

NORTHERN TERRITORY OF AUSTRALIA

PLANNING REGULATIONS

As in force at 28 July 2016

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 28 July 2016

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) areas of land on which there is, or there is proposed to be, telecommunications infrastructure;

(f) subdivisions comprising leases of land for the purpose of commercial forestry.

(2) In this regulation:

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; or

(c) to Indigenous Essential Services Pty Ltd ACN 105 269 636.

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:

(a) for regulation 3A(2)(a) and (b) – the day on which the *Planning Amendment Regulations (No. 2) 2009* commenced; and

(b) for regulation 3A(2)(c) – the day on which section 4 of the *Planning Legislation Amendment Act 2016* commenced.

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

3B Exempt consolidation

(1) For section 3(1) of the Act, definition **consolidation**, paragraph (e), a consolidation effected by the creation of an indefeasible title under section 54G(3)(d) of the *Land Title Act* following the termination of a development under the Termination Act is prescribed.

(2) In this regulation:

development, see section 4(1) of the Termination Act.

termination, see section 4(1) of the Termination Act.

Termination Act means the *Termination of Units Plans and Unit Title Schemes 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 application for review

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 application for review

- (1) This regulation specifies circumstances under which there is no right of review 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 review if the determination relates to the subdivision or consolidation of land.

- (3) There is no right of review 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 application for review

- (1) This regulation specifies circumstances under which there is no right of application for review 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 application for review if the determination relates to the subdivision or consolidation of land.
- (3) There is no right of application for review 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.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

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)

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

Notified	20 December 2006
Commenced	1 February 2007 (<i>Gaz S1</i> , 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 S32</i> , 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 S30</i> , 26 June 2009, p 1)

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)

Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No. 2) Act 2014 (Act No. 35, 2014)

Assent date 13 November 2014
 Commenced pts 4, 9, 10 and 19: 1 June 2015 (Gaz S53, 29 May 2015, p 2); rem: 1 January 2015 (Gaz G51, 24 December 2014, p 7)

Planning Amendment Regulations 2015 (SL No. 23, 2015)

Notified 7 October 2015
 Commenced 7 October 2015

Planning Amendment (Forestry) Regulations 2015 (SL No. 38, 2015)

Notified 23 December 2015
 Commenced 23 December 2015

Planning Legislation Amendment Act 2016 (Act No. 29, 2016)

Assent date 13 July 2016
 Commenced 28 July 2016 (Gaz S76, 28 July 2016)

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; No. 23, 2015, r 3; No. 38, 2015, r 3
r 3A	ins No. 25, 2009, r 3 amd No. 47, 2013, r 3; Act No. 29, 2016, s 14
r 3B	ins No. 23, 2015, r 4
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

ENDNOTES

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 amd Act No. 35, 2014, s 143
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 amd Act No. 35, 2014, s 143
sch 1 – 2	ins No. 32, 2005, r 10 rep No. 45, 2006, r 5