



Planning and development laws in the NT

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Introduction

Land use planning and development in the Northern Territory is regulated by:

- The [Planning Act 1999 \(NT\)](#) (**Planning Act**) and [Planning Regulations 2000 \(NT\)](#) – set the laws which regulate how land in the Northern Territory can be developed and used. Additionally, it established the Planning Schemes, Development Consent Authority, and Planning Commission.
- The [Northern Territory Planning Scheme 2020](#) (**Planning Scheme**) – divides land in the Northern Territory into zones and outlines how land can be used and developed within a particular zone. It does not apply to the use or development of unzoned land. This scheme dictates the only way that land can be used and developed.
- Development permits and exceptional development permits – authorise the use and development of land.

What is ‘development’?

The [Planning Act](#) defines “development” as meaning:

- the establishment of a use, or a change in the use of land
- a subdivision or consolidation of the land
- carrying out works such as excavation or land-filling; clearing of native vegetation; constructing a building, constructing or upgrading roads and drains. Works excludes mining or agriculture.

When does the Planning Act apply?

- Development applications;
- Amending the planning scheme;
- Appeals of decisions about development applications; and,
- Enforcement where the [Planning Act](#) is breached.

The Northern Territory Planning Scheme

The [Planning Scheme](#) is a statutory document that sets out:

- Planning objectives;
- [Zone tables](#) for zoned lands;
- Area plans and detailed guidelines for land use planning and development in the Northern Territory.

The zones set out the controls for use and development of the land. If land is not zoned, the [Planning Scheme](#) only applies to subdivision of land and clearing native vegetation over 1 hectare. The [zone maps](#) in the Planning Scheme show how the land is zoned. The [zone tables](#) set out whether or not development consent is required.

Zoned land

The [Planning Scheme](#) zones land in the Northern Territory to control the use and development of land in that zone. The zones will indicate what uses and development are allowed and prohibited.

The [Planning Scheme](#) establishes four categories of uses for land: There are:

1. Permitted uses – which are allowed in the zone without consent of the consent authority
2. Self-assessable
3. Permissible only with the consent of the consent authority
4. Prohibited in a particular zone

Unzoned land

Most land in the Northern Territory is not zoned, although such land tends to be those areas that are sparsely populated. Land use controls apply to some unzoned land in the Northern Territory in the following situations:

- Subdivision of land;
- The [Planning Act](#) applies to removal of native vegetation in excess of 1 hectare of native vegetation where no other Act applies to that area of land. For example, if

the [Pastoral Land Act 1992 \(NT\)](#) or [Mineral Title Act 2010 \(NT\)](#) applies then the removal of native vegetation will be regulated by that Act.

Subdivision

The subdivision of land in the Northern Territory, including unzoned land, requires development consent under the [Planning Act](#). The subdivision of land under the control of the [Pastoral Land Act 1992 \(NT\)](#) for a pastoral activity does not require consent under the Planning Act. If the subdivision is for non-pastoral activity, then it will require development consent under the Planning Act.

Who makes decisions under the Planning Act?

The ‘consent authority’ makes decisions on development applications. The consent authority is either the [Minister for Infrastructure, Planning and Logistics](#), the [Development Consent Authority](#) or the [Planning Commission](#) as follows:

- The Development Consent Authority (**DCA**) has a function as a reporting body on planning scheme amendments and exceptional development permits. The DCA receives written submissions, conducts a hearing into the matter and provides a report to the Minister for Infrastructure, Planning and Logistics regarding amendments to the [Planning Scheme](#) and exceptional development permits.
- The Planning Commission has two roles under the planning system:
 - (i) to prepare integrated strategic plans, guidelines and assessment criteria for the [Planning Scheme](#) including community engagement; and,
 - (ii) to advise the Minister on significant development proposals.
- The [Minister for Infrastructure, Planning and Logistics](#) is the relevant consent authority if the DCA has no authority to grant a development permit. This will be where the relevant land is not in one of the seven divisions of the [Development Consent Authority](#) or the land is “called in” before the DCA makes a decision.

The [Minister for Infrastructure, Planning and Logistics](#) also makes decisions regarding amendments to the planning scheme and granting exceptional development permits. When the Minister makes a decision in these circumstances, it is not in the Minister’s role as a ‘consent authority’.

Local councils in the Northern Territory do not have any powers to regulate land use planning. However, Councils must be notified of development (referred to as “proposals”) under the [Planning Act](#).¹

¹ See s 19 of the Planning Act.

Minister for Infrastructure, Planning and Logistics

The [Minister for Infrastructure, Planning and Logistics](#) has the powers to:

- Make or repeal a specific planning scheme to control development;²
- Amend the [Planning Scheme](#);³
- Determine the extent of public notification requirements for amendments to the planning scheme and exceptional development permits;⁴
- Make decisions on planning scheme amendments and exceptional development permits;⁵
- Revoke or modify development permits;⁶
- Determine if a land use has been abandoned;⁷
- Direct the DCA on general or particular matters (but not the determination of particular development applications or the contents of any report or recommendation the DCA must provide under the [Planning Act](#))
- Delegate any of the Minister’s powers in writing to “a person” (but not the power to direct the DCA or to declare that an appeal right against a determination is no longer able to be exercised). In practice, this means the Minister may delegate powers to another Minister, the Chairperson of the DCA, or an employee of the Department of Lands and Planning.

Department Consent Authority (DCA)

The DCA has a division for each area it administers: Darwin, Palmerston, Litchfield, Batchelor, Alice Springs, Katherine and Tennant Creek. Maps for each division are available from the [Development Consent Authority website](#).

The DCA has a chairperson and members appointed by the Minister for Infrastructure, Planning and Logistics. In each division, the members include local council representatives and two members from the community. Community members must be nominated by the local council in the relevant division and all members serve a two-year term of office. Nominations are usually advertised in the Northern Territory News when they become vacant. The DCA holds meetings once a month to make decisions on development applications, planning scheme amendments and exceptional development permits. The meetings are open to the public and minutes are available on the [Development Consent Authority website](#).

² See s 8 of the Planning Act.

³ See Pt 1, Div 2 of the Planning Act.

⁴ See 11(3) of the Planning Act.

⁵ See Pt 1, Div 2 and Pt 4, Div 2 of the Planning Act.

⁶ See Pt 5, Div 3 of the Planning Act.

⁷ See s 37 of the Planning Act.

The DCA must follow any “direction” given to it by the Minister for Infrastructure, Planning and Logistics. This applies to a Minister’s direction “generally or in respect of a particular matter”. The Minister cannot give a direction regarding determination of a particular development application or regarding any report or recommendation prepared by the DCA under the [Planning Act](#).

The DCA has wide powers under section 84(2) of the [Planning Act](#) that are “necessary, convenient or incidental to” performing its functions or exercising its powers. The DCA may:

- delegate any of its powers and functions under the Planning Act to an employee in a Northern Territory Government department (referred to as an employee defined in the Public Sector Employment and Management Act).
- delegate any of its powers and functions under the Planning Act to one of its members.

Planning Commission

The Planning Commission was established by the 2012 amendments to the [Planning Act](#). The Planning Commission consists of:

- A Chairperson appointed by the Minister for Infrastructure, Planning and Logistics;
- The Chairpersons of the DCA;
- The Heritage Council;
- The Northern Territory EPA;
- A representative of the Local Government Authority; and,
- Up to five other members appointed by the Minister.

The Commission is responsible for two roles under the planning system:

1. To prepare integrated strategic plans, guidelines and assessment criteria for the [Planning Scheme](#); and,
2. To advise the Minister on significant development proposals (For more on this, read the EDO Factsheet on “Development Permits, Exceptional Development Permits and Significant Development Proposals in the NT”).

In relation to its first responsibility, the Commission is obliged to undertake community engagement in the preparation of integrated strategic plans, guidelines and assessment criteria.

Development Assessment Services – Department of Infrastructure, Planning and Logistics

The Department of Infrastructure, Planning and Logistics has the responsibility for strategic planning, statutory planning, developing growth frameworks, strategies and infrastructure plans. The Development Assessment Services branch of the Department advises developers and the general public on planning controls. Its main role is to assess

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development applications and planning scheme amendments, consider submissions made by the public and prepare reports for the consent authority.

What is a planning scheme amendment?

A planning scheme amendment is a change to the [Planning Scheme](#), which changes the zoning controls of an area of land.

Development consents, exceptional development permits and significant development proposals

Land use planning under the [Planning Act](#) is controlled by a system that requires people to apply for and obtain development consent for certain land uses and developments. A development application is required to be lodged by a developer for any development that is required to have ‘development consent’ under the Planning Act. The consent authority grants a development permit when it consents to the development of land.⁸

A development permit is also “taken to be issued” on land where “existing use rights” apply on particular land.⁹

A development permit may also be issued as a “variation” of an existing development permit provided the development permit has not lapsed.

Exceptional development permits are a type of development consent which can be applied for when development in a zone would normally be prohibited. The [Planning Act](#) allows a person to apply for a permit for development when the proposal is prohibited under the [Planning Scheme](#). An exceptional development permit effectively turns an otherwise prohibited land use into an approved use without changing the zoning of the land.

When the Minister for Infrastructure, Planning and Logistics is considering whether to grant the exceptional development permit, the Minister must be satisfied that it truly is an ‘exception’. If it is not, the Minister must initiate a planning scheme amendment to rezone the land permanently.

A significant development proposal is a one that requires a development *and* may have a significant effect on future land use and development. A proposal will be considered significant where it may have a significant impact on:

- Strategic planning; or,
- The natural environment or existing amenity of that land, adjoining land or other areas of land.

⁸ See s 44 of the Planning Act.

⁹ See s 45 of the Planning Act.

Where a proposal is considered “significant” in this sense, a significant development report must be written and provided by the Planning Commission to the Minister. That report must identify, and give advice about, the possible impacts of the proposal on future land use and development in the Territory. A consent authority may also request the Planning Commission to provide the Minister with such a report where it considered a particular development to be significant.

Where a significant development report is provided, the relevant consent authority must take the report into account before determining the application.

For more information, read the EDO Factsheet on “Development Permits, Exceptional Development Permits and Significant Development Proposals in the NT”.

When is environmental impact assessment needed for development?

Developments with the potential to have a significant impact on the environment may also require assessment under the Northern Territory [Environment Protection Act](#) and the [Environment Protection Regulations](#).

How do I access information relating to land?

Several types of planning documents are publicly available:

- Development consent applications and exceptional development permit applications are available to view online at [Development Applications Online](#). This website has information about current development consent applications that are exhibited for the public to comment on and also information about old (called archived) development consent applications. Documents relating to individual development consent applications, for example, plans and Statements of Effect can be downloaded from the website, by clicking “view proposal”. Archived development consent applications and exceptional development applications from 2005 onwards can be viewed on the [Northern Territory Infrastructure, Planning and Logistics Land Information Systems](#) website.
- Development permits and approved development plans are available for inspection from the DCA during normal office hours. The DCA must retain a register of approved permits and plans and make them available to the public under section 138 of the [Planning Act](#). It is free to inspect the register, approved permits and approved plans (also called stamped plans). However, there are charges for photocopying permits and plans. In Darwin, the Development Consent Authority’s register and plans are held at the [Development Assessment Services](#) office at Cavenagh House. It is also possible to obtain certified copies of permits issued under the Planning Act, and any other document issued under the Planning Act, by applying to the Minister for Lands, Planning and Environment.
- The [Planning Scheme](#) is the document that sets out the rules for the use and development of land in the Northern Territory. It is available to download as a single document or by specific sections. The Planning Scheme has zoning maps,

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which show how land is permitted to be used and developed in different areas of the Northern Territory. It also has provisions that permit, prohibit or impose conditions on a use or development of land.

- [Planning Scheme Amendments](#) are changes to the Northern Territory Planning Scheme. Members of the public can make comments on proposed Planning Scheme Amendments. There are two ways to view proposed Planning Scheme Amendments: from the [Northern Territory Infrastructure, Planning and Logistics Land Information Systems](#) website or from the [Development Applications Online](#) website. You can also see Notices about finalized Planning Scheme Amendments in the [Northern Territory Government Gazette](#).
- Copies of recent decisions made by the Northern Territory Civil and Administrative Tribunal (**NTCAT**) may be available from the [NTCAT website](#).
- Zone maps for all zoned land are available on the [Department of Infrastructure, Planning and Logistics](#) website.
- A range of maps, satellite imagery and free public access to electronic mapping information is available from the Department of Infrastructure, Planning and Logistics at <http://www.nt.gov.au/lands/lis/index.shtml>.