



Environmental Defenders Office

Planning and development laws in the NT

Disclaimer: This factsheet is a guide only and is designed to give readers a plain English overview of the law. It does not replace the need for professional legal advice in individual cases. To request free initial legal advice on a public interest environmental or planning law issue, please visit our [website](#).

While every effort has been made to ensure the information is accurate, the EDO does not accept any responsibility for any loss or damage resulting from any error in this factsheet or use of this work.

This factsheet was last updated on 29 April 2022

Introduction

Land use planning and development in the Northern Territory (**NT**) is regulated by:

- The [Planning Act 1999 \(NT\)](#) (**Planning Act**) and [Planning Regulations 2000 \(NT\)](#) – these laws regulate how land in the Northern Territory can be developed and used. These laws also establish the Planning Schemes, Development Consent Authority, and Planning Commission.
- The [Northern Territory Planning Scheme 2020](#) (**Planning Scheme**) – this 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. The scheme covers the whole of the NT apart from Jabiru, which is instead covered by the Jabiru Town Plan.
- Development permits and exceptional development permits – these authorise the use and development of particular parcels of land.

This factsheet provides a general overview of planning and development laws. You can also refer to the NT government’s website for more information.

Visit: The NT government’s page on [Land Planning and Development](#).

What is ‘development’?

Broadly speaking, the Planning Act defines “development” to mean an activity that involves:

- the establishment of a use, or a change in the use of land
- a subdivision or consolidation of the land

- carrying out works, including excavation or land-filling; clearing of native vegetation; constructing a building, constructing or upgrading roads and drains (subject to certain exclusions). Works does not include mining or agriculture.

Among other things, the Planning Act covers planning schemes and proposals, interim development control orders, development permits and enforcement.

The Northern Territory Planning Scheme

The Planning Scheme is a statutory document that sets out:

- Planning objectives;
- Zone tables for zoned land; and
- 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. 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.

A person may apply in writing to the Minister for Infrastructure, Planning and Logistics (**The Minister**) for a planning scheme amendment, which changes the zoning controls of an area of land. Members of the public may comment on proposed amendments.

Visit: The NT government's website to view the [NT Planning Scheme 2020](#) and [Amendments to the NT Planning Scheme 2020](#).

The Development Applications Online page on [Planning Proposals on Exhibition](#) to view all planning applications open for public comment, including proposed amendments to the Planning Scheme.

Zoned land

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

The Planning Scheme establishes four categories of uses for land. They 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.

Visit: The NT government's page on the [Application process for unzoned clearing of native vegetation](#).

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 Minister**), the Development Consent Authority (**DCA**) or the Planning Commission as follows:

- The 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 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 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 DCA or the land is "called in" before the DCA makes a decision.

The Minister 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

Visit: The Department of Infrastructure, Planning and Logistics (**The Department** [website](#)) to learn more about the Minister’s role.

The Department’s page on the [Development Consent Authority](#) to learn more about the DCA.

The Planning Commission’s [website](#) to learn more about them.

Minister for Infrastructure, Planning and Logistics

The Minister 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.

¹ [Planning Act 1999 \(NT\)](#) s 19 (‘Planning Act’).

² Ibid, s 8.

³ Ibid, Pt 1, Div 2.

⁴ Ibid, s 11(3).

⁵ Ibid, Pt 1, Div 2 and Pt 4, Div 2.

⁶ Ibid, Pt 5, Div 3.

⁷ Ibid, s 37.

Department Consent Authority

The DCA has a division for each area it administers. There are 7 division areas:

- Darwin
- Palmerston
- Litchfield
- Batchelor
- Alice Springs
- Katherine; and
- Tennant Creek.

Maps for each division are available from the Department's website.

Visit: The Department's page on the [Development Consent Authority](#) to learn more about the DCA and view the maps for each division area.

The DCA has a chairperson and members appointed by the Minister. 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 Department's page for the DCA (linked above).

The DCA must follow any "direction" given to it by the Minister. 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 the Planning Act that are "necessary, convenient or incidental to"⁸ 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 NT government department (referred to as an 'employee' as defined in the [Public Sector Employment and Management Act 1993 \(NT\)](#)); and/or
- delegate any of its powers and functions under the Planning Act to one of its members.

⁸ Planning Act, s 84(2).

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;
- The Chairpersons of the DCA;
- The Heritage Council;
- The Northern Territory EPA;
- A representative of the Local Government Authority; and
- Up to 5 other members appointed by the Minister.

The Commission is responsible for 2 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.

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

The Department has the responsibility for strategic planning, statutory planning, developing growth frameworks, strategies and infrastructure plans. The Department's Development Assessment Services branch advises developers and the general public on planning controls. Its main role is to assess development applications and planning scheme amendments, consider submissions made by the public and prepare reports for the consent authority.

Development permits, 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.

1. A person must apply to the DCA for a development permit to use or develop land if approval is required under the Planning Act. The consent authority grants a development permit when it consents to the development of land.⁹

⁹ Planning Act, s 44.

2. A person must apply to the Minister for an [exceptional development permit](#) to develop land where the development would normally be 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.
3. A [significant development proposal](#) is 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.

For such a development, the Planning Commission must provide a report to the Minister which identifies, and gives advice about, the possible impacts on future land use and development in the Territory. The relevant consent authority must take the report into account before determining the application.

Visit: The Development Applications Online website to view [current](#) and [archived](#) (historical) development consent and exceptional development consent applications.

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 [Environment Protection Act 2019 \(NT\)](#) and the [Environment Protection Regulations 2020 \(NT\)](#).

Read: EDO factsheet on [Environmental Assessment under the Environmental Protection Act 2019 \(NT\)](#)

Evaluate this resource

EDO welcomes feedback on this factsheet. Your feedback will help us ensure we are providing useful information.

If you have any concerns or suggestions regarding this factsheet, please fill out the Legal Resources evaluation form by clicking [here](#) or scanning the QR code below:

