

NORTHERN TERRITORY OF AUSTRALIA
PLANNING AMENDMENT (MISCELLANEOUS MATTERS)
REGULATIONS 2005

Regulations No. 32 of 2005

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NORTHERN TERRITORY OF AUSTRALIA

Regulations No. 32 of 2005*

Planning Amendment (Miscellaneous Matters) Regulations 2005

I, EDWARD JOSEPH EGAN, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Planning Act*.

Dated 8 September 2005.

E. J. EGAN
Administrator

By His Honour's Command

K. VATSKALIS
Minister for Primary Industry and Fisheries
acting for the
Minister for Planning and Lands

* Notified in the *Northern Territory Government Gazette* on 21 September 2005.

1. Citation

These Regulations may be cited as the *Planning Amendment (Miscellaneous Matters) Regulations 2005*.

2. Commencement

These Regulations come into operation on the commencement of the *Planning Amendment Act 2005*.

3. Principal Regulations amended

These Regulations amend the *Planning Regulations*.

4. New Part 1 heading

Before regulation 1 –

insert

PART 1 – PRELIMINARY MATTERS

5. New Part 2 heading

After regulation 3 –

insert

PART 2 – DEVELOPMENT PROVISIONS GENERALLY

6. Repeal and substitution of regulations 4 and 5

Regulations 4 and 5 –

repeal, substitute

4. Notice of decision relating to exceptional development permit

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

- (a) the Lot, Section or Portion number of the land to which the notice relates and the street address of the land;
- (b) the zone of the land;
- (c) if the notice relates to a decision –
 - (i) to grant a permit – a brief summary of the development or use permitted under the permit; or

- (ii) to refuse to grant a permit – a brief summary of the development or use proposed in the application; or
- (iii) to vary a permit – a brief summary of the variation and the development or use permitted under the permit as varied; or
- (iv) to refuse to vary a permit – a brief summary of the variation proposed in the application.

5. Development application made by electronic transmission

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

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

7. Amendment of regulation 6 (Public notice of development application)

- (1) Regulation 6(4) –

omit

to be placed on land in accordance with subregulation (1)(b)

substitute

under subregulation (1)

- (2) Regulation 6(4)(b) –

omit

in accordance with subregulation (1)(a)

substitute

under subregulation (1)

8. Amendment of regulation 8 (Notice not to be removed before end of exhibition period)

Regulation 8, penalty provision –

omit, substitute

Penalty: 10 penalty units.

9. New Part 3 heading

After regulation 8 –

insert

PART 3 – DEVELOPER CONTRIBUTIONS

10. New Part 4 and Schedules 1 and 2

After regulation 11 –

insert

PART 4 – APPEALS

12. Definitions

In this Part –

"attached dwellings" includes cluster dwellings, multiple dwellings and flats;

"detached dwelling" includes single dwelling;

"non-residential use" means a use specified in Schedule 1, Part A;

"Plan" has the meaning in regulation 13;

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

"residential zone" has the meaning in regulation 14.

13. Plans

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

(2) A reference to a Plan is a reference to the Plan as in force from time to time.

14. Residential zones

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

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

15. Circumstances when no right of third party appeal

(1) For section 117(4) of the Act, this regulation specifies circumstances under which there is no right of appeal under section 117 of the Act against a determination of the consent authority.

(2) There is no right of appeal if the determination relates to the subdivision or consolidation of land.

(3) There is no right of appeal if the determination relates to any of the following proposed developments on land to which a planning control provision applies:

- (a) a detached dwelling not exceeding 2 storeys above ground level;
- (b) attached dwellings not exceeding 2 storeys above ground level;
- (c) any other type of development on land in any zone except a residential zone, or on land for which no zone is specified, unless the land –
 - (i) is adjacent to land in a residential zone; or
 - (ii) is directly opposite land in a residential zone and is on the other side of a road with a reserve of 18 m or less in width;
- (d) a non-residential use in a residential zone if the use complies with all the planning control provisions relating to the use and the consent authority, in making the determination, has not exercised any power it has in respect of the planning control provisions to vary or waive that compliance.

(4) There is no right of appeal if the determination relates to a proposed non-residential use of land in a residential zone if –

- (a) the relevant Plan does not include any planning control provision relating to the non-residential use; and
- (b) the proposed non-residential use complies with the criteria for the use specified in Schedule 1, Part B.

SCHEDULE 1

Regulations 12,
definition of "non-residential use"
and 15(4)(b)

PART A

NON-RESIDENTIAL USES

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

PART B

CRITERIA FOR NON-RESIDENTIAL USES IN RESIDENTIAL ZONES

1. Bed and breakfast accommodation

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

- (a) no more than 5 guests may be accommodated at any one time in the dwelling;
- (b) no sign may be displayed, other than a business sign of no more than 0.5 m² in area.

2. Caravan

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

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

3. Caretaker's residence

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

- (a) the floor area of the caretaker's residence must not exceed 50 m²;
- (b) only one caretaker's residence may be on the site.

4. Dependant unit or dependant relative unit

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

- (a) the floor area of the unit must not exceed 50 m²;
- (b) the unit must share public utility services and an effluent disposal system with a detached dwelling on the site;
- (c) only one unit may be on the site.

5. Group home

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

6. Child care centre

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

- (a) no more than 15 children at any one time (including those who reside at the dwelling) may be cared for at the centre;

- (b) no sign may be displayed, other than a business sign of no more than 0.5 m² in area.

7. Home occupation

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

- (a) the occupation may be carried out only by persons residing in the dwelling;
- (b) the total of the floor area of the dwelling plus the other areas of the site used for the home occupation (including areas used temporarily) must not exceed 30 m²;
- (c) no sign may be displayed, other than a business sign of no more than 0.5 m² in area;
- (d) goods and equipment must not be visible from outside the site;
- (e) no more than one vehicle kept on the site may be used for the home occupation.

8. Medical consulting rooms

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

- (a) the medical consulting service may be carried out by any persons who reside in the dwelling and no more than one person who does not reside in the dwelling;
 - (b) the total area used for the medical consulting rooms (including areas used temporarily) must not exceed 30 m²;
 - (c) no sign may be displayed, other than a business sign of no more than 0.5 m² in area.
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SCHEDULE 2

Regulations 13(1) and 14(1)

PLANS AND RESIDENTIAL ZONES

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