

NORTHERN TERRITORY OF AUSTRALIA

PLANNING REGULATIONS

As in force at 30 September 2005

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 30 September 2005

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## PLANNING REGULATIONS

### Regulations under the *Planning Act*

#### **Part 1 Preliminary matters**

##### **1 Citation**

These Regulations may be cited as the *Planning Regulations*.

##### **2 Commencement**

These Regulations come into operation on the commencement of the *Planning Act*.

##### **3 Exempt subdivisions**

For the purposes of paragraph (h) of the definition of **subdivision** in section 5(2) of the Act, the following subdivisions are prescribed:

- (a) subdivisions within Northern Territory Portions 1192 and 1316;
- (b) a subdivision of a parcel of land for the purposes of enabling a trunk railway line to be constructed, if all the parts of the parcel that are not acquired for the purposes of the trunk railway line remain one parcel;
- (c) subleases within Northern Territory Portion 1478;
- (d) areas of land proposed for the development or use of, or being developed or used for, the following:
  - (i) an onshore gas plant near Wadeye community and a gas pipeline between the gas plant and the coastline in that locality;
  - (ii) a gas pipeline from Wadeye to Gove.

## **Part 2                      Development provisions generally**

### **4                      Notice of decision relating to exceptional development permit**

For section 40(7) of the Act, the following details must be included in the notice of a decision relating to an application for the grant or variation of an exceptional development permit:

- (a) the Lot, Section or Portion number of the land to which the notice relates and the street address of the land;
- (b) the zone of the land;
- (c) if the notice relates to a decision:
  - (i) to grant a permit – a brief summary of the development or use permitted under the permit; or
  - (ii) to refuse to grant a permit – a brief summary of the development or use proposed in the application; or
  - (iii) to vary a permit – a brief summary of the variation and the development or use permitted under the permit as varied; or
  - (iv) to refuse to vary a permit – a brief summary of the variation proposed in the application.

### **5                      Development application made by electronic transmission**

For section 46(2A) of the Act, a development application may be made by email, CD-ROM or other manner of electronic transmission if:

- (a) the transmission is capable of being received and processed by equipment used by the consent authority; and
- (b) the manner of transmission allows for reproduction by the consent authority of hard copies in the same format and of the same quality as the original document, including colour reproduction if applicable.

### **6                      Public notice of development application**

- (1) For the purposes of section 47(1) of the Act, the public are to be notified of a development application by:
  - (a) the publication of a notice in accordance with regulation 7 in a newspaper circulating in the Territory generally or in an area in which is situated the land to which the notice relates; and

- (b) the placement on or in the vicinity of the land of the number of notices in accordance with regulation 7 that the consent authority thinks fit, for the whole of the period specified in the notice in accordance with regulation 7(f).
- (2) Notice is not required to be placed on land in accordance with subregulation (1)(b) if in the opinion of the consent authority:
    - (a) it is impractical to comply with the subregulation because of the location of the land; and
    - (b) the notice placed in a newspaper under subregulation (1)(a) is such that all persons likely to be affected by the development to which the development application relates could reasonably be expected to have notice of it.
  - (3) Notice is not required to be placed on land in accordance with subregulation (1)(b) if the development application is made only in respect of a sign.
  - (4) Notice is not required under subregulation (1) if:
    - (a) the development application is made so as to enable premises to be used for the short-term accommodation of victims of domestic violence or rape or for the provision of other similar services; and
    - (b) the consent authority is of the opinion that if the application were approved, notice under subregulation (1) would be likely to compromise the safety of the intended future inhabitants of the premises.
  - (5) In the case of a development application to which subregulation (4) applies, notice is to be given in writing to:
    - (a) the owner and the occupier of each parcel of land adjoining the land to which the application relates;
    - (b) if the land to which the application relates adjoins a public road – the 3 parcels of land closest to, and on the opposite side of the road to, the land; and
    - (c) other persons, if any, that the consent authority thinks ought to be notified of the development application.
  - (6) The notice to be placed on land in accordance with subregulation (1)(b) is to be of sufficient size and so placed that a person with normal unimpaired eyesight is able, without optical assistance, to read it from the boundary of the public road nearest to the land.

**7 Form of public notice**

A notice for the purposes of section 47(1) of the Act of a development application is to contain the following information:

- (a) the Lot, Section or Portion number of the land to which the development application relates and the street address of the land;
- (b) the current zone in relation to the land;
- (c) the name of the person in whose name the development application was lodged;
- (d) a brief summary of the proposal set out in the development application;
- (e) the place where the development application is to be exhibited;
- (f) the period, beginning on the date on which the notice is first published in the newspaper under regulation 6(1)(a) and ending on a date specified in the notice that is not earlier than 14 days after the date of publication of the notice, during which a submission in relation to the development application may be made;
- (g) the place at which a submission in relation to the development application may be lodged.

**8 Notice not to be removed before end of exhibition period**

A person must not remove a notice placed on land in accordance with regulation 6(1)(b) until after the end of the period specified in the notice under regulation 7(f).

Penalty: 10 penalty units.

**Part 3 Developer contributions****9 Definition of *infrastructure***

For the purposes of the definition of ***infrastructure*** in section 67 of the Act, the construction of motor vehicle carriageways and stormwater drains are prescribed.

**10 Declaration of matters by service authorities**

A declaration for the purposes of section 73(1) of the Act by a service authority that is the Territory is to be made by instrument in writing signed by the Minister with primary responsibility for the provision of infrastructure of the type provided by the service authority.

**11 Prescribed rate of interest**

For the purposes of section 73(2)(b)(i) of the Act, the prescribed rate of interest is 1% higher than the standard overdraft rate set from time to time by the Commonwealth Bank.

**Part 4 Appeals****12 Definitions**

In this Part:

***attached dwellings*** includes cluster dwellings, multiple dwellings and flats.

***detached dwelling*** includes single dwelling.

***non-residential use*** means a use specified in Schedule 1, Part A.

***Plan*** has the meaning in regulation 13.

***planning control provision*** means a provision referred to in section 9(1)(b) of the Act that is included in a Plan.

***residential zone*** has the meaning in regulation 14.

**13 Plans**

- (1) A Plan is a document, specified in Schedule 2, column 1, containing provisions of a planning scheme applicable to the area of land described in the document or in a map or plan referred to in the document.
- (2) A reference to a Plan is a reference to the Plan as in force from time to time.

**14 Residential zones**

- (1) A residential zone, in relation to a Plan, is a zone specified in Schedule 2, column 2 opposite the Plan.

- (2) A residential zone is also any SU zone or SpPI zone if:
- (a) the zone is established (including by changing an existing zone) by an amendment of a planning scheme that takes effect, as notified under section 28 of the Act, after the commencement of this regulation; and
  - (b) a provision of a Plan requires the land in the zone to be developed and used predominantly for dwellings (whether attached or detached) not exceeding 2 storeys above ground level.

## **15 Circumstances when no right of third party appeal**

- (1) For section 117(4) of the Act, this regulation specifies circumstances under which there is no right of appeal under section 117 of the Act against a determination of the consent authority.
- (2) There is no right of appeal if the determination relates to the subdivision or consolidation of land.
- (3) There is no right of appeal if the determination relates to any of the following proposed developments on land to which a planning control provision applies:
- (a) a detached dwelling not exceeding 2 storeys above ground level;
  - (b) attached dwellings not exceeding 2 storeys above ground level;
  - (c) any other type of development on land in any zone except a residential zone, or on land for which no zone is specified, unless the land:
    - (i) is adjacent to land in a residential zone; or
    - (ii) is directly opposite land in a residential zone and is on the other side of a road with a reserve of 18 m or less in width;
  - (d) a non-residential use in a residential zone if the use complies with all the planning control provisions relating to the use and the consent authority, in making the determination, has not exercised any power it has in respect of the planning control provisions to vary or waive that compliance.



- (4) There is no right of appeal if the determination relates to a proposed non-residential use of land in a residential zone if:
- (a) the relevant Plan does not include any planning control provision relating to the non-residential use; and
  - (b) the proposed non-residential use complies with the criteria for the use specified in Schedule 1, Part B.

## Schedule 1

regulations 12  
definition of ***non-residential use***  
and 15(4)(b)

### PART A

#### NON-RESIDENTIAL USES

1. Bed and breakfast accommodation
2. Caravan
3. Caretaker's residence
4. Dependant unit or dependant relative unit
5. Group home
6. Child care centre
7. Home occupation
8. Medical consulting rooms

### PART B

#### CRITERIA FOR NON-RESIDENTIAL USES IN RESIDENTIAL ZONES

##### 1. Bed and breakfast accommodation

The criteria for use of a dwelling for bed and breakfast accommodation are as follows:

- (a) no more than 5 guests may be accommodated at any one time in the dwelling;
- (b) no sign may be displayed, other than a business sign of no more than 0.5 m<sup>2</sup> in area.

##### 2. Caravan

The criteria for use of a site to provide accommodation in a caravan are as follows:

- (a) the caravan must be the only one used as a residence on the site;
- (b) the caravan may be used only:
  - (i) as a temporary residence by the owner of the site; or
  - (ii) by a dependent of a person occupying a detached dwelling on the site; or
  - (iii) temporarily by a bona fide visitor; or

- (iv) by a bona fide caretaker of the land.

### **3. Caretaker's residence**

The criteria for use of a building or part of a building on a site for a caretaker's residence are as follows:

- (a) the floor area of the caretaker's residence must not exceed 50m<sup>2</sup>;
- (b) only one caretaker's residence may be on the site.

### **4. Dependant unit or dependant relative unit**

The criteria for use of a building or part of a building on a site for a dependant unit or dependant relative unit are as follows:

- (a) the floor area of the unit must not exceed 50 m<sup>2</sup>;
- (b) the unit must share public utility services and an effluent disposal system with a detached dwelling on the site;
- (c) only one unit may be on the site.

### **5. Group home**

The criterion for the use of a dwelling for a group home is that no more than 10 persons may reside in the dwelling.

### **6. Child care centre**

The criteria for the use of a dwelling for a child care centre are as follows:

- (a) no more than 15 children at any one time (including those who reside at the dwelling) may be cared for at the centre;
- (b) no sign may be displayed, other than a business sign of no more than 0.5 m<sup>2</sup> in area.

### **7. Home occupation**

The criteria for the use of a dwelling for a home occupation are as follows:

- (a) the occupation may be carried out only by persons residing in the dwelling;
- (b) the total of the floor area of the dwelling plus the other areas of the site used for the home occupation (including areas used temporarily) must not exceed 30 m<sup>2</sup>;

- (c) no sign may be displayed, other than a business sign of no more than 0.5 m<sup>2</sup> in area;
- (d) goods and equipment must not be visible from outside the site;
- (e) no more than one vehicle kept on the site may be used for the home occupation.

#### **8. Medical consulting rooms**

The criteria for use of a dwelling for medical consulting rooms are as follows:

- (a) the medical consulting service may be carried out by any persons who reside in the dwelling and no more than one person who does not reside in the dwelling;
- (b) the total area used for the medical consulting rooms (including areas used temporarily) must not exceed 30 m<sup>2</sup>;
- (c) no sign may be displayed, other than a business sign of no more than 0.5 m<sup>2</sup> in area.

regulations 13(1) and 14(1)

**Schedule 2****PLANS AND RESIDENTIAL ZONES**

<b>Column 1 Plans</b>	<b>Column 2 Residential Zones</b>
<b>Provisions of NT Planning Scheme</b>	
Alice Springs Town Plan 1992	R0, R1, R2, R3, RL1, SU1, SU6, SU8, SU9, SU20, SU22
Batchelor Town Plan 1981	RL, RM
Borroloola Town Plan 1984	R
Darwin Town Plan 1990	R0, R1, R2, R3, R4, R6, SU1, SU2, SU3, SU4, SU12, SU35, SU40, SU42, SU44, SU46, SU49, SU50, SU51, SU52, SU53, SU54, SU59
Katherine Town Plan 1981	R1, R2, R3, R4, S2  SpPI Katherine East residential subdivision  SpPI Victoria Highway hostel
Litchfield Area Plan 2004	RR
Namarada Area Plan 1990	L1, L2
Palmerston Town Plan 1982	D1, D2, D3, D4, SU2, SU4, SU5, SU7
Tennant Creek Control Plan 1998	R1, R2, CL
<b>Provisions of Jabiru Planning Scheme</b>	
Jabiru Town Plan 1981	Residential Zone

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**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

**2****LIST OF LEGISLATION*****Planning Regulations (SL No. 16, 2000)***

Notified	12 April 2000
Commenced	12 April 2000

***Amendment of Planning Regulations (SL No. 9, 2004)***

Notified	31 March 2004
Commenced	31 March 2004

***Planning Amendment (Exempt Subdivisions) Regulations 2005 (SL No. 11, 2005)***

Notified	18 May 2005
Commenced	18 May 2005

***Planning Amendment (Miscellaneous Matters) Regulations 2005 (SL No. 32, 2005)***

Notified	21 September 2005
Commenced	30 September 2005 (r 2, s 2 <i>Planning Amendment Act 2005</i> (Act No. 12, 2005) and <i>Gaz G39</i> , 28 September 2005, p 4)

**3****LIST OF AMENDMENTS**

pt 1 hdg	ins No. 32, 2005, r 4
r 3	amd No. 9, 2004; No. 11, 2005, r 3
pt 2 hdg	ins No. 32, 2005, r 5
rr 4 – 5	sub No. 32, 2005, r 6
r 6	amd No. 32, 2005, r 7
r 8	amd No. 32, 2005, r 8
pt 3 hdg	ins No. 32, 2005, r 9
pt 4 hdg	ins No. 32, 2005, r 10
rr 12 – 15	ins No. 32, 2005, r 10
sch 1 – 2	ins No. 32, 2005, r 10