning Act 1999*, sets out the framework for land use and development across the Territory. Development applications are assessed by the Development Consent Authority (DCA) against the Planning Scheme, which includes zoning, land use policies, and strategic planning objectives.

Judicial review is a common law right that considers whether a decision was 'lawful' and if the person making the decision was authorised to do so regardless of whether legislated or not. Judicial review is undertaken by the Northern Territory Supreme Court.

Merits review is only available where legislated. A merits review considers whether a decision was correct and preferable in accordance with the law and that the decision made was the best that could have been made based on the relevant facts and available information to the decision maker. Merits reviews are conducted by the NT Civil and Administrative Tribunal (NTCAT).

Prior to recent reforms, the *Planning Act 1999* allowed third parties (including individuals or organisations) who made a submission during a public notification period to seek a merits review of certain development decisions by the DCA through NTCAT. This included decisions on:

- Development applications for prescribed types of development adjacent to residential land.
- Concurrent applications, which involves where a planning scheme amendment and development permit are assessed together.

Reform Action

On 25 March 2025, the NT Government passed the Petroleum, Planning and Water Legislation Amendment Bill 2025. The purpose of the Bill was to remove third party merits review in industry development and environment legislation to provide for industry certainty, foster confidence in the regulatory framework and reduce project delays associated with potentially vexatious legal reviews by third parties. Specifically, it removed third party merit review rights under the:

- *Planning Act 1999*,
- *Petroleum Act 1984*, and
- *Water Act 1992*.

Of relevance, changes to the *Planning Act 1999* included:

- Repeal of Section 117, which provided standing for third party merits review of development and concurrent application decisions.
- Removal of the requirement to notify submitters of the outcome of a development decision, as review rights no longer apply.
- Commencement of the reforms on 8 April 2025.

Further information can be found at: <https://legislation.nt.gov.au/Bills/Petroleum-Planning-and-Water-Legislation-Amendment-Bill-2025-S11>.

Outcomes and benefits

Merits reviews are intended to improve decision making by increasing transparency and accountability and in doing so, build confidence in decisions. They provide proponents and other parties with an avenue of procedural fairness for an adverse decision.

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However, the Territory has experienced an increasing number of requests for merits review by third parties opposed to development. Such appeals have increasingly been used as a mechanism to delay commencement of approved projects and influence community confidence in the Territory's regulation of development. There has been one third party request for a merits review under the petroleum legislation since the third party merits review provisions coming into effect in June 2023, against a total of 11 environment management plan approval decisions since that time. Since 2020, there have been 20 third party review applications relating to 10 decisions made by the Controller of Water Resources (Controller) under the *Water Act 1992*, with 7 decisions upheld by the Minister (as reviewing authority). Under the *Planning Act 1999*, there have been 6 third party reviews over the same period.

There have been strong and consistent calls across all industry sectors for regulatory processes to support certainty in development and investment. In particular there have been increased concerns regarding the number of requests for merits review by third parties which has resulted in a number of projects being put on hold until a decision on the merits review has been made. In some cases where the original decision has been upheld through a merits review process, this has then seen a judicial review ensue, causing further delays.

The reforms completed by the Territory will:

- ensure development outcomes are not delayed due to third party merit reviews, providing greater certainty and confidence for businesses and industry investing their time and money to undertake development in the Northern Territory.
- reduce misuse of the review process as a tool to undermine the integrity of regulatory decision-making or influence public views about the rigor and effectiveness of assessment and approval processes.

While it is not possible to predict the number of third party merits review applications that may have been avoided as a result of the reforms, the Territory's prior experience highlights the potential for such reviews to continue disrupting development if left unaddressed.

The amendments do not alter a person's right to a judicial review. In addition, interested parties retain the ability to make submissions during legislated notification processes, with most planning applications subject to a notification period that can include signage displayed on site and full publication of the application on the Department website. Submitters are invited to participate in the hearing when the application is considered and are provided with the written decision which includes detailed reasons and addresses the specific matters to consider as is detailed at Section 51 of the *Planning Act 1999* (such as matters raised in submissions, the NT Planning Scheme, amenity, the public interest, etc).

Alignment to FFA Objective

The removal of third-party merits review contributes to Objective 1.a) by reducing red tape, removing the risk of competitors or interest groups delaying development through the planning system, reducing risks and unnecessary costs to developers, provides confidence in project delivery following a development application determination, and brings consumer benefits sooner.