

THE NORTHERN TERRITORY OF AUSTRALIA

PLANNING ACT
No. 48 of 1979
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SCHEDULE

THE NORTHERN TERRITORY OF AUSTRALIA

No. 48 of 1979

AN ACT

To provide for the Planning and Control of the
Use and Development of Land

[Assented to 14 May 1979]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART I - PRELIMINARY

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 1. This Act may be cited as the <u>Planning Act 1979</u> . | Short title |
| 2. The several parts of this Act shall come into operation on such dates as are respectively fixed by the Administrator by notice published in the <u>Gazette</u> in relation to those parts. | Commencement |
| 3. The Acts specified in the Schedule are repealed. | Repeal |
| 4.(1) In this Act, unless the contrary intention appears - | Interpretation |
| "Appeals Committee" means the Planning Appeals Committee established under section 119; | |
| "Authority" means the Northern Territory Planning Authority established under section 7; | |
| "building" includes any structure or part of a structure; | |
| "consent authority" means - | |
| (a) in relation to a development application -
the person specified as the consent authority in respect of that development application by the planning instrument which applies to the land the subject of the application; and | |

Planning

(b) in relation to a subdivision application -

- (i) if the subdivision cannot be carried out except in accordance with a consent granted under Part VI - the person empowered to grant that consent;
- (ii) if the subdivision is a subdivision of freehold land other than freehold land referred to in section 81(2)(a) or (3) - the Minister; and
- (iii) in any other case - the Authority;

"control", in relation to development, means regulate, restrict or prohibit the development;

"development", in relation to land, means an activity which involves -

- (a) a change in the use of that land;
- (b) the subdivision of that land;
- (c) the carrying out of works on or in relation to that land;
- (d) the erection of buildings on that land;
- (e) the cutting down, topping or lopping of trees on that land;
- (f) the demolition or destruction of buildings or works on that land; or
- (g) the removal of materials, substances or things from that land;

"development application" means an application made under Part VI for consent to the use or development of land;

"employee" means an employee within the meaning of the Public Service Act;

"environmental impact statement", in relation to development, means a document -

- (a) describing that development;
- (b) containing a statement of the objectives of that development;
- (c) describing the environment that is likely to be affected by that development;
- (d) containing an analysis of the effect that each aspect of that development is likely to

Planning

have on each element of the environment;

- (e) describing the measures intended to be taken (and the reasons for their selection) to protect the environment;
- (f) containing a statement of any other means of protecting the environment; and
- (g) containing an assessment of the beneficial effects, the detrimental effects and the overall effect that that development if carried out, and that the failure to carry out that development, would have on each element of the environment;

"erect", in relation to a building, includes -

- (a) to perform structural work on, or make any alteration or addition to, that building;
- (b) to rebuild the building; and
- (c) to move the building from one position on land to -
 - (i) another position on that land; or
 - (ii) other land;

"explanatory document", in relation to a planning instrument, means a document setting out -

- (a) the aims and objectives sought to be achieved through the planning instrument;
- (b) the policies which have been or are proposed to be adopted to achieve those aims and objectives; and
- (c) the manner in which the planning instrument and those policies will be implemented to achieve those aims and objectives;

"function" includes a power, duty or authority;

"land" includes buildings erected on land;

"local area" means a municipality or a community government area within the meaning of the Local Government Act;

"local authority" means a council or community government council within the meaning of the Local Government Act;

"municipality" means a municipality within the meaning of the Local Government Act;

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"owner", in relation to land held under a lease from the Territory, means the lessee of that land;

"planning instrument" means a regional plan or a town plan made under section 61;

"regional plan" means a planning instrument that applies, either wholly or substantially, to land which is not in a municipality or town;

"Registrar-General" means the Registrar-General for the purposes of the Real Property Act;

"statutory corporation" means a person who is -

(a) a statutory corporation to which the Financial Administration and Audit Act applies; or

(b) a minister;

"subdivision", in relation to land, means an activity which involves -

(a) the rendering of separate parts of the land available for separate occupation or use; or

(b) the consolidating of parcels of land into one or more allotments,

but does not include a subdivision prescribed by the regulations to be an excluded subdivision;

"subdivision application" means an application made under Part V for consent to the subdivision of land;

"subdivision works" includes -

(a) the forming or laying out of roads and footpaths; and

(b) the construction of flood mitigation works, drains, kerbs, gutters, means of access to lots and electricity supply, water supply and sewerage facilities;

"Supreme Court" means the Northern Territory Supreme Court constituted under the Northern Territory Supreme Court Act 1961 of the Commonwealth;

"Surveyor-General" means the person appointed as Surveyor-General under section 4 of the Licensed Surveyors Act;

Planning

"town" means -

- (a) a town within the meaning of the Crown Lands Act;
- (b) a municipality; or
- (c) land specified by the regulations to be an area which is to be treated as a town;

"town plan" means a planning instrument that applies, either wholly or substantially, to land which is in a municipality or a town;

"Tribunal" means the Lands Acquisition Tribunal constituted under the Lands Acquisition Act;

"work" means any operation in relation to land, and includes mining.

(2) Land is not subdivided by the grant of a lease, licence or other right to occupy or use a part of that land unless the lease, licence or other right is for a term exceeding 5 years.

(3) For the purposes of sub-section (2), a lease, licence or other right to occupy or use a part of land which contains -

- (a) an option to renew the lease, licence or right for an additional term from the date of expiration of the lease, licence or right; or
- (b) a provision for the granting of a further lease, licence or right for an additional term from the date of expiration of the lease, licence or right,

such that the aggregate of all the terms referred to in this sub-section exceeds 5 years, is a lease, licence or right for a term exceeding 5 years.

5. This Act binds the Crown.

Act to bind
Crown

PART II - NORTHERN TERRITORY PLANNING AUTHORITY

6. In this Part -

Definitions

"Chairman" means the person appointed as Chairman of the Authority under section 17(1)(a);

"Deputy Chairman" means the person appointed as Deputy Chairman of the Authority under section 17(1)(b);

"local member" means a member appointed under section 11;

Planning

"member" means the Chairman or Deputy Chairman of the Authority, or a person appointed as a member of the Authority;

"Territory member" means a member appointed under section 9.

Northern Ter-
ritory Plan-
ning Authority

7.(1) There is established an authority which shall be known as the Northern Territory Planning Authority.

(2) The Authority is -

(a) a body corporate with perpetual succession and a common seal; and

(b) capable, in its corporate name, of -

(i) acquiring, holding and disposing of real and personal property; and

(ii) suing and being sued.

(3) The Authority is, in the performance of any of its functions (except in relation to the contents of the report or recommendation made to the Minister), subject to the control and direction of the Minister.

Judicial
notice of
common seal

8. All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

Territory
members

9. The Minister may appoint a person to be a Territory member.

Planning
areas

10. The Minister may, by notice published in the Gazette, specify any land to be a planning area.

Local
members

11. Subject to this Act, the Minister may appoint a person to be a local member in respect of -

(a) a planning area; or

(b) a local area.

Members

12. The Authority consists of -

(a) 3 Territory members; and

(b) 4 local members in respect of each planning area or local area.

Local members
to act for
planning or
local areas

13. Members appointed under section 12(b) shall not act as members in relation to land outside the planning area or local area, as the case may be, in respect of which they were appointed as members.

Nominations for

14.(1) Upon a vacancy occurring in the office of

Planning

a local member appointed in respect of a local area, the local authority of the local area may nominate a number of persons that does not exceed by 2 the number of vacancies in respect of that local area.

Local members

(2) The Minister shall appoint, from the persons nominated under sub-section (1), a number of persons that does not exceed the number nominated by the local authority less 2 to be members.

15. The performance of a function by the Authority is not invalid by reason only of there being a vacancy in the membership of the Authority.

Vacancy not
to invalidate

16.(1) Where -

Temporary
vacancies

(a) there is, or is expected to be, a vacancy in the office of a member; or

(b) a member is, or is expected to be, absent or unable to act,

the Minister may, by instrument in writing, authorize a person to act in the office of that member.

(2) The power of the Minister under sub-section (1) includes the power to authorize a person to act in the office of a member from time to time during the absence or inability to act of the member.

(3) This Act applies to and in respect of a person who is authorized under this section to act in an office, while he is so acting, as though he were the holder of that office.

17.(1) The Minister shall appoint -

Chairman and
Deputy Chair-
man

(a) a Territory member to be Chairman; and

(b) a Territory member to be Deputy Chairman.

(2) The Deputy Chairman has and may exercise all the functions of the Chairman during the absence or inability to act of the Chairman.

18. An appointment under section 9, 11 or 17 shall be notified in the Gazette and shall take effect from -

Method of
appointment

(a) the date of publication of the notification; or

(b) if there is a later date specified in the notification - that later date.

19. The appointment of a person as a member is not invalid by reason only of a defect or irregularity in or in connexion with the nomination of that person.

Defects not
to invalidate

Planning

Term of
office

20. Subject to this Act, a member holds office for 3 years but is eligible for reappointment.

Removal from
office

21.(1) The Minister may remove a member from office if the member is, in the opinion of the Minister, guilty of misbehaviour or incompetence.

(2) The Minister shall remove a member from office if the member -

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(b) is the subject of an order under section 7(2) of the Mental Defectives Act.

(3) The Minister shall remove a member from office if the member -

(a) was, at the time of his appointment, an alderman or member of a local authority;

(b) was nominated under section 14(1) by the local authority of which he was an alderman or a member; and

(c) has, since his appointment, ceased to hold office as an alderman or member of the local authority which nominated him under section 14(1),

and the local authority has requested the Minister to remove the member from office.

(4) A member may resign his office by writing under his hand delivered to the Minister.

Confident-
iality

22. A member of the Authority or a committee of the Authority or an employee shall not disclose any information obtained in the course of his duties as such a member or employee unless that disclosure is made in the course of his duty as such a member or employee.

Penalty: \$3,000 or imprisonment for 3 months.

Direct, &c.,
interests

23.(1) If a member has a direct or indirect interest in any matter -

(a) which is the subject of consideration at a meeting of the Authority or a committee of the Authority; or

(b) in which the Authority is concerned,

he shall, as soon as possible after he knows that he

Planning

has the interest and that the Authority is considering the proposal, disclose his interest to the Authority.

Penalty: \$1,000.

(2) The Authority may direct a member who has disclosed an interest in a matter under sub-section (1) to refrain from taking part in the deliberations of the Authority in relation to that matter, and the member shall comply with the direction.

Penalty: \$1,000.

(3) A member required under sub-section (2) to refrain from taking part in the deliberations of the Authority shall be disregarded for the purpose of determining whether a quorum has been formed.

24. For the purposes of section 23, a member who -

Direct, &c.,
interests in
companies

(a) is a member of the governing body of, or is a substantial shareholder within the meaning of section 69C of the Companies Act in; or

(b) has a relevant interest within the meaning of section 6A of that Act in,

a company which has a direct or indirect interest in a matter has a direct or indirect interest in the matter.

25.(1) Subject to sub-section (2), the Authority and each committee of the Authority shall hold such meetings as the Chairman considers necessary for the efficient conduct of their affairs.

Meetings

(2) The Chairman shall, within 28 days of receiving a written notice signed by not less than 2 members requiring a meeting of the Authority to be held, call a meeting of the Authority.

26. Subject to this Act, the procedure for -

Procedure

(a) calling meetings; and

(b) the conduct of meetings of the Authority and of committees of the Authority,

shall be as determined from time to time by the Chairman.

27. The Authority shall cause minutes to be kept of all meetings of the Authority and committees of the Authority.

Minutes

28.(1) At a meeting of the Authority 4 members form a quorum.

Quorum

Planning

(2) At a meeting of the Authority or a committee of the Authority -

- (a) all questions shall be decided by a majority of the members or members of the committee, as the case may be, present; and
- (b) the Chairman or, if he is not present, the Deputy Chairman, has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Protection of members, &c.

29. A member or person acting with the authority of the Authority is not personally liable in respect of any matter or thing done, or contract entered into -

- (a) by the Authority; or
- (b) by that person,

if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act or any other Act conferring or imposing functions on the Authority.

Fees and expenses

30. Subject to this Act, members other than employees shall be paid, in respect of their services as members, such fees, allowances and expenses, and at such rates, as the Administrator may determine.

Committees

31.(1) The Authority may establish committees for the purposes of advising the Authority upon such matters related to planning as may be referred to such committees by the Authority.

(2) A person may be appointed to a committee of the Authority whether or not he is a member.

Functions

32.(1) The functions of the Authority are -

- (a) to submit to the Minister such proposals or policies -
 - (i) for the use or development of land; or
 - (ii) with regard to planning,as it considers necessary or appropriate;
- (b) to consider and furnish reports to, and advise or make recommendations to, the Minister upon any proposal or policy of the type referred to in paragraph (a) whether prepared by it or not;
- (c) to assist effective co-ordination of the activities of statutory corporations and local authorities relating to planning;

Planning

- (d) to advise and assist statutory corporations and local authorities upon all matters concerning planning; and
- (e) to exercise and discharge any other function conferred or imposed on it by or under any Act.

(2) The Authority has power to do such supplemental, incidental and consequential acts as may be necessary or expedient for the performance of its functions.

33.(1) The Authority may, from time to time, by resolution delegate such of its functions, other than this function of delegation, as are specified in the resolution -

Delegation

- (a) to any member of the Authority;
- (b) to any employee;
- (c) to any committee of the Authority; or
- (d) to a local authority.

(2) A delegation referred to in sub-section (1) may be made either generally or for any particular case or class of cases.

(3) A function delegated under this section may be performed by the person to whom the delegation is made in accordance with the terms of the delegation.

(4) A delegation under this section is revocable at will and does not prevent the performance of the function so delegated by the Authority.

PART III - PLANNING INSTRUMENTS

Division 1 - Contents of Planning Instruments

34.(1) A planning instrument may permit or control -

Use and
development
of land

- (a) the use of land; and
- (b) the carrying out of any development on or in relation to land.

(2) Where a planning instrument applies to land the subject of a lease from the Territory any provision or covenant in the lease for or with respect to the use to which the leased land may be put which is inconsistent with the provisions of the instrument is, to the extent of the inconsistency, revoked.

Planning

Consent
authorities

35. A planning instrument may specify the Minister or the Authority to be a consent authority in relation to -

- (a) any use or development of land; or
- (b) any category of use or development of land.

Reservation
of land

36.(1) A planning instrument may reserve land for acquisition by the Territory to implement a proposal for the use or development of that land.

(2) A planning instrument which reserves land under sub-section (1) shall contain details of the proposal under which the land, if acquired, will be used or developed.

Model
provisions

37.(1) The Minister may approve a set of model provisions for planning instruments.

(2) Notice of the approval of a set of model provisions under sub-section (1) shall be notified in the Gazette.

(3) A planning instrument may apply, adopt or incorporate, with or without modification, any set of model provisions approved under sub-section (1).

Amendment
and repeal

38. A planning instrument may amend or repeal another planning instrument.

Division 2 - Preparation of Draft Planning Instruments

Preparation and
exhibition of
draft planning
instruments

39.(1) The Minister may direct the Authority to prepare and exhibit a draft planning instrument in relation to any land.

(2) A local authority may request the Authority to prepare and exhibit a draft planning instrument in relation to any land in its local area.

(3) Any person (a local authority excepted) may request the Authority to prepare and exhibit a draft planning instrument in relation to any land.

(4) The Authority shall, upon receiving a request made in pursuance of sub-section (2) or (3), give due consideration to the request.

(5) The Authority may resolve to prepare and exhibit a draft planning instrument in relation to any land.

(6) If the Authority resolves to prepare and exhibit a draft planning instrument in pursuance of a request under sub-section (3), it may, by notice served on the person, require the person who made the request to pay to the Authority the prescribed fee, and a person served with a requirement under

Planning

this sub-section shall forthwith pay the fee to the Authority.

40. Upon receiving a direction under section 39(1) or making a resolution under section 39(5) the Authority shall -

Public notice
of decision
to prepare
draft
planning
instruments

(a) publicly exhibit in the locality to which the draft planning instrument is proposed to relate and at such other places as it thinks fit -

(i) a map showing the boundaries of the land to which the instrument is proposed to relate; and

(ii) notice of the preparation of the instrument inviting any person to make a submission to the Authority in relation to the preparation of the instrument;

(b) cause notice of the preparation of the instrument inviting any person to make a submission to the Authority in relation to the preparation of the instrument to be published not less than 4 times in a newspaper circulating in the area in which the land to which the draft planning instrument is proposed to relate is situated; and

(c) in the case of a draft planning instrument which relates to land in a local area - notify the local authority.

41. The Minister may direct the Authority to consult with any person in preparing a draft planning instrument.

Minister may
direct
consultation

42. Any person may make a submission to the Authority in relation to the preparation of a draft planning instrument.

Submissions

43.(1) The Authority shall, in preparing a draft planning instrument, consult with -

Consultation

(a) if the planning instrument relates to land within a local area - the local authority;

(b) any person with whom it has been directed to consult under section 41; and

(c) any person prescribed for the purposes of this section,

in relation to the contents of the instrument.

(2) The Authority shall, in preparing a draft planning instrument, consider -

Planning

- (a) any submission made to it under section 42;
and
- (b) the views of the persons consulted under sub-section (1).

Matters to be
taken into
account

44. The Authority shall, in preparing a draft planning instrument, have regard to the physical, environmental, economic, cultural, social and human resources available in -

- (a) the locality to which the draft planning instrument is proposed to relate; and
- (b) the Territory,

and shall, so far as practicable, ensure that the use or development of land to be authorized by or under that instrument is the best method of using those resources.

Division 3 - Exhibition of Draft Planning Instruments

Explanatory
documents

45. A draft planning instrument prepared in pursuance of this Act shall not be exhibited unless an explanatory document in relation to that instrument is also exhibited.

Reservation
of land

46. A draft planning instrument which contains provisions for the reservation of land for acquisition by the Territory to implement the proposal for the use or development of that land shall not be exhibited in pursuance of this Act unless those proposals have been approved by the Minister.

Method of
exhibition

47.(1) A draft planning instrument exhibited in pursuance of this Act shall be exhibited -

- (a) at such places in the area to which the instrument relates as the Authority thinks fit;
and
- (b) if the instrument relates to land within a local area - at the office of the local authority.

(2) The Authority shall cause notice of the exhibition of the draft planning instrument to be published -

- (a) in the Gazette; and
- (b) in a newspaper circulating in the area to which the instrument relates not less than 4 times,

during the period of exhibition of the instrument.

(3) The Authority shall take all practical steps to notify, whether by post or otherwise, within 2 days of the first day upon which a draft planning instrument

Planning

is exhibited in pursuance of this Act, each person who, after diligent inquiry, can be ascertained to have an interest in land shown as land reserved for acquisition by the Territory in that instrument, of the exhibition of the instrument.

48.(1) Subject to this section, a draft planning instrument that is exhibited in pursuance of this Act shall be exhibited for not less than 3 months.

Time of
exhibition

(2) The Minister may, if he thinks fit, approve of the time for exhibition prescribed by sub-section (1) being reduced to a period of not less than 28 days.

49.(1) Any person may make a submission to the Authority in relation to a draft planning instrument exhibited in pursuance of this Act.

Submissions

(2) A submission under sub-section (1) shall be made -

(a) in the prescribed form; and

(b) during the period during which the draft planning instrument is exhibited in pursuance of this Act.

50.(1) The Authority may invite a person who has made a submission under section 49 to appear before the Authority in support of his submission if, in its opinion, hearing that person will assist the Authority in -

Hearings

(a) assessing the suitability of the aims and objectives sought to be achieved through the draft planning instrument;

(b) assessing the suitability of the proposals contained in the draft planning instrument with respect to -

(i) the aims and objectives referred to in paragraph (a); or

(ii) any other aims and objectives;

(c) the revision of the draft planning instrument; or

(d) the preparation of its report on the draft planning instrument required by section 59(b) to the Minister.

(2) The Authority shall invite a person who has made a submission under section 49 to appear before the Authority in support of his submission if the person -

(a) is the owner of land to which the draft

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planning instrument in respect of which his submission was made relates; and

(b) in the submission -

(i) objected to the proposals in the draft planning instrument in relation to the control of the use or development of that land; and

(ii) required the submission to be dealt with under this sub-section,

and the Authority proposes to recommend to the Minister in the report required under section 59(b) in relation to that instrument that the objection in the submission be not adopted.

Division 4 - Hearing of Submissions in Relation to Reserved Land

Reference to
the Tribunal

51. The Authority shall refer to the Tribunal any submission made under section 49 by a person who -

(a) has an interest in land shown as land reserved for acquisition by the Territory in a draft planning instrument exhibited in pursuance of this Act;

(b) objects to the proposal in the draft planning instrument for the use or development of that land; and

(c) requires the objection to be heard under this Division.

Fixing of pre-
liminary hear-
ing

52.(1) The Registrar of the Tribunal shall, as soon as is reasonably practicable after receiving a submission referred to the Tribunal under section 51, fix a date, time and place for a preliminary hearing of the submission by the Chairman or Deputy Chairman of the Tribunal.

(2) The Registrar of the Tribunal shall cause notice of the preliminary hearing of a submission referred to the Tribunal under section 51 to be given to -

(a) the person who made the submission;

(b) the Minister; and

(c) the Authority.

Preliminary
hearing

53.(1) The Chairman or Deputy Chairman of the Tribunal may, at a preliminary hearing of a submission, make such orders as are necessary for the expeditious hearing of the submission.

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(2) Without limiting the generality of sub-section (1), the Chairman or Deputy Chairman of the Tribunal may make orders for or with respect to -

(a) if more than one submission has been referred to the Tribunal under section 51 in relation to a draft planning instrument -

(i) the consolidation of submissions; and

(ii) the appointment of a person or persons to represent all or some of the persons who made those submissions;

(b) public notification of the date, place and time for the hearing of the submission;

(c) the exchange of reports or other documents or proofs of evidence between persons who intend to tender those reports or documents or evidence at the hearing of the submission; and

(d) further preliminary hearings.

(3) The Chairman or Deputy Chairman of the Tribunal shall not make an order under sub-section (2)(a)(ii) without the consent of the persons who will be represented by the person appointed under ~~that~~ sub-paragraph.

(4) If the Chairman or Deputy Chairman of the Tribunal is satisfied that a submission referred to the Tribunal under section 51 is trivial or not genuine, he shall conclude the hearing of the submission and report accordingly to the Authority.

54. If the Chairman or Deputy Chairman of the Tribunal makes an order under section 53(2)(b) for the public notification of a hearing, the Registrar of the Tribunal shall cause a notice to be published in a newspaper circulating in the area to which the draft planning instrument relates, specifying -

Public notice
of hearing

(a) the date, time and place fixed for further preliminary hearings, if any; and

(b) the date, time and place fixed for the hearing of the submission.

55.(1) The provisions of Division 2 of Part II of the Lands Acquisition Act apply to hearings of submissions referred to the Tribunal under section 51 as though those hearings were pre-acquisition hearings under that Act.

Lands Acquisition Act
to apply

(2) For the purposes of sub-section (1), a reference in Division 2 of Part II of the Lands Acquisition Act to a proposal referred to the Tribunal under section 36(1) of that Act shall be read as a reference to a

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submission referred to the Tribunal under section 51.

Hearings

56.(1) Subject to this Act, the Tribunal shall conduct a hearing in relation to each submission referred to it under section 51.

(2) The Tribunal shall consider, having regard to the evidence placed before it, whether the proposal the subject of the submission referred to it under section 51 should be -

- (a) implemented by the reservation and subsequent acquisition of the land, or part of the land proposed to be reserved;
- (b) modified; or
- (c) abandoned.

(3) Without limiting the generality of the power of the Tribunal under sub-section (2), the Tribunal may consider whether the use or development of the land in the manner proposed -

- (a) is the best method of using the physical, environmental, economic, social, cultural and human resources available in the locality; and
- (b) would have a detrimental effect on the environment of the area in which the land proposed to be acquired is situated and, in particular, whether it would -
 - (i) seriously impair an area of scenic beauty;
 - (ii) destroy or adversely affect a site of architectural, historic or scientific interest;
 - (iii) create conditions seriously harmful to the conservation of flora and fauna that should, in the public interest, be preserved; or
 - (iv) affect, either directly or indirectly, persons in the neighbourhood by the emission of fumes, smoke, noise, odours, gases or other substances or by interfering with the reception or transmission of radio or television signals.

Recommendations

57.(1) The Tribunal shall, within 30 days of the conclusion of a hearing under this Division, make a recommendation to the Authority in respect of each submission or consolidated group of submissions heard by it.

(2) The Tribunal shall give written reasons for each recommendation it makes under this section.

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58. The Tribunal shall cause to be served on -

Service of
recommend-
ations

- (a) the Authority;
- (b) the Minister; and
- (c) each person who made a submission referred to it under section 51,

a copy of any recommendation, and the reasons for the recommendation, in relation to that submission.

Division 5 - Making of Planning Instruments

59. Upon the expiration of the period of exhibition of a draft planning instrument, and after the Tribunal has served its recommendations, if any, in relation to submissions referred to the Tribunal under section 52 in respect of that instrument on the Authority, the Authority shall submit to the Minister -

Submission
to Minister

- (a) the draft planning instrument and the explanatory document exhibited in pursuance of this Act;
- (b) a report on -
 - (i) the draft planning instrument; and
 - (ii) the submissions, if any, made to it under section 49; and
- (c) the recommendations, if any, made by the Tribunal under section 57.

60.(1) After considering the draft planning instrument, report and recommendation, if any, referred to him under section 59, the Minister may -

Acceptance
by Minister

- (a) accept;
- (b) subject to this section, alter, and accept as so altered; or
- (c) reject,

the draft planning instrument.

(2) If the Minister -

- (a) alters a draft planning instrument under subsection (1)(b); and
- (b) is satisfied that the alterations are so extensive as to justify the re-exhibition of the draft planning instrument,

he may refer the instrument to the Authority for re-exhibition.

Planning

(3) The Authority shall re-exhibit a draft planning instrument referred to it under sub-section (2).

(4) Subject to this section, sections 47 to 60 inclusive apply to and in relation to the re-exhibition of a draft planning instrument under sub-section (3).

(5) Sections 47(3) and 51 apply to the re-exhibition of a draft planning instrument under sub-section (3) only in relation to -

- (a) land which was not shown as land reserved for acquisition by the Territory in that instrument when previously exhibited; and
- (b) land which was shown as land reserved for acquisition by the Territory in pursuance of a different proposal for the use or development of that land in that instrument when previously exhibited.

(6) Section 49 applies in respect of a draft planning instrument re-exhibited under sub-section (3) only in relation to the alterations made under sub-section (2).

Administrator
to make
planning
instrument

61.(1) Where the Minister has accepted a draft planning instrument in relation to any land, the Administrator may make a planning instrument in relation to that land.

(2) A planning instrument shall be notified in the Gazette and shall take effect from -

- (a) the date of publication of the notification; or
- (b) if there is a later date specified in the notification - that later date.

Notice of
planning
instrument

62. The Authority shall, within 14 days of the commencement of a planning instrument -

- (a) cause notice of the commencement of the planning instrument to be published in a newspaper circulating in the area to which the planning instrument applies;
- (b) if the planning instrument applies to land in a local area - notify, and supply a copy of the planning instrument to, the local authority;
- (c) notify each person who made a submission in relation to the draft planning instrument heard under Division 4; and
- (d) notify the persons prescribed for the purposes of this section.

Planning

Division 6 - Enforcement of Planning Instruments

63. Subject to this Act, land to which a planning instrument applies shall not be used or developed otherwise than in accordance with that instrument.

Compliance
of planning
instruments

Penalty: \$5,000 and, in addition, \$100 for each day during which the person continues to contravene or fails to comply with this section.

64. The Authority may take proceedings for or with respect to enforcing or securing the observance of any provision made by or under this Act in its own name.

Authority
may enforce
planning ins-
truments

65.(1) A person (the Authority excepted) who, but for this section, would not be entitled to take proceedings for or with respect to enforcing or securing the observance of any provision made by or under this Act in his own name may take such proceedings in his own name with the leave of the Supreme Court.

Any person
may enforce
planning
instruments
with leave

(2) The Supreme Court may grant leave to take proceedings referred to in sub-section (1) on such terms and conditions as it thinks fit including terms and conditions requiring the person seeking leave to deposit with the Supreme Court such amount of money as the Court thinks fit as security -

(a) for costs; or

(b) for such damages as the person against whom the proceedings are proposed to be taken may suffer by reason of the proceedings, if the person taking the proceedings does not obtain the relief sought in the proceedings.

66. In addition to any other relief which may be granted in proceedings for enforcing or securing the observance of any provision made by or under this Act, the Supreme Court may order a person who has contravened or failed to comply with such a provision to do such work to remedy the contravention or failure to comply as is specified by the Court.

Remedial
relief

PART IV - EXISTING DEVELOPMENT

Division 1 - Protection of Existing Development

67.(1) In this Part, "former planning instrument", in relation to any land to which a planning instrument applies, means the planning instrument which applied to that land immediately before the date of commencement of the planning instrument which applies to the land.

Interpreta-
tion

Planning

(2) For the purposes of this Act, in relation to any planning instrument -

(a) a building or work is an existing building or existing work, as the case may be, if -

(i) it was in existence immediately before the date of commencement of the planning instrument; or

(ii) it is completed under section 69; and

(b) the existing use of any land, building or work is the use of the land, building or work, as the case may be, for the purpose for which it was used immediately before the date of commencement of the planning instrument.

Existing uses
protected

68.(1) Subject to sub-section (2), a person shall not be held to contravene the provisions of a planning instrument by reason only that he continues to use any land, existing building or existing work after the date of commencement of the planning instrument for its existing use.

(2) Sub-section (1) does not apply to permit the use of any land, existing building or existing work to which a former planning instrument applied for a purpose which was not authorized -

(a) by or under this Act; or

(b) by or under the former planning instrument.

Existing build-
ing work
protected

69.(1) Subject to sub-section (2), a person shall not be held to contravene the provisions of a planning instrument by reason only that he continues and completes the erection of a building or work after the date of commencement of the planning instrument if the erection of a building or work was substantially commenced before that date.

(2) Sub-section (1) does not apply to permit the continuation and completion of the erection of a building or work on land to which a former planning instrument applied if the erection of that building or work was not authorized -

(a) by or under this Act; or

(b) by or under the former planning instrument.

(3) A building or work erected under this section may be used for the purpose for which it was erected.

Abandonment
of existing
uses

70. A person is conclusively presumed to have abandoned a use of a building, work or land if he discontinues the use for a continuous period of not

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less than 12 months or such longer period as the Authority may determine under section 71.

71.(1) An application for an extension of the period of 12 months prescribed by section 70 in relation to any land, building or work to the Authority may be made -

Extension
of time

(a) by the owner of the land; or

(b) by a person authorized by the owner of the land to make the application.

(2) An application under sub-section (1) shall be -

(a) in the prescribed form; and

(b) accompanied by the prescribed fee.

72.(1) The Authority shall, in considering any application under section 71(1), take into account the matters specified in section 110(1)(a), (b), (c), (d), (e), (i) and (j).

Determination
of applications
under section
71(1)

(2) Subject to this Act, the Authority may determine an application under section 71(1) by -

(a) extending, either conditionally or unconditionally, the time prescribed by section 70 in relation to the land the subject of the application; or

(b) refusing to so extend that time.

73.(1) The Authority shall, within 14 days of determining an application under section 71(1), issue an instrument of determination to the person who made the application.

Instruments
of deter-
mination

(2) An instrument of determination issued under sub-section (1) shall indicate that a right of appeal against the determination exists.

74.(1) An applicant who is aggrieved by a decision of the Authority under section 72 may, within 28 days of receiving the instrument of determination under section 73, appeal to the Appeals Committee.

Appeals

(2) For the purposes of an appeal under this section, a reference in Division 2 of Part VII to a consent authority shall be read as a reference to the Authority.

Division 2 - Darwin Reconstruction Commission Approvals

75. In this Division -

Definitions

"approval" means an approval given by the

Planning

Commission under section 15(1) of the Commonwealth Act;

"Commission" means the Darwin Reconstruction Commission constituted under the Commonwealth Act;

"Commonwealth Act" means the Darwin Reconstruction Act 1975 of the Commonwealth.

Certificates

76.(1) The Appeals Committee may issue a certificate under this section in relation to any land in the Darwin Area within the meaning of the Commonwealth Act.

(2) A certificate under sub-section (1) shall specify -

- (a) the land to which it relates;
- (b) whether an approval was issued by the Commission in relation to that land; and
- (c) if an approval was issued - the terms of the approval.

(3) A certificate under this section is, in relation to the land to which it applies, conclusive evidence of -

- (a) the fact that an approval was or was not given, as the case may be; and
- (b) if an approval was given - the terms of that approval.

Applications for certificates

77.(1) An application for a certificate under this Division in relation to any land may be made -

- (a) by the owner of that land; or
- (b) by a person authorized by the owner of the land to make the application.

(2) An application referred to in sub-section (1) shall be -

- (a) in the prescribed form; and
- (b) accompanied by the prescribed fee.

Service of applications

78. A person who makes an application under this Division shall serve a copy of that application on the Authority.

Matters to be taken into account

79. In considering any application for a certificate under this section, the Appeals Committee shall take into account any matter which it is satisfied will assist it in determining -

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- (a) whether or not an approval was given in relation to the land the subject of the application; and
- (b) if an approval was given, the terms of that approval.

80.(1) The Appeals Committee shall give the applicant for a certificate under this Division an opportunity to be heard before it issues a certificate.

Hearings

(2) If the applicant elects to be heard under sub-section (1), the Appeals Committee shall give the Authority an opportunity to be heard before it issues a certificate.

(3) An applicant for a certificate under this Division and the Authority may be represented by a legal practitioner or agent at a hearing under sub-section (1).

PART V - SUBDIVISION

Division 1 - Preliminary

81.(1) This section applies subject to section 82.

Application

(2) This Part applies to -

- (a) land to which a planning instrument applies; and
- (b) freehold land to which a planning instrument does not apply.

(3) The Minister may, by notice published in the Gazette, apply this Part to any land other than land to which a planning instrument applies.

82. This Part does not apply to or in relation to the subdivision of land by a subdivision which is prescribed as an excluded subdivision.

Excluded subdivisions

83.(1) No person shall enter into a transaction purporting to subdivide land in contravention of this Part.

Purported subdivision prohibited

Penalty: \$5,000.

(2) A transaction purporting to subdivide land in contravention of this Part is void.

84. A person shall not subdivide land otherwise than in accordance with a copy of the plan of authorized survey relating to that subdivision deposited in the office of the Surveyor-General under section 12(3) of the Licensed Surveyors Act.

Restriction on subdivisions

85. The Surveyor-General shall not approve an

Subdivisions

Planning

not to be
deposited,
&c., without
consent

authorized survey under section 13 of the Licensed Surveyors Act in relation to a subdivision of land, and the plans of an authorized survey in relation to a subdivision of land shall not be deposited in the office of the Surveyor-General in accordance with section 12(3) of that Act, unless the Surveyor-General is satisfied that the consent of a consent authority under this Part has been given in relation to the subdivision.

Division 2 - Subdivision Applications

Who may make
application

86. A subdivision application in relation to any land may be made -

- (a) by the owner of the land; or
- (b) by a person authorized by the owner of the land to make the application.

Form of
application

87. A subdivision application shall be -

- (a) in the prescribed form; and
- (b) accompanied by the prescribed fee,

and is not made until it is lodged at the office of the consent authority.

Division 3 - Public Notice of Subdivision Applications

Prescribed
subdivision
applications

88.(1) This Division applies to subdivision applications which are specified by -

- (a) the regulations; or
- (b) a planning instrument applying to the land the subject of the application,

to be prescribed subdivision applications.

(2) A consent authority may apply this Division to any subdivision application.

Environmental
impact
statements

89. A prescribed subdivision application is not made unless it is accompanied by an environmental impact statement in relation to the subdivision.

Public notice of
prescribed
subdivision
applications

90.(1) A person who makes a prescribed subdivision application may cause notice of the application to be published in accordance with sub-section (3).

(2) A consent authority to which a prescribed subdivision application is made -

- (a) may require the person who made the application to cause notice of the application to be displayed in a prominent manner on the land the subject of the application; and

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- (b) shall not determine the application unless notice of the application has been published in accordance with sub-section (3).

(3) Notice of a prescribed subdivision application shall be published in a newspaper circulating in the area in which the land to which the application relates is situated not less than 3 times during the period of 21 days referred to in section 92.

- (4) A notice under this section shall -

- (a) be in the prescribed form; and

- (b) specify -

- (i) the nature and location of the proposed subdivision; and

- (ii) the address at which, and the period during which, submissions under section 92 may be made.

(5) If the consent authority has published notice in accordance with sub-section (3), the fee for publishing the notices required by sub-section (1) may be recovered by the consent authority to which the prescribed subdivision application is made from the person who made that application.

91. A consent authority to which a prescribed subdivision application is made shall consult with each prescribed person in relation to the subdivision application.

Consultation

92. Any person may, within 21 days of the date on which the first notice is published under section 90(1), make a submission to the consent authority in relation to the prescribed subdivision application referred to in that notice.

Submissions

Division 4 - Consent to Subdivision Applications

93. A consent authority shall, in considering a subdivision application, take into account -

Matters to
be taken
into account

- (a) the provisions of any planning instrument which applies to the land the subject of the application;
- (b) the provisions of any draft planning instrument relating to the land and exhibited in pursuance of this Act;
- (c) the size and shape of each lot in the proposed subdivision;
- (d) the use to which each lot in the proposed subdivision is proposed to be put;

Planning

- (e) whether the land the subject of the proposed subdivision is fit to be used for the purpose proposed;
- (f) whether the land the subject of the proposed subdivision is, or is likely to become, situated in a residential area;
- (g) whether land should be provided out of the land the subject of the proposed subdivision for public open space purposes;
- (h) the situation and planning of any road in relation to -
 - (i) public convenience, present and prospective; and
 - (ii) intercommunication with neighbouring localities;
- (i) the facilities available to the public in the locality;
- (j) the drainage of the land, the drains proposed to be constructed, and the drainage reserves or drainage easements proposed to be provided;
- (k) whether the land is subject to flooding or tidal inundation;
- (l) whether the land is or probably will be subject to subsidence or slip;
- (m) the length of road frontage of each lot in the proposed subdivision;
- (n) the existing and proposed means of access to each lot in the proposed subdivision;
- (o) the treatment of junctions and intersections of roads;
- (p) the character of construction of roads necessary in the circumstances, present and prospective, and the necessity for the erection of road signs as part of that construction;
- (q) whether kerbing, guttering and footpaths should be provided;
- (r) whether an electricity supply, a water supply and sewerage facilities should be provided to each lot in the proposed subdivision;
- (s) whether any trees on the land should be preserved;

Planning

- (t) if an environmental impact statement has been prepared in relation to the subdivision - the contents of that statement;
- (u) the views of any person consulted under section 91;
- (v) any submission made to the consent authority under section 92;
- (w) the existing and future amenity of the locality; and
- (x) the circumstances of the case and the public interest.

94.(1) Subject to this Act, a consent authority may determine a subdivision application -

Determinations

- (a) by granting consent, either conditionally or unconditionally, to the application;
- (b) by amending the application in such manner as it sees fit and granting consent, either conditionally or unconditionally, to the application as so amended; or
- (c) by rejecting the application.

(2) A consent authority shall not amend a subdivision application -

- (a) so that the application becomes a prescribed subdivision application; or
- (b) if the application is a prescribed subdivision application - so extensively that, in the opinion of the consent authority, the re-exhibition of the application is justified,

unless it causes the application as so amended to be exhibited in accordance with this Part.

(3) Sections 90, 91 and 92 apply to and in relation to the exhibition of an application under sub-section (2).

(4) Without limiting the power of a consent authority under sub-section (1), conditions which may be imposed on a consent to a subdivision application include conditions -

- (a) for the giving of security to the satisfaction of the consent authority for the carrying out of subdivision works -
 - (i) in the manner; and

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- (ii) within the time,
fixed by that authority; and

(b) for -

- (i) the dedication to the Territory or a local authority, or the acquisition by the Territory or a local authority, of any land required as public open space, drainage easements or reserves, or roads as a consequence of the subdivision; or
- (ii) the payment to the Territory, in the manner specified by the consent authority, of such amount of money as is equivalent to the value of any land required as public open space as a consequence of the subdivision but not dedicated or acquired under sub-paragraph (i).

Instruments
of
determination

95.(1) A consent authority which determines a subdivision application under section 94 shall, within 14 days of determining the application issue an instrument of determination to the person who made the application.

(2) An instrument of determination issued under sub-section (1) shall -

- (a) where a consent to the subdivision application has been granted conditionally or the application has been rejected - set out the reasons therefor; and
- (b) where there is a right of appeal against the determination - indicate that that right exists.

Staged
subdivisions

96. A consent authority may certify that the requirements of this Part have been complied with in respect of the subdivision of any separate part of land the subject of a subdivision application notwithstanding that the requirements of this Part have not been complied with in relation to the subdivision of the balance of that land.

Appeals

97.(1) This section applies in respect of subdivision applications for which the consent authority is not the Minister.

(2) An applicant for consent to a subdivision application who is aggrieved by the determination of the consent authority in relation to the application or the refusal of the application under sub-section (3) may, within 28 days of -

- (a) receiving the instrument of determination in relation to the application; or

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- (b) the application's being refused under sub-section (3),

as the case may be, appeal to the Appeals Committee.

(3) A subdivision application which has not been determined under section 94 within 12 weeks of being lodged with the consent authority is deemed to have been refused.

(4) The institution of an appeal under sub-section (2) against a refusal of consent to a subdivision application deemed to have been given under sub-section (3) does not prevent the consent authority from determining the application at any time before the determination of the Appeals Committee under Part VII is given in respect of the appeal.

Division 5 - Implementation

98. Subdivision works required to be carried out under this Part shall be carried out in accordance with the requirements of a consent authority.

Subdivision
works

Penalty: \$5,000.

99.(1) Upon the registration at the office of the Registrar-General of a copy of the plans of the authorized survey in relation to a subdivision -

Effect of
registration
of plans

(a) any land which is marked with the words "public reserve" on the plan shall, without any further assurance, vest in the Territory by virtue of this Act and be reserved for the recreation or amusement of the public;

(b) any land which is marked with the words "drainage reserve" on the plan shall, without any further assurance, vest in the Territory by virtue of this Act for drainage purposes; and

(c) any land which is marked with the words "public road" on the plan shall, without any further assurance, vest in the Territory or the local authority specified in the plans by virtue of this Act for public road purposes.

(2) Land vested in the Territory under sub-section (1) shall be deemed to be land reserved for a public purpose within the meaning of the Crown Lands Act.

Division 6 - Duration of Consents

100. A reference in this Division to the date of a consent to a subdivision application is a reference to the date upon which -

Date of
consent

Planning

(a) the consent authority issued; or

(b) if an appeal under section 97(2) has been determined - the Appeals Committee issued,

an instrument of determination in respect of the application, whichever is the later.

Consents to
lapse

101.(1) Subject to this Division, a consent to a subdivision application lapses at the expiration of 2 years from the date of the consent.

(2) A consent to a subdivision application does not lapse under sub-section (1) -

(a) if the consent involves the carrying out of subdivision works and the carrying out of those works in accordance with that consent is substantially commenced; or

(b) in any case, if the plan of subdivision in respect of which the consent was given is deposited in the office of the Surveyor-General under section 12(3) of the Licensed Surveyors Act,

within 2 years from the date of the consent.

f.
Extension of
time

102.(1) The owner of land in respect of which a consent to a subdivision application is in force may apply to the consent authority which issued the consent for an extension of the time prescribed by section 101(1) in relation to the consent.

(2) An application under sub-section (1) shall be -

(a) in the prescribed form; and

(b) accompanied by the prescribed fee.

(3) An application under sub-section (1) shall not be made after the consent in respect of which the application is made has lapsed.

(4) A consent authority to which an application under sub-section (1) is made may extend the time prescribed by section 101(1) in relation to the subdivision application for which consent has been given for a period of not more than 2 years.

PART VI - DEVELOPMENT CONTROL

Division 1 - Development Applications

Who may make
application

103. A development application in relation to any land may be made -

(a) by the owner of the land; or

Planning

- (b) by a person authorized by the owner of the land to make the application.

104. A development application shall be -

Form of
applications

- (a) in the prescribed form; and
- (b) accompanied by the prescribed fee,

and is not made until it is lodged at the office of the consent authority.

Division 2 - Public Notice of Development Applications

105.(1) This Division applies to development applications which are specified by -

Prescribed
development
applications

- (a) the regulations; or
- (b) a planning instrument applying to the land the subject of the application,

to be prescribed development applications.

(2) A consent authority may apply this Division to any development application.

106. A prescribed development application is not made unless it is accompanied by an environmental impact statement in relation to the development.

Environmental
impact
statements

107.(1) A person who makes a prescribed development application may cause notice of the application to be published in accordance with sub-section (3).

Public notice
of prescribed
development
applications

(2) A consent authority to which a prescribed application is made -

- (a) may require the person who made the application to cause notice of the application to be displayed in a prominent manner on the land the subject of the application; and
- (b) shall not determine the application unless notice of the application has been published in accordance with sub-section (3).

(3) Notice of a prescribed development application shall be published in a newspaper circulating in the area in which the land to which the application relates is situated not less than 3 times during the period of 21 days referred to in section 109.

(4) A notice under this section shall -

- (a) be in the prescribed form; and

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(b) specify -

(i) the nature and location of the proposed development; and

(ii) the address at which, and the period during which, submissions under section 109 may be made.

(5) If the consent authority has published notice in accordance with sub-section (3), the fee for publishing the notices required by sub-section (3) may be recovered by the consent authority to which the prescribed development application is made from the person who made that application.

Consultation

108. A consent authority to which a prescribed development application is made shall consult with each prescribed person in relation to the application.

Submissions

109. Any person may, within 21 days of the date on which the first notice is published under section 107(3), make a submission to the consent authority in relation to the prescribed development application referred to in the notice.

Division 3 - Consent to Development Applications

Matters to be taken into account

110.(1) A consent authority shall, in considering any development application, take into account -

- (a) the provisions of any planning instrument which applies to the land the subject of the application;
- (b) the provisions of any draft planning instrument relating to the land and exhibited in pursuance of this Act;
- (c) the physical, environmental, economic, cultural, social and human resources available in the locality;
- (d) any representations made by any statutory corporation in relation to the application or to development in the area, and the rights and powers of that corporation;
- (e) any plan, code or design, whether detailed or otherwise, adopted by the consent authority for development generally or for development in the locality;
- (f) if an environmental impact statement has been prepared in relation to the development - the contents of that statement;
- (g) the views of any person consulted under section 108;

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- (h) any submission made to the consent authority under section 109;
 - (i) the existing and future amenity of the locality; and
 - (j) the circumstances of the case and the public interest.
- (2) A consent authority may invite a person who -
- (a) has made a submission under section 109 in relation to a prescribed development application; and
 - (b) in the submission objected to the granting of a consent to the development application, or objected to the grant of a consent except subject to conditions specified in the submission,

to appear before it in support of his submission if, in its opinion, hearing that person will assist the consent authority in its consideration of the application.

111.(1) A planning instrument may provide that a consent authority shall not grant consent to a development application unless that consent authority has -

Consultation
and
concurrence

- (a) consulted with; or
- (b) obtained the concurrence of,

a statutory corporation specified in that instrument in relation to the granting of that consent.

(2) A planning instrument which provides that a consent authority shall not grant consent to a development application unless that consent authority has obtained the concurrence of a specified statutory corporation in relation to the granting of the consent shall specify the matters which that statutory corporation shall take into account in considering whether to concur in the grant of the consent.

(3) A statutory corporation specified in a planning instrument for the purposes of sub-section (1) may, by notice in writing delivered to the consent authority, specify circumstances in which the consultation or concurrence required by the planning instrument may be assumed to have taken place or been given, as the case may be.

(4) A consent authority shall not grant consent to a development application referred to in sub-section (1) unless -

- (a) if the planning instrument requires that the

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consent authority consult with the statutory corporation specified in the instrument before granting the consent -

- (i) the consent authority has consulted with that statutory corporation; or
 - (ii) the circumstances in which the consultation required by the planning instrument may be assumed to have taken place exist in relation to that development application; or
- (b) if the planning instrument requires that the consent authority obtain the concurrence of the statutory corporation specified in the planning instrument to the granting of the consent -
- (i) the consent authority has obtained that concurrence; or
 - (ii) the circumstances in which that concurrence may be assumed to have been given exist in relation to the development application.

Determinations

112.(1) Subject to this Act, a consent authority may determine a development application -

- (a) by granting consent, either conditionally or unconditionally, to the application;
- (b) by amending the application in such manner as it sees fit and granting consent, either conditionally or unconditionally, to the application as so amended; or
- (c) by rejecting the application.

(2) A consent authority shall not amend a development application -

- (a) so that the application becomes a prescribed development application; or
- (b) if the application is a prescribed development application - so extensively that, in the opinion of the consent authority, the re-exhibition of the application is justified,

unless it causes the application as so amended to be exhibited in accordance with this Part.

(3) Sections 107, 108 and 109 apply to and in relation to the exhibition of an application under sub-section (2).

Instruments of determination

113.(1) A consent authority which determines a development application under section 112 shall, within

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14 days of determining the application, issue an instrument of determination to the person who made the application.

(2) An instrument of determination issued under sub-section (1) shall -

(a) where a consent to the development application has been granted conditionally or the application has been rejected - set out the reasons therefor; and

(b) where there is a right of appeal against the determination - indicate that that right exists.

114.(1) This section applies in respect of development applications for which the consent authority is not the Minister. Appeals

(2) An applicant for consent to a development application who is aggrieved by the determination of the consent authority in relation to the application or the refusal of the application under sub-section (3) may, within 28 days of -

(a) receiving the instrument of determination in relation to the application; or

(b) the application's being refused under sub-section (3),

as the case may be, appeal to the Appeals Committee.

(3) A development application which has not been determined under section 112 within 12 weeks of being lodged with a consent authority is deemed to have been refused.

(4) The institution of an appeal under sub-section (2) against a refusal of consent to a development application deemed to have been given under sub-section (3) does not prevent the consent authority from determining the application at any time before the determination of the Appeals Committee under Part VII is given in respect of the appeal.

Division 4 - Duration of Consents

115. A reference in this Division to the date of a consent to a development application is a reference to the date upon which - Date of consent

(a) the consent authority issued; or

(b) if an appeal under section 114(2) has been determined - the Appeals Committee issued,

an instrument of determination in respect of the application, whichever is the later.

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Consents to
lapse

116.(1) Subject to this Division, a consent to a development application lapses at the expiration of 2 years from the date of the consent.

(2) A consent to a development application does not lapse under sub-section (1) -

(a) in the case of a consent to the erection of a building or the carrying out of work - if the erection of the building or the carrying out of the work, as the case may be, in accordance with that consent is substantially commenced; or

(b) in the case of a consent to use a building, work or land - if the use of the building, work or land in accordance with that consent has actually commenced,

within 2 years from the date of the consent.

Extension of
time

117.(1) The owner of land in respect of which a consent to a development application is in force may apply to the consent authority which issued the consent for an extension of the time prescribed by section 116(1) in relation to the consent.

(2) An application under sub-section (1) shall be -

(a) in the prescribed form; and

(b) accompanied by the prescribed fee.

(3) An application under sub-section (1) shall not be made after the consent in respect of which the application is made has lapsed.

(4) A consent authority to which an application under sub-section (1) is made may extend the time prescribed by section 116(1) in relation to the development application for which consent has been given for a period of not more than 2 years.

PART VII - APPEALS

Division 1 - Establishment of Planning Appeals Committee

Definitions

118. In this Part -

"Chairman" means the person appointed as Chairman of the Appeals Committee under section 121(1);

"Deputy Chairman" means the person appointed as Deputy Chairman of the Appeals Committee under section 121(1);

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"member" means a person appointed as a member of the Appeals Committee under section 120.

119. There is established a tribunal which shall be known as the Planning Appeals Committee. Appeals Committee

120.(1) The Minister may appoint 3 persons to be members. Members

(2) A person shall not be appointed under subsection (1) unless he is -

(a) enrolled as a legal practitioner of -

(i) the High Court of Australia; or

(ii) the Supreme Court of a State or Territory of the Commonwealth,

and has been so enrolled for not less than 5 years;

(b) a person who is, or is entitled to be, a corporate member of the Institution of Engineers, Australia;

(c) an architect registered under the Architects Act;

(d) a person who is, or is entitled to be, a corporate member of the Royal Australian Planning Institute; or

(e) a person who is registered as a licensed surveyor under the Licensed Surveyors Act.

121.(1) The Minister shall appoint -

Chairman and
Deputy Chairman

(a) a member to be Chairman; and

(b) a member to be Deputy Chairman.

(2) A person shall not be appointed as Chairman of the Appeals Committee unless he has the qualification referred to in section 120(2)(a).

(3) The Deputy Chairman has and may exercise all the functions of the Chairman during the absence or inability to act of the Chairman.

122. An appointment made under section 120 or 121 shall be notified in the Gazette and shall take effect on - Method of appointment

(a) the date of publication of that notification; or

(b) if there is a later date specified in the notification - that later date.

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Term of
office

123. Subject to this Act, a member holds office for 5 years but is eligible for reappointment.

Removal from
office

124.(1) The Minister may remove a member from office if the member is, in the opinion of the Minister, guilty of misbehaviour or incompetence.

(2) The Minister shall remove a member from office if the member -

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(b) is the subject of an order under section 7(2) of the Mental Defectives Act.

(3) A member may resign his office by writing under his hand delivered to the Minister.

Vacancies

125.(1) Where -

(a) there is, or is expected to be, a vacancy in an office of a member; or

(b) a member is, or is expected to be, absent or unable to act,

the Minister may, by instrument in writing, authorize a person who is qualified to hold the office of the member to act in that office.

(2) The power of the Minister under sub-section (1) includes the power to authorize a person to act in the office of a member from time to time during the absence or inability to act of the member.

(3) This Act applies to and in respect of a person who is authorized under this section to act in an office, while he is so acting, as though he were the holder of that office.

Direct, &c.,
interests

126.(1) If a member has a direct or indirect interest in land the subject of an appeal or other proceedings, he shall, as soon as possible after he knows that he has the interest and that the appeal or other proceedings has been instituted, disclose his interest to the Appeals Committee.

(2) A member who has disclosed an interest under sub-section (1) shall take no further part in the appeal or other proceedings.

Direct, &c.,
interests in
companies

127. For the purposes of section 126 a member who -

(a) is a member of the governing body of, or is a

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substantial shareholder within the meaning of section 69C of the Companies Act in; or

- (b) has a relevant interest within the meaning of section 6A of that Act in,

a company which has a direct or indirect interest in land has a direct or indirect interest in the land.

128. The performance of a function by the Appeals Committee is not invalid by reason only of there being a vacancy in the membership of the Appeals Committee.

Vacancy not
to invalidate

129. Subject to this Act, members shall -

Fees and
expenses

- (a) be paid such fees, allowances and expenses;
and

- (b) hold office on such terms and conditions,

as the Administrator may determine.

130. At the hearing of an appeal or other proceeding by the Appeals Committee -

Procedure
on appeal

- (a) the Chairman, or if he is not present the Deputy Chairman, shall preside;

- (b) all questions shall be decided by a majority of the members present; and

- (c) the Chairman, or if he is not present the Deputy Chairman, has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Division 2 - Appeals

131. In this Division -

Definitions

"appellant" means a person who lodges an appeal under section 97(2) or 114(2);

"objector" means, in relation to an appeal in respect of -

- (a) a subdivision application - a person who made a submission by way of objection under section 92; or

- (b) a development application - a person who made a submission by way of objection under section 109.

132. An appeal may be instituted by lodging with the Appeals Committee a notice of appeal -

Notices of
appeal

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- (a) in the prescribed form; and
- (b) accompanied by the prescribed fee.
- Service of notices of appeal 133.(1) The Chairman of the Appeals Committee shall cause notice of an appeal to be served on -
- (a) the consent authority whose determination is the subject of the appeal; and
- (b) each objector.
- (2) An objector may appear as a party to the appeal in respect of which he has been served with a notice of appeal under sub-section (1).
- Powers, &c., of Appeals Committee 134. The Appeals Committee has, for the purposes of hearing and determining an appeal, all the powers, authorities, duties, functions and discretions which the consent authority has in respect of the subdivision or development application, as the case may be.
- One member 135. If all parties to the appeal agree, the Appeals Committee may consist of one member.
- Summonses 136.(1) The Chairman may issue an order requiring -
- (a) the attendance of any person before the Appeals Committee; or
- (b) the production to the Appeals Committee of documents specified in the order which are in the possession or control of any person.
- (2) An order under sub-section (1) shall be -
- (a) in the prescribed form; and
- (b) served in the prescribed manner.
- (3) A person shall not fail to comply with an order served on him under sub-section (2)(b).
- Penalty: \$1,000 or imprisonment for 6 months.
- Representation 137.(1) A person appearing before the Appeals Committee may be represented by a legal practitioner or an agent.
- (2) A legal practitioner or agent appearing before the Appeals Committee has the same protection and immunity as a legal practitioner has in appearing for a party in proceedings before the Supreme Court.
- Sworn evidence 138.(1) A person appearing before the Appeals Committee to give evidence may, if required by the

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Chairman to give sworn evidence, take an oath or make an affirmation.

(2) The Chairman may -

(a) administer an oath or affirmation to a person appearing to give evidence before the Appeals Committee; and

(b) require a person appearing to give evidence to answer any question.

(3) Subject to sub-section (4), a person shall not refuse or fail to comply with a requirement under sub-section (1) or (2)(b).

Penalty: \$1,000 or imprisonment for 6 months.

(4) A witness appearing before the Appeals Committee has the same protection and immunity as a witness in proceedings before the Supreme Court.

139. A person shall not -

Contempt

(a) insult a member of the Appeals Committee in or in relation to the exercise of his powers or functions as a member of the Appeals Committee;

(b) interrupt any proceedings of the Appeals Committee;

(c) create a disturbance or take part in creating or continuing a disturbance, in or near a place where the Appeals Committee is sitting; or

(d) do any other act or thing that would, if the Appeals Committee were a court of record, constitute contempt of that court.

Penalty: \$1,000 or imprisonment for 6 months.

140.(1) Unless the Appeals Committee otherwise directs, proceedings of the Appeals Committee are open to the public.

Public
hearings

(2) The Appeals Committee shall publish its determinations.

141.(1) The practice and procedure relating to the hearing of appeals shall be -

Practice and
procedure

(a) as prescribed; or

(b) if no practice or procedure is prescribed - as determined by the Appeals Committee.

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(2) Subject to sub-section (1), the Appeals Committee -

- (a) is not bound by any rules of evidence but may inform itself on any matter in such manner as it thinks fit; and
- (b) is not bound to act in a formal manner and shall act without regard to legal forms and technicalities.

Fixing of
preliminary
hearings

142.(1) The Chairman shall, as soon as is reasonably practicable after a notice of appeal has been lodged, fix a date, time and place for a preliminary hearing by a member of the Appeals Committee.

(2) The Chairman shall cause notice of the preliminary hearing of an appeal to be given to -

- (a) the appellant;
- (b) each objector; and
- (c) the consent authority.

Preliminary
hearings

143.(1) The member of the Appeals Committee who conducts the preliminary hearing of an appeal may, at that hearing, make such orders as are necessary for the expeditious hearing of the appeal.

(2) Without limiting the generality of sub-section (1), orders which may be made under that sub-section include orders for or with respect to -

- (a) if more than one appellant has lodged a notice of appeal involving the same land -
 - (i) the consolidation of appeals; and
 - (ii) the appointment of a person or persons to represent all or some of those appellants;
- (b) public notification of the date and time for the hearing of the appeal;
- (c) the exchange of reports or other documents or proofs of evidence between persons who intend to tender those reports or other documents or evidence at the hearing of the appeal; or
- (d) further preliminary hearings.

(3) The member of the Appeals Committee who conducts a preliminary hearing of an appeal under this section shall not make an order under sub-section (2)(a)(ii) without the consent of the persons who will be represented by the person appointed under that sub-paragraph.

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144. If the member of the Appeals Committee who conducts a preliminary hearing of an appeal under section 143 makes an order under section 143(2)(b) for the public notification of the hearing of an appeal, the appellant shall cause a notice to be published in a newspaper circulating in the area in which the land the subject of the proposal is situated not less than 2 times in a period of 2 weeks, specifying -

Public notice
of hearing

- (a) the date, time and place fixed for any further preliminary hearings, if any; and
- (b) the date, time and place fixed for the hearing of the appeal.

145. The Appeals Committee shall hear and determine each appeal referred to it under this Part.

Hearings

146. The Appeals Committee may -

Powers of
Appeals
Committee

- (a) if at the time and place appointed for the hearing of an appeal the appellant does not appear - dismiss the appeal;
- (b) if at the time and place appointed for the hearing of an appeal the appellant does, but any other party does not, appear - commence and conclude the hearing of the appeal and make its determination in the absence of that other party;
- (c) if all the parties to an appeal consent, make its decision in the absence of the parties having regard to documentary evidence and written submissions exchanged by the parties and lodged with the Appeals Committee;
- (d) adjourn the hearing of an appeal for such period as it thinks fit;
- (e) permit, on such terms as it thinks fit, an appellant to alter the grounds of his appeal;
- (f) permit an appeal to be withdrawn;
- (g) permit any party to an appeal to cross-examine any witness or any other party to the appeal who gives evidence in the appeal;
- (h) permit -
 - (i) any Minister of the Crown in right of the Territory, or a State or the Commonwealth; or
 - (ii) any body constituted by or under an Act or an Act of a State or the Commonwealth,to appear as a party in any appeal; or

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- (i) appoint one or more of its members to make any inquiry or any inspection which appears to be necessary or expedient for the purposes of an appeal or proceeding.

Determination
of appeal

147.(1) The Appeals Committee shall determine an appeal -

- (a) by confirming the determination of the consent authority;
- (b) by altering that determination; or
- (c) by substituting its own determination.

(2) The Appeals Committee shall give written reasons for its determinations.

(3) The decision of the Appeals Committee on an appeal shall be deemed to be the final decision of the consent authority whose decision was the subject of the appeal.

Instruments
of determination

148. The Appeals Committee shall, within 14 days of determining an appeal, issue an instrument of determination in respect of that appeal.

Service of
instruments
of determination

149. The Appeals Committee shall cause to be served on -

- (a) the consent authority;
- (b) the appellant; and
- (c) each objector who appeared as a party to the appeal,

a copy of the instrument of determination, and the reasons for that determination, in relation to the appeal.

Appeal to
Supreme Court

150.(1) Subject to this section, any party to an appeal may appeal to the Supreme Court against any decision of the Appeals Committee on a question of law.

(2) An appeal under sub-section (1) shall not be made unless -

- (a) the leave of the Supreme Court is obtained; or
- (b) the question of law was raised at the appeal.

(3) An appeal under sub-section (1) shall be made within 21 days of the date of issue of the instrument of determination.

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PART VIII - MISCELLANEOUS

151.(1) Any person may make application to the Authority -

Planning
certificates

- (a) in the prescribed form; and
- (b) accompanied by the prescribed fee,

for a certificate under this section.

(2) The Authority may issue a certificate under this section in relation to any land.

(3) A certificate under this section shall -

- (a) be in the prescribed form; and
- (b) show, in relation to the land in respect of which it is issued -
 - (i) whether a planning instrument applies to that land;
 - (ii) if the land is reserved for acquisition by the Territory to implement a proposal for the use or development of the land - details of the proposal for the use or development of the land if acquired;
 - (iii) in general terms, the effect of any restrictions or prohibitions on the use or development of the land;
 - (iv) whether any subdivision or development applications have been determined in relation to the land within 2 years of the date of the application and, if so, the nature of those applications; and
 - (v) whether any subdivision or development applications have been made in relation to the land but not approved under Part V or VI and, if so, the nature of those applications,

on the day on which it is issued.

152.(1) For the purpose of any proceedings for an offence under this Act taken against a person who has obtained a certificate under section 151, that certificate shall, in favour of that person, be conclusively presumed to be true and correct.

Effect of
planning
certificates

(2) For the purposes of the registration of any plan or instrument intended to affect or evidence the title to any land, a certificate under section 151 shall, in favour of -

- (a) the person to whom the certificate is given; and

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- (b) the Registrar-General, the Crown Solicitor or any other person registering or certifying title,

be conclusively presumed to be true and correct.

(3) A claim against the Authority in respect of a certificate under this section is a claim against the Territory, and the provisions of the Claims by and against the Government Act apply to the claim.

Certified copies 153.(1) Any person may apply to the Authority and extracts of for a certified copy or extract of a planning instrument.
planning ins-
truments

(2) An application under sub-section (1) shall be -

(a) in the prescribed form; and

(b) accompanied by the prescribed fee.

(3) The Authority may certify that a copy or extract of any planning instrument is a true copy of that instrument or part of that instrument.

(4) A copy of a planning instrument or an extract of a planning instrument certified under sub-section (3) is admissible as evidence of the contents of the planning instrument.

Inquiries

154.(1) The Authority shall, as and when directed by the Minister, conduct inquiries for any purpose connected with the implementation of this Act.

(2) The Authority may appoint any person to conduct any inquiry required of it under sub-section (1).

(3) The Inquiries Act applies to an inquiry under this section as though the Authority or the person appointed under sub-section (2) had been appointed as a Board or Commissioner, as the case may be, under section 4(1) of that Act.

(4) The Authority or the person appointed under sub-section (2), as the case may be, shall furnish a report to the Minister setting out the results of any inquiry under this section.

Revocation or modification of consents

155.(1) Subject to this section, the Minister may by notice published in the Gazette revoke or modify any consent granted under Part V or VI.

(2) The Minister shall not revoke or modify a consent under sub-section (1) unless -

(a) he has served notice in writing in the

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prescribed form on the person to whom the consent was issued;

(b) he has directed the Authority to carry out an inquiry under section 154; and

(c) he has considered the report furnished under section 154.

(3) Before making its report the Authority or person appointed under section 154(2) to conduct the inquiry shall give the person to whom the consent was issued an opportunity to be heard.

156. A person who has been served with a notice under section 155(2)(a) shall not continue or complete any use of land or work in accordance with the consent from the date of service of that notice.

Stop-work
notices

Penalty: \$5,000 and, in addition, \$100 for each day during which the person continues to contravene or fails to comply with this section.

157.(1) A person who has incurred expenditure under any consent granted under Part V or VI which has been rendered abortive in whole or in part by the revocation or modification of the consent under section 155(1) may recover the amount of that expenditure under this section from the Territory.

Compensation
for abortive
expenditure

(2) The provisions of Divisions 2 and 3 of Part VIII of the Lands Acquisition Act apply to a claim for compensation under sub-section (1) as they apply to claims for compensation for abandoned proposals under that Act.

(3) For the purposes of sub-section (2), a reference in Divisions 2 and 3 of Part VIII of the Lands Acquisition Act -

(a) to a claim for compensation under section 60 of that Act - shall be read as a reference to a claim for compensation under sub-section (1);

(b) to the date of service of a notice under section 35 of that Act - shall be read as a reference to the date of revocation or modification of a consent under section 155(1);

(c) to compensation under that Act - shall be read as a reference to compensation under sub-section (1); and

(d) to Schedule 2 to that Act - shall be disregarded.

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Availability
of planning
instruments

158.(1) Copies of all planning instruments shall be available -

(a) for purchase by the public; and

(b) for inspection by the public,

at the office of the Authority.

(2) Copies of all planning instruments which apply to land within a local area shall be available -

(a) for purchase by the public; and

(b) for inspection by the public,

at the office of the local authority of that area.

(3) A planning instrument shall not be sold by the Authority or a local authority unless an explanatory document in relation to that instrument is sold with the instrument.

Availability
of draft
planning
instruments

159.(1) Copies of all draft planning instruments and the explanatory documents in relation to those instruments exhibited in pursuance of this Act shall be available -

(a) for purchase by the public; and

(b) for inspection by the public,

at the office of the Authority.

(2) Copies of all draft planning instruments which apply to land within a local area and the explanatory documents in relation to those instruments exhibited in pursuance of this Act shall be available -

(a) for purchase by the public; and

(b) for inspection by the public,

at the office of the local authority of that area.

Maps, &c.,
need not be
sold

160.(1) A planning instrument or draft planning instrument which incorporates maps, plans, designs or diagrams may be sold notwithstanding that the map, plan, design or diagram so incorporated is not sold.

(2) The Authority may fix prices for sale of planning instruments, draft planning instruments and explanatory documents under section 158 or 159.

Registers

161. Each consent authority shall retain and keep available for public inspection during ordinary office hours -

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- (a) a copy of every plan of subdivision approved by it;
- (b) a register of consents granted by it under this Act; and
- (c) a register of all determinations on appeal from any decision of the consent authority under Part VII.

162. Unless otherwise prescribed, a document required to be served under this Act may be served by certified post.

Service

163. Nothing in this Act permits a person to use or develop any land in contravention of a law of the Territory other than this Act.

Saving of
other laws

164. Notwithstanding anything contained in any Act empowering the grant of a lease of land of the Crown, the Minister shall not grant a lease of such land unless he is satisfied that the use or development of that land in accordance with that lease will not be in contravention of a planning instrument applying to that land.

Grants of
leases

165.(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular -

Regulations

- (a) providing for the payment of fees and expenses to witnesses required under this Act to attend and give evidence before the Authority or another person;
- (b) prescribing the manner in which fees or payments prescribed shall be paid;
- (c) specifying subdivisions to be excluded subdivisions;
- (d) amending the provisions of section 94 or 110;
- (e) providing for the inspection of a register of consents kept under this Act; and
- (f) prescribing penalties, not exceeding a fine of \$100, for offences against the regulations.

(2) Regulations may be made either generally or in relation to a particular case or class of cases.

PART IX - TRANSITIONAL

166. In this Part -

Definitions

"Board" means the Town Planning Board

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constituted under the former Act;

"commencement date" means the date of commencement of this Part;

"Committee" means the Town Planning Appeals Committee constituted under the former Act;

"former Act" means the Town Planning Act.

Board dissolved 167. On the commencement date, the Board is dissolved.

Authority to
replace Board

168. On and from the commencement date -

- (a) all real and personal property that, immediately before that date, was vested in the Board shall vest in the Authority;
- (b) all money and liquidated and unliquidated claims that, immediately before that date, were payable to or recoverable by the Board shall be money and liquidated and unliquidated claims payable to or recoverable by the Authority;
- (c) all proceedings commenced before that date by the Board and pending immediately before that day shall be deemed to be proceedings pending on that day by the Authority and all proceedings so commenced by any person against the Board and pending immediately before that date shall be deemed to be proceedings pending on that date by that person against the Authority;
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the Board and in force immediately before that date shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Authority;
- (e) the Authority may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this section and for the prosecution of actions and proceedings so referred to as the Board might have done but for the enactment of this Act;
- (f) the Authority may enforce and realize any security or charge existing immediately before that date in favour of the Board and may exercise any powers thereby conferred on the

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Board as if the security or charge were a security or charge in favour of the Authority;

- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that date, were due or payable by, or recoverable against, the Board shall be debts due by, money payable by and claims recoverable against, the Authority; and
- (h) all liquidated and unliquidated claims for which the Board would, but for this Act, have been liable shall be liquidated and unliquidated claims, as the case may be, for which the Authority shall be liable.

169. On and from the commencement date, a reference in -

References in
other Acts,
&c.

- (a) any other Act;
- (b) any instrument of a legislative or administrative character (an instrument appointing a person as a member of the Board excepted); or
- (c) any other document, whether of the same or of a different kind,

to the Board shall be a reference to the Authority.

170. Any act, matter or thing done or omitted to be done before the commencement date by, to or in respect of the Board shall, to the extent that but for the enactment of this Act that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Authority, as the case may be.

Saving of
actions

171.(1) A town planning scheme in force immediately before the commencement date shall be deemed to be a planning instrument made under this Act and may, subject to this section, be amended or repealed by a planning instrument made under this Act.

Town planning
schemes

(2) The Second Schedule to the former Act shall, notwithstanding the repeal effected by section 3, be deemed to form part of each town plan deemed to be a planning instrument by sub-section (1) (the Darwin Town Plan excepted).

(3) The Minister may, by notice published in the Gazette, alter a town planning scheme referred to in sub-section (1) to the extent necessary to bring that instrument into conformity with this Act.

(4) An alteration published under sub-section (3) has effect according to its tenor.

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Consents

172.(1) An approval under section 18A(1) of the former Act in force immediately before the commencement date is deemed to be a consent given under section 94.

(2) A consent given under section 38B of the former Act in force immediately before the commencement date, and any conditions imposed on the consent under section 38C of the former Act, is deemed to be a consent given subject to those conditions under section 112.

(3) For the purposes of sections 101 and 116 and sub-section (4), the date of a consent referred to in sub-section (1) or (2) is the date on which the approval or consent, as the case may be, was given under the former Act.

(4) An applicant may not lodge a notice of appeal under section 97 or 114 in respect of an approval or consent referred to in this section after the expiration of 28 days from the date of the consent.

Proposals for town planning schemes not yet exhibited

173. Proposals for a town planning scheme under the former Act which have, before the commencement date, been approved by the Board under section 29(3) of that Act but not exhibited under section 30(1) of that Act shall be dealt with as though -

- (a) those proposals constituted a draft planning instrument prepared by the Authority in pursuance of a resolution under section 39(5); and
- (b) the Authority had complied with Division 2 of Part III in relation to the preparation of that instrument.

Exhibited proposals for town planning schemes

174. Proposals for a town planning scheme under the former Act -

- (a) which have been exhibited under section 30(1) of that Act;
- (b) in respect of which no objections have been made under section 32(1) or (1A) of that Act; and
- (c) which have not been submitted to the Administrator under section 35 of that Act,

before the commencement date shall be dealt with as though -

- (d) the proposals constituted a draft planning instrument prepared by the Authority in pursuance of a resolution under section 39(5); and

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- (e) the Authority had complied with Divisions 2 and 3 of Part III in relation to the preparation of that instrument.

175. Proposals for a town planning scheme under the former Act -

Proposals for town planning schemes where objections

- (a) which have been exhibited under section 30(1) of that Act; and
- (b) in respect of which an objection has been made under section 32(1) or (1A) of that Act,

shall -

- (c) if the Board has submitted the proposals to the Administrator under section 35 of that Act but the Administrator has not approved them under section 36(1)(a) of that Act before the commencement date - be dealt with as though -
 - (i) the proposals constituted a draft planning instrument prepared by the Authority in pursuance of a resolution under section 39(5); and
 - (ii) Divisions 2, 3 and 4 of Part III, and sections 59 and 60, had been complied with in relation to the preparation and exhibition of, and the hearing of submissions in relation to, that instrument and the submission of that instrument to the Minister;
- (d) if the Board has commenced but not concluded the hearing of objections under section 34 of the former Act before the commencement date - be dealt with as though -
 - (i) the proposals constituted a draft planning instrument prepared by the Authority in pursuance of a resolution under section 39(5);
 - (ii) the Authority had complied with Divisions 2 and 3 of Part III (section 50 excepted) in relation to the preparation and exhibition of that planning instrument; and
 - (iii) section 34 of the former Act had not been repealed; and
- (e) if the Board has not commenced to hear objections under section 34 of the former Act before the commencement date - be dealt with as though -
 - (i) the proposals constituted a draft planning instrument prepared by the Authority in

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pursuance of a resolution under section 39(5); and

- (ii) the Authority had complied with Divisions 2 and 3 of Part III (section 50 excepted) in relation to the preparation and exhibition of that planning instrument.

Powers of Authority

176. The Authority may hear or continue to hear, and may make recommendations and reports in relation to, objections to proposals for a town planning scheme -

(a) under the former Act referred to in section 175(d); and

(b) to which Division 4 of Part III would, but for this section, apply.

Subdivision or development applications

177.(1) An application -

(a) to subdivide land made under the former Act; or

(b) under section 38A or 38B of the former Act,

which has not been approved or rejected under section 38A(7) of that Act before the commencement date, shall be dealt with as though this Act had not been made.

(2) The Authority shall deal with each application referred to in sub-section (1).

Dissolution of Committee

178. On and from the commencement date the Committee is dissolved.

Saving of members

179. The members of the Committee and the Chairman of the Committee shall, as and from the commencement date, be the members and Chairman respectively of the Appeals Committee as though they had been appointed under sections 120(1) and 121(1) respectively on that day.

Saving of appeals

180. An appeal under section 38A(8A) of the former Act may be heard or continued to be heard and determined as though it were an appeal under section 108, the hearing of which had not commenced on the commencement date.

Saving of enforcement proceedings

181. A notice issued by the Chairman of the Board under section 58 of the former Act continues in force, and may be enforced, as though this Act had not been made, but for the purposes of this section, a reference in sections 59 to 68 inclusive of the former Act to the Chairman is a reference to the Chairman of the Authority.

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SCHEDULE

Section 3

REPEALED ACTS

Town Planning Act 1964
Town Planning Act 1965
Town Planning Act 1968
Town Planning Act 1970
Town Planning Act (No. 2) 1970
Town Planning Act 1971
Town Planning Act (No. 2) 1971
Town Planning Act (No. 4) 1971
Town Planning Act 1973
Town Planning Act (No. 2) 1973
Town Planning Act (No. 3) 1973
Town Planning Act 1974
Town Planning Act 1977
Town Planning Act 1978
