

# NORTHERN TERRITORY OF AUSTRALIA

## PLANNING REGULATIONS

As in force at 1 May 2014

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 May 2014

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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

- (1) 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;
  - (e) land on which there is telecommunications infrastructure used, or proposed to be used, for the national broadband network.

- (2) In this regulation:

***national broadband network***, see section 5 of the *National Broadband Network Companies Act 2011* (Cth).

***telecommunications infrastructure*** means telecommunications infrastructure, whether constructed before or after the commencement of subregulation (1)(e).

### 3A Further exempt subdivisions

- (1) The subdivisions mentioned in subregulation (2) are also prescribed for paragraph (h) of the definition of ***subdivision*** in section 5(2) of the Act.
- (2) Subdivisions comprising leases granted after the commencement date and before 30 June 2018 over Aboriginal land:
- (a) to the Chief Executive Officer (Housing); or
- (b) to another body established under a law of the Territory.

*Example of a body established under a law of the Territory*

*The Power and Water Corporation established by section 4 of the Power and Water Corporation Act.*

- (3) In subregulation (2):

***Aboriginal land***, see section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

***commencement date*** means the day on which the *Planning Amendment Regulations (No. 2) 2009* commence.

***Chief Executive Officer (Housing)***, see section 6 of the *Housing Act*.

## 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.

## **5A Concurrent application and development application in relation to scheme land**

- (1) For sections 30C(4)(j)(iii) and 46(3)(l)(iii) of the Act, the following information about the development must be specified in the plan:
  - (a) details of each exclusive use by-law that applies, or will apply, to any part of the scheme land;
  - (b) if the scheme is intended to be developed progressively:
    - (i) the boundaries of the scheme land affected by each stage of the development; and
    - (ii) a statement of the broad concepts for the implementation of each stage.
- (2) In this regulation:

***exclusive use by-law***, see section 97(1) of the *Unit Title Schemes Act*.

*intended to be developed progressively*, in relation to a scheme, see section 64(1) and (2) of the *Unit Title Schemes Act*.

*stage*, see section 5 of the *Unit Title Schemes Act*.

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

- (1) For the purposes of section 47 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.
- (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 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).

Maximum penalty: 10 penalty units.

## **8A Development applications not requiring public notice**

- (1) For section 47A(1)(b) of the Act, no public notice is required to be given in relation to the use of land for the accommodation of the following (who are specified as people requiring privacy):
  - (a) people requiring protection, such as victims of rape or domestic violence;
  - (b) people at risk of harm who are under the care and protection of an organisation (including a government agency) providing community welfare services.

- (2) For section 47A(1)(c) of the Act, no public notice is required to be given in relation to the following development (which is specified as development that will not have a significant impact on the existing and future amenity of the area in which the development will be carried out):
- (a) development on land on which a single dwelling has been built, or is to be built, if:
    - (i) a planning scheme or interim development control order allows the development without consent subject to compliance with performance criteria; and
    - (ii) consent is required only because the development will not fully comply with performance criteria relating to the distance between the dwelling, or a structure ancillary to the dwelling, and a boundary of the land (the *affected boundary*); and
    - (iii) the affected boundary does not adjoin a public thoroughfare;
  - (b) development on land zoned for industrial use if:
    - (i) a planning scheme or interim development control order allows the development without consent but includes performance criteria relating to the development; and
    - (ii) consent is required only because the development will not fully comply with the performance criteria; and
    - (iii) the land does not adjoin a residential zone;
  - (c) a subdivision under the *Unit Titles Act* or for the purposes of the *Unit Title Schemes Act*, other than a subdivision of vacant land.
- (3) In this regulation:

*performance criteria* means restrictions or conditions relating to the use or development of land that are imposed under a provision of a planning scheme or an interim development control order.

*residential zone*, see regulation 13.

**8B Persons to be notified privately**

- (1) If a development application relates to development mentioned in regulation 8A(1), written notice of the application must be served on the following persons:
  - (a) the owner of each parcel of land adjoining the relevant land;
  - (b) if the relevant land adjoins a public thoroughfare – the owner of each of the 3 parcels of land closest to and on the opposite side of the thoroughfare to the relevant land;
  - (c) if the consent authority is giving notice – any other person it considers should be notified of the application;
  - (d) if the consent authority requires the applicant to give notice – any other person the consent authority considers should be notified of the application and has directed the applicant to notify.
- (2) If a development application relates to development mentioned in regulation 8A(2)(a), written notice of the application must be served on the following persons:
  - (a) the owner of the parcel of land adjoining the affected boundary of the relevant land;
  - (b) if the consent authority is giving notice – any other person it considers should be notified of the application;
  - (c) if the consent authority requires the applicant to give notice – any other person the consent authority considers should be notified of the application and has directed the applicant to notify.
- (3) For section 47A(3)(d) of the Act, the notice must include the following information:
  - (a) the Lot, Section or Portion number and street address of the relevant land;
  - (b) the current zone of the relevant land;
  - (c) the name of the person in whose name the development application is made.
- (4) In this regulation:

***relevant land*** means the land on which it is proposed to carry out development mentioned in regulation 8A(1) or (2)(a).



**8C Matters to be taken into account for proposed subdivision of non-vacant land**

- (1) This regulation applies to a concurrent application or development application for a proposed subdivision of land on which a building is situated.
- (2) For section 30P(2)(o) or 51(q) of the Act, the consent authority must take into account whether parts of the building are suitable for separate ownership or occupation, having regard to the following:
  - (a) the structural integrity of the building;
  - (b) the fire safety qualities of the walls and other proposed boundaries within the building;
  - (c) if the building is situated in a part of the Territory to which Part 6 of the *Building Act* applies under section 6 of that Act – the requirements in relation to structural integrity and fire safety prescribed under that Act at the date the development application was made.

**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 Third party appeals

### 12 Definitions

In this Part:

*planning control provision* means a provision mentioned in section 9(1)(b) of the Act.

*residential zone*, see regulation 13.

### 13 Residential zones

- (1) A zone in land to which the NT Planning Scheme applies is a residential zone if it is specified in the planning scheme, or in a map to which the planning scheme refers, as one of the following:
  - (a) SD – Single Dwelling Residential;
  - (b) MD – Multiple Dwelling Residential;
  - (c) MR – Medium Density Residential;
  - (d) HR – High Density Residential;
  - (e) CV – Caravan Parks;
  - (f) CL – Community Living;
  - (g) RR – Rural Residential.
- (2) Each of the following specific use zones in the NT Planning Scheme is a residential zone:
  - (a) SA2;
  - (b) SD1, SD8, SD10, SD11, SD12, SD13, SD17, SD19, SD20 and SD21;
  - (c) SK1 and SK3;
  - (d) SP2, SP3 and SP4.
- (3) A zone in land to which the Jabiru Town Plan applies is a residential zone if it is specified in the planning scheme, or in a map to which the planning scheme refers, as a Residential Zone.

*Note for subregulation (3)*

*Under section 184 of the Act, the Jabiru Town Plan is taken to be a specific planning scheme.*

- (4) A zone specified as a specific use zone in a planning scheme, or in a map to which the planning scheme refers, is a residential zone if:
- (a) the zone is established (including by changing an existing zone) by an amendment of the planning scheme that takes effect after the commencement of this regulation; and
  - (b) a provision of the planning scheme requires the land in the zone to be developed and used predominantly for dwellings not exceeding 2 storeys above ground level.

#### **14 NT Planning Scheme – when no right of third party appeal**

- (1) 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 relating to development on land to which the NT Planning Scheme applies.
- (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 single dwelling or multiple dwelling not exceeding 2 storeys above ground level;
  - (b) setbacks for a single dwelling;
  - (c) any other type of development on land in a residential zone if it complies with all the planning control provisions relating to the development;
  - (d) any other type of development on land that is not in a residential zone, or 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.

#### **15 Jabiru Town Plan – when no right of third party appeal**

- (1) 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 relating to development on land to which the Jabiru Town Plan applies.

- (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, attached dwellings or flats not exceeding 2 storeys above ground level;
  - (b) setbacks for a detached dwelling;
  - (c) any other type of development on land in a residential zone if it complies with all the planning control provisions relating to the development;
  - (d) any other type of development on land that is not in a residential zone, or 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.

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**ENDNOTES**
**1 KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
<i>Gaz</i> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = 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</i> G39, 28 September 2005, p 4)

***Planning Amendment (Third Party Appeals) Regulations 2006* (SL No. 45, 2006)**

Notified	20 December 2006
Commenced	1 February 2007 ( <i>Gaz</i> S1, 1 February 2007)

***Planning Amendment (Development Applications) Regulations 2008* (SL No. 5, 2008)**

Notified	23 April 2008
Commenced	1 July 2008 (r 2, s 2 <i>Planning Amendment (Development Applications) Act 2008</i> (Act No. 4, 2008) and <i>Gaz</i> S32, 1 July 2008)

***Planning Amendment Regulations 2009* (SL No. 24, 2009)**

Notified	26 June 2009
Commenced	1 July 2009 (r 2, s 2 <i>Unit Title Schemes Act 2009</i> (Act No. 14, 2009) and <i>Gaz</i> S30, 26 June 2009, p 1)

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***Planning Amendment Regulations (No. 2) 2009 (SL No. 25, 2009)***

Notified 26 June 2009  
 Commenced 26 June 2009

***Planning Amendment (Exempt Subdivisions) Regulations 2011 (SL No. 57, 2011)***

Notified 20 December 2011  
 Commenced 20 December 2011

***Penalties Amendment (Miscellaneous) Act 2013 (Act No. 23, 2013)***

Assent date 12 July 2013  
 Commenced 28 August 2013 (*Gaz* G35, 28 August 2013, p 2)

***Planning Amendment Regulations 2013 (SL No. 47, 2013)***

Notified 19 December 2013  
 Commenced 19 December 2013

***Planning Amendment Regulations 2014 (SL No. 12, 2014)***

Notified 16 April 2014  
 Commenced 1 May 2014 (r 2, s 2 *Planning Amendment (Concurrent Applications) Act 2014* (Act No. 8, 2014) and *Gaz* G17, 30 April 2014, 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; No. 57, 2011, r 3
r 3A	ins No. 25, 2009, r 3 amd No. 47, 2013, r 3
pt 2 hdg	ins No. 32, 2005, r 5
rr 4 – 5	sub No. 32, 2005, r 6
r 5A	ins No. 24, 2009, r 4 amd No. 12, 2014, r 4
r 6	amd No. 32, 2005, r 7; No. 5, 2008, r 5
r 7	amd No. 5, 2008, r 5
r 8	amd No. 32, 2005, r 8; Act No. 23, 2013, s 12
r 8A	ins No. 5, 2008, r 4 amd No. 24, 2009, r 5
r 8B	ins No. 5, 2008, r 4
r 8C	ins No. 24, 2009, r 6 amd No. 12, 2014, r 5
pt 3 hdg	ins No. 32, 2005, r 9
pt 4 hdg	ins No. 32, 2005, r 10 sub No. 45, 2006, r 4
r 12	ins No. 32, 2005, r 10 sub No. 45, 2006, r 4
r 13	ins No. 32, 2005, r 10 sub No. 45, 2006, r 4 amd No. 5, 2008, r 5
rr 14 – 15	ins No. 32, 2005, r 10 sub No. 45, 2006, r 4
sch 1 – 2	ins No. 32, 2005, r 10 rep No. 45, 2006, r 5