

NORTHERN TERRITORY OF AUSTRALIA

PLANNING AMENDMENT REGULATIONS 2020

Subordinate Legislation No. 24 of 2020

Table of provisions

1	Title.....	2
2	Commencement	2
3	Regulations amended.....	2
4	Regulation 2A inserted	2
	2A Interpretation	
5	Regulations 6 to 8B replaced.....	3
	6 Public notice of development application	
	6A Notices and signs	
	6B Removing sign during submission period	
	7 Developments with 28-day minimum submission period	
	8 Limited notice – people requiring privacy	
	8A Limited notice – developments without a significant impact	
	8B Development application requiring only local notice	
6	Regulation 9 replaced.....	8
	9 Definition of <i>infrastructure</i>	
7	Regulation 12 repealed (Definitions)	9
8	Regulation 13 amended (Residential zones).....	9
9	Regulation 13A inserted	9
	13A Rights of review	
10	Regulation 14 amended (NT Planning Scheme – when no right of third party application for review)	10
11	Regulation 15 amended (Jabiru Town Plan – when no right of third party application for review).....	10
12	Parts 5 and 6 and Schedule inserted.....	10
	Part 5 Miscellaneous matters	
	16 Qualifications of specialist members	
	Part 6 Infringement notice offences	
	17 Infringement notice offence and prescribed amount payable	
	18 When infringement notice may be given	
	19 Contents of infringement notice	
	20 Electronic payment and payment by cheque	
	21 Withdrawal of infringement notice	
	22 Application of Part	
	Schedule Infringement notice offences and prescribed amounts	
13	Repeal of Regulations	13



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Subordinate Legislation No. 24 of 2020*

Planning Amendment Regulations 2020

I, Vicki Susan O'Halloran, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Planning Act 1999*.

Dated 29 July 2020

V. S. O' Halloran
Administrator

By Her Honour's Command

E. D. Lawler
Minister for Infrastructure, Planning and Logistics

* Notified in the *Northern Territory Government Gazette* on 31 July 2020.

1 Title

These Regulations may be cited as the *Planning Amendment Regulations 2020*.

2 Commencement

These Regulations commence on the commencement of section 3 of the *Planning Amendment Act 2020*.

3 Regulations amended

These Regulations amend the *Planning Regulations 2000*.

4 Regulation 2A inserted

After regulation 2

insert

2A Interpretation

(1) In these Regulations:

infringement notice, see regulation 18.

infringement notice offence, see regulation 17.

planning control provision means any provision or development requirement of a planning scheme that permits, prohibits, restricts or imposes conditions on a use or development of land.

prescribed amount, see regulation 17.

residential zone, see regulation 13.

(2) The definitions in the NT Planning Scheme of the following terms apply to these Regulations:

- (a) abattoir;
- (b) animal boarding;
- (c) bar-public;
- (d) club;
- (e) dwelling-group;
- (f) dwelling-independent;

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- (g) dwelling-multiple;
 - (h) dwelling-single;
 - (i) excavation and fill;
 - (j) intensive animal husbandry;
 - (k) nightclub entertainment venue;
 - (l) warehouse.
- (3) A reference in these Regulations to a type of zone in relation to land, a use or a development is taken to be a reference to the zone as defined or specified in the planning scheme that applies to the land, use or development.

5 Regulations 6 to 8B replaced

Regulations 6 to 8B

repeal, insert

6 Public notice of development application

- (1) For section 47(2) of the Act, this regulation prescribes the manner and form of the public notice for a development application required under that section of the Act.
- (2) A notice must be published in one or both of the following ways:
- (a) on a website or other electronic platform that is capable of informing the persons affected by the development;
 - (b) in a newspaper circulating in the area in which the land is located or the Territory generally.
- (3) One or more signs must be posted on or in the vicinity of the land to be developed unless:
- (a) the location of the land makes posting the sign an ineffective means of informing the persons affected by the development; and
 - (b) the notice under subregulation (2) is likely to notify the persons affected by the development.

6A Notices and signs

- (1) Subregulation (2) prescribes the information regarding a development application that must be included in the following notices and signs:
 - (a) a notice and sign under section 47 of the Act;
 - (b) a notice under section 47B of the Act;
 - (c) a notice and sign under section 47C of the Act.
- (2) In addition to the information required under section 47(2) of the Act, the notices and signs must include the following information:
 - (a) the Lot, Section or Portion number of the land to which the development application relates and the street address of the land;
 - (b) the current zone of the land;
 - (c) the place where or the manner in which the public can view a copy of the development application;
 - (d) a description of how submissions about the development application may be lodged.
- (3) Any sign posted under section 47 or 47C of the Act must:
 - (a) be posted on, or within a reasonable distance from, each public road frontage of the land; and
 - (b) be clearly legible to a person from a location on the public road nearest to the land; and
 - (c) be posted during at least the submission period specified for the development application.

6B Removing sign during submission period

- (1) Any sign posted under section 47 or 47C of the Act must not be removed until after the end of the submission period.
- (2) A person commits an offence if:
 - (a) the person removes a sign; and
 - (b) the sign was posted under section 47 or 47C of the Act; and

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- (c) the removal occurred before the end of the submission period.

Maximum penalty: 10 penalty units.

- (3) Strict liability applies to subregulation (2).

7 Developments with 28-day minimum submission period

For section 47(5)(a) of the Act, the minimum submission period for the following developments is 28 days:

- (a) development of a building of more than 3 storeys above ground in Alice Springs or Katherine;
- (b) development of a building of more than 8 storeys above ground in Darwin or Palmerston, other than in Zone CB;
- (c) development of more than 50 dwellings on one site, other than in Zone CB;
- (d) development of a building with a gross ground floor area exceeding 10 000 m², other than:
 - (i) a building in Zone DV, LI or GI; and
 - (ii) an education establishment;
- (e) development of premises for animal boarding or intensive animal husbandry in a residential zone or within 500 m of a residential zone;
- (f) development of an abattoir;
- (g) development of a bar-public, club or nightclub entertainment venue that is within 100 m of a residential zoned lot, other than in Zone CB;
- (h) development of a subdivision of land, other than under a masterplan and associated staging plan to:
 - (i) create more than 30 lots; or
 - (ii) create more than 5 lots in Zone RR or RL; or
 - (iii) subdivide vacant land under the *Unit Titles Act 1975* or the *Unit Title Schemes Act 2009* in Zone RR, RL or R;
- (i) development with an estimated cost of \$25 million or more outside Zone CB or DV;
- (j) excavation and fill of land in Zone RR, RL, R or H;

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- (k) clearing of native vegetation on unzoned land or land in Zones A, CN, H, R, RD and WM;
 - (l) development of a new hospital.

8 Limited notice – people requiring privacy

- (1) For section 47B(1)(a) of the Act, the following are prescribed as people requiring privacy:
 - (a) victims of sexual assault, people at risk of domestic violence and other people requiring protection from the risk of violence;
 - (b) people at risk of harm who are under the care and protection of a government agency or any other organisation providing community welfare services.
- (2) For section 47B(2) of the Act, notice for a development application solely for consent to use or develop land to accommodate people requiring privacy must be given to the following persons:
 - (a) any person who owns land adjoining the land to which the development application relates;
 - (b) if the land to which the development application relates adjoins a public road – the owner of each of the 3 parcels of land closest to and on the opposite side of the road;
 - (c) any other person the consent authority considers should be notified of the application.

8A Limited notice – developments without a significant impact

- (1) For section 47B(1)(b) of the Act, the following are prescribed as developments that will not have a significant effect on the existing and future amenity of the locality:
 - (a) development on land on which a dwelling-single was built, or is to be built, if:
 - (i) a planning scheme or an interim development control order allows the development without consent subject to compliance with development requirements; and
 - (ii) consent is required only because the development will not fully comply with development requirements relating to the distance between the dwelling, or a structure ancillary to the dwelling, and a boundary of the land; and

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- (iii) the boundary referred to in subparagraph (ii) does not adjoin a public thoroughfare;
 - (b) development on land zoned for industrial use if:
 - (i) a planning scheme or interim development control order allows the development without consent but includes development requirements relating to the development; and
 - (ii) consent is required only because the development will not fully comply with the development requirements; and
 - (iii) the land does not adjoin a residential zone.
 - (2) For section 47B(2) of the Act, notice for a development application referred to in subregulation (1)(a) must be given to the following persons:
 - (a) any person who owns land adjoining the boundary referred to in subregulation (1)(a)(ii);
 - (b) any other person the consent authority considers should be notified of the application.
 - (3) For section 47B(2) of the Act, notice for a development application referred to in subregulation (1)(b) must be given to the following persons:
 - (a) any person who owns land adjoining the land to which the development application relates;
 - (b) any other person the consent authority considers should be notified of the application.

8B Development application requiring only local notice

For section 47C of the Act, the following are prescribed as the development application or class of development applications to which the notice requirements of that section apply:

- (a) a development application to make an addition or alteration to a dwelling-single with a reduced setback to either the front boundary or any boundary adjoining a public road;
- (b) a development application to construct or make an addition or alteration to a structure that:
 - (i) is ancillary to a dwelling-single; and

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- (ii) has a reduced setback to either the front boundary or any boundary adjoining a public road;
 - (c) a development application to construct a dwelling-independent that requires a variation to the development requirements in Part 5 of the NT Planning Scheme;
 - (d) a development application to construct a dwelling-single that requires a variation to the development requirements for private open space in Part 5 of the NT Planning Scheme;
 - (e) a development that would be permitted but for it being on land that:
 - (i) is at risk of flooding or storm surge; and
 - (ii) is subject to an overlay in Part 3 of the NT Planning Scheme;
 - (f) a development application to construct a dwelling-group on land in Zone LMR;
 - (g) a development application to make an addition or alteration to a dwelling-group or dwelling-multiple that does not increase the height of the dwelling;
 - (h) a development application to construct or make an addition or alteration to a structure that:
 - (i) is ancillary to a dwelling-group or dwelling-multiple; and
 - (ii) has a reduced setback to any boundary on the lot;
 - (i) a development application to make an addition or alteration to a warehouse with a reduced setback to any boundary on the lot, other than land zoned for industrial use.

6 Regulation 9 replaced

Regulation 9

repeal, insert

9 Definition of *infrastructure*

For section 67 of the Act, definition of ***infrastructure***, construction of all or part of the following are prescribed capital works:

- (a) sewer systems;
- (b) potable and non-potable water supply systems;

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- (c) electricity supply systems;
 - (d) roads;
 - (e) stormwater drainage systems;
 - (f) telecommunications systems;
 - (g) street and road lighting systems;
 - (h) any ancillary plant, equipment, works or fixture related to the systems or roads specified in paragraphs (a) to (g).

7 Regulation 12 repealed (Definitions)

Regulation 12

repeal

8 Regulation 13 amended (Residential zones)

- (1) Regulation 13(1)(a) and (b)

omit, insert

- (a) LR – Low Density Residential;
- (b) LMR – Low Medium Density Residential;

- (2) After regulation 13(1)(f)

insert

- (fa) RL – Rural Living;

9 Regulation 13A inserted

After regulation 13

insert

13A Rights of review

- (1) For section 111(1)(i) of the Act, there is a right of review of a decision to take no further action under section 79A(1)(a) of the Act in response to a complaint, unless the complaint relates to a development referred to in regulation 14(3).
- (2) For section 111(2)(c) of the Act, there is no right of review if the decision relates to any proposed development on land to which a planning control provision applies under regulation 14(3).

10 Regulation 14 amended (NT Planning Scheme – when no right of third party application for review)

Regulation 14(3)(a) and (b)

omit, insert

- (a) dwelling-single or dwelling-multiple not exceeding 2 storeys above ground level;
- (b) setbacks for a dwelling-single;

11 Regulation 15 amended (Jabiru Town Plan – when no right of third party application for review)

Regulation 15(3)(a) and (b)

omit, insert

- (a) single dwelling or multiple dwelling not exceeding 2 storeys above ground level;
- (b) setbacks for a single dwelling;

12 Parts 5 and 6 and Schedule inserted

After regulation 15

insert

Part 5 Miscellaneous matters

16 Qualifications of specialist members

For section 89(4) of the Act, a person is eligible to be appointed as a specialist member if the person has qualifications or experience in one or more of the following areas of expertise:

- (a) architecture;
- (b) building construction;
- (c) engineering;
- (d) environmental studies;
- (e) land surveying;
- (f) landscape design;

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- (g) law;
 - (h) property valuation;
 - (i) property development or management;
 - (j) town planning;
 - (k) urban design.

Part 6 Infringement notice offences

17 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in the Schedule.
- (2) The ***prescribed amount*** for an infringement notice offence is the monetary value of the penalty units specified in the Schedule for the offence for which the notice was given.

18 When infringement notice may be given

When authorised under section 80G of the Act, an authorised officer may give an ***infringement notice*** to a person if the authorised officer believes on reasonable grounds that a person has committed an infringement notice offence.

19 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date and time of the infringement notice offence and the place at which the infringement notice offence occurred;
 - (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to which the prescribed amount is payable.

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- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act 2001* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*.
- (3) The infringement notice must include an appropriate form for making the statement of election referred to in subregulation (2)(b).

20 Electronic payment and payment by cheque

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the payee's bank account.
- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

21 Withdrawal of infringement notice

- (1) The Minister or the Chair of the Development Consent Authority may withdraw an infringement notice, issued in the name of the Minister or Development Consent Authority respectively, by written notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

22 Application of Part

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice was given unless the offence is expiated.

(2) This Part does not:

- (a) require an infringement notice to be given; or
- (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice was not given; or
- (c) prevent more than one infringement notice for the same offence being given to a person.

(3) If more than one infringement notice for the same offence was given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Schedule Infringement notice offences and prescribed amounts

regulation 17

Provision of Act	Prescribed amount (penalty units)	
	for individual	for body corporate
section 75(2)	4	20
section 75A(2)	4	20
section 75B(2)	4	20
section 75C(2)	4	20

13 Repeal of Regulations

These Regulations are repealed on the day after they commence.