

NORTHERN TERRITORY OF AUSTRALIA

Planning Act

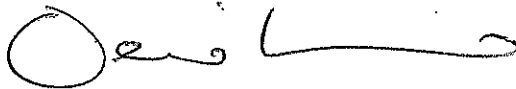
AMENDMENT OF NT PLANNING SCHEME

I, DELIA PHOEBE LAWRIE, the Minister for Planning and Lands, under section 12(2)(a) of the *Planning Act*, amend the NT Planning Scheme by making the amendment specified in the Schedule.

Dated

17 June

2009



Minister for Planning and Lands

SCHEDULE

AMENDMENT OF NT PLANNING SCHEME

AMENDMENT No. 74

1. Citation

This amendment to the NT Planning Scheme may be cited as Amendment No. 74.

2. New clause 11.1.4

After clause 11.1.3 –

insert:

11.1.4 Subdivision for the Purposes of a Unit Title Scheme

1. The purpose of this clause is to ensure that:
 - the new ownership arrangements resulting from a subdivision to create a unit title scheme allow each element of the development to continue to be available to the occupants of the development and where appropriate to visitors;
 - older developments are upgraded; and
 - development will not have a detrimental environmental effect on the land or result in a loss of amenity within the locality.
2. Subject to sub-clauses 3, 4, 5 and 8 a subdivision to create a unit title scheme should meet the requirements of Part 4 of the planning scheme and in particular:
 - (a) all car parking provided as a requirement of a development must be available at all times for the use of the occupants of the development and their visitors or clients and be included:
 - in common property; or
 - as part of the area under the title for the individual units;
 - (b) any loading bays provided for:
 - common use must be in common property; and
 - the sole use of an individual unit must be in the entitlement of that unit;
 - (c) any areas set aside for the communal storage and collection of garbage and other solid waste must be included in common property;
 - (d) any private open space associated with a **dwelling** must be included in the unit entitlement of that **dwelling**; and
 - (e) any communal facilities and amenities or open space provided for **hostels, multiple dwellings** and **supporting accommodation** must be included in common property.
3. A lawfully established use or development on a lot may be subdivided to create a unit title scheme only if the use or development has been upgraded to meet the performance criteria within Part 4 of the planning scheme that apply to the use or development of the land.

If it is not possible to meet the criteria the consent authority must be satisfied that the proposed upgrading is the only practicable design solution.
4. The consent authority must not **consent** to a subdivision that results in a separate unit title for:
 - (a) a **dependant unit**; or
 - (b) a business associated with a **home occupation, home based child care, home based contracting or medical consulting rooms**.

The *Land Title Act* describes a "lot" as a separate, distinct parcel of land that may be a unit or common property. For the avoidance of confusion, the Surveyor General uses the term "unit" for a parcel of land or building unit or common property created under the *Unit Title Schemes Act* and described on a UTS plan and "lot" for a parcel of land created under the *Land Title Act* and described on an LTO plan as a "lot".

In a unit title scheme, common property will be identified as a separate unit.

5. If there is a requirement for a firebreak along the perimeter boundary of the unit title scheme, the consent authority must not **consent** to a subdivision unless the firebreak is within common property.
6. If there is a requirement for common infrastructure including internal roads, water supply, effluent disposal, waste disposal or power generation, the consent authority must not **consent** to a subdivision unless that infrastructure is within common property or vested in the relevant service authority.
7. Where a subdivision to create a unit title scheme proposes that the land will be vacant at the time titles issue, the land area of individual units should be consistent with clauses 11.1.1 Minimum Lot Sizes and Requirements and 11.1.2 Integrated Residential Development.

For the purpose of sub-clause 7, "land area" does not include:

- common property;
 - land that will be permanently inundated; or
 - a marina berth.
8. Despite sub-clause 7, a subdivision to create a unit title scheme on unzoned land may include units with reduced land areas if the unit title scheme addresses the requirements of sub-clause 9.
 9. A subdivision to create a unit title scheme on Zones R, RL, H and unzoned land must demonstrate that:
 - (a) the intensity of the use is not likely to have a detrimental impact on the locality;
 - (b) on zoned land the density of residential development within the unit title scheme matches that of the zone in which it is located;
 - (c) an adequate supply of potable water is available for the intended development;
 - (d) appropriate sanitation and waste disposal facilities are provided;
 - (e) an appropriate power supply is available to the development;
 - (f) there is an adequate separation between:
 - activities proposed on common property; and
 - uses on or that can reasonably be expected on land outside the unit title scheme; and
 - (g) any proposed dwellings, garages, sheds and structures without external walls within a unit title scheme shall be set back at least 10m from the unit title scheme boundary to minimise the potential impact on the existing and future amenity of land outside the unit title scheme.

If the *Bushfires Act* applies to the land that Act may require provision of a firebreak along the property boundary.

3. Amendment of clauses 11.4, 11.4.1, 11.4.2 and 11.4.3

omit

clauses 11.4, 11.4.1, 11.4.2 and 11.4.3

substitute:

11.4 SUBDIVISION OF RURAL AND UNZONED LAND

11.4.1 Site Characteristics of Subdivisions of Rural and Unzoned Land

1. The purpose of this clause is to ensure subdivisions of rural and unzoned land respond to the physical characteristics of the land.
2. Subdivision design of rural and unzoned land should:
 - (a) avoid the development of land of excessive slope, unstable or otherwise unsuitable soils (eg seasonally waterlogged) and natural drainage lines;
 - (b) retain and protect significant natural and cultural features;
 - (c) minimise the number of lots in, or exclude from subdivision, areas of high conservation significance and drainage protection areas;
 - (d) avoid development of land affected by a 1% AEP flood or storm surge event and be situated above the RL 6.0 AHD contour where subdivision adjoins tidal areas;
 - (e) minimise alteration or disturbance to natural drainage systems including drainage areas, recognisable watercourses, lagoons and seepage areas;
 - (f) minimise potential for erosion, sedimentation and pollution of watercourses; and
 - (g) minimise potential for localised flooding.
3. An application to subdivide land within the Shire of Litchfield that includes land identified on the map *"Priority Environmental Management Areas – Litchfield Shire"* as an area potentially of environmental significance should, on the advice of the Department of Natural Resources, Environment and the Arts, be accompanied by and the consent authority shall have regard to an evaluation by a suitably qualified person of the environmental significance of the native vegetation and land form (eg lagoons, wetlands, rugged terrain and drainage systems).
4. An application described in sub-clause 3 must demonstrate that the proposed subdivision design does not adversely affect the environmental values as identified in the evaluation.

Areas potentially of environmental significance within the Shire of Litchfield are identified on the map *"Priority Environmental Management Areas – Litchfield Shire"* produced by the Department of Planning and Infrastructure, see clause 2.8.

11.4.2 Infrastructure in Subdivisions of Rural and Unzoned Land

1. The purpose of this clause is to ensure subdivisions of rural and unzoned land are integrated with infrastructure, community services and facilities.
2. Subdivision design of rural and unzoned land should:
 - (a) minimise disturbance through earthworks associated with the provision of infrastructure;
 - (b) provide for connection to reticulated services where practicable;
 - (c) where no reticulated sewerage is available, demonstrate that the soils are suitable for the on-site absorption of effluent without detriment to the environment and in particular to ground and surface waters; and
 - (d) where no reticulated water is available, demonstrate that an adequate supply of groundwater is available for domestic purposes.
3. Roads in subdivisions of rural and unzoned land should:
 - (a) be designed to:
 - i interconnect with the existing road network;
 - ii provide for connections to potential future subdivisions of adjoining lands;
 - iii provide a clear hierarchy of roads; and
 - iv minimise individual lot access to major roads;
 - (b) respond to the physical characteristics of the land by:
 - i. following ridge lines or contours where possible; and
 - ii. where crossing watercourses be positioned at right angles to the watercourse and minimise the number of crossing points;
 - (c) be sealed where lot sizes are 2ha or less;
 - (d) be located above the 1.0% AEP flood line or any seepage line, whichever is the higher;
 - (e) be designed with discharge drains placed to minimise erosion and associated engineering and maintenance costs;
 - (f) provide direct access to lots and avoid battleaxe strips, however, where justified, battleaxe strips should be:
 - i not less than 10m wide; and
 - ii less than 250m in length.
4. Where a road crosses a tidal arm in a rural subdivision it is expected to have a minimum elevation of RL 8m AHD and be designed to enable a discharge of at least a 5.0% AEP flood event.

11.4.3 Lot Size and Configuration in Subdivisions of Rural and Unzoned Land

1. The purpose of this clause is to ensure subdivisions of rural and unzoned land:
 - (a) have lots that are of a size and configuration suited for the intended purpose;
 - (b) have lots that are of a size consistent with the topographical constraints of the land (that may dictate that lots are of an area in excess of the specified minimum); and
 - (c) do not impose unsustainable demands on groundwater or unreasonably degrade the environment.
2. Subdivision design in relation to lot size and configuration is to:
 - (a) ensure lots are of a size that does not prejudice the economic viability of the proposed use;
 - (b) ensure that each lot has a minimum of 1ha of unconstrained land and that access to that land from a public road is similarly unconstrained;
 - (c) ensure that lots have a depth to width ratio not exceeding 4:1;
 - (d) show the location of notional and existing bores, wells and on-site effluent disposal systems and allow for effluent disposal systems to be sited at least 50m up slope from any seepage line and above the 1% AEP flood event and at least 100m from any groundwater extraction point;
 - (e) incorporate as far as practicable, drainage lines and drainage floors wholly within a single lot;
 - (f) allow for 70m separation between bores, both proposed and existing; and
 - (g) ensure lot boundaries:
 - i. are at right angles to any watercourse;
 - ii. are sufficiently up slope to be outside of seepage zones where following drainage lines;
 - iii. are at right angles to contours or along contours where slope is between 2.0% and 5.0% and follow ridge lines, spurs or contours where slope is above 5.0%; and
 - iv. minimise the number of watercourse crossings.

4. Repeal of clause 11.4.6

Clause 11.4.6 –

repeal

11.4.6 Estate Development in Zones RL, R and H

- ~~1. The purpose of this clause is to ensure that estate developments do not detract from the **amenity** of adjacent rural living areas or detrimentally impact on the environment.~~
- ~~2. Despite clause 11.1.1, land in Zone RL, R or H may, with **consent**, be subdivided as an estate development.~~
- ~~3. The density of an estate development under this clause should match that of the zone in which it is located.~~
- ~~4. An application for subdivision under this clause is to demonstrate consideration of and the consent authority is to have regard to:
 - ~~(a) a detailed evaluation of the capability of the land to accommodate **dwelling**s and associated water supply and waste disposal infrastructure;~~
 - ~~(b) retention and protection of any significant natural and cultural features;~~
 - ~~(c) provision of appropriate waste disposal and water supply infrastructure;~~
 - ~~(d) an adequate separation between activities proposed on common areas and uses on or that can be reasonably expected on adjacent properties; and~~
 - ~~(e) details of the management plan for common areas.~~~~
- ~~5. Setbacks between **dwelling**s and adjacent lots are to be of sufficient width and be appropriately landscaped to provide an effective visual and acoustic screen to minimise the potential impacts on the existing and future **amenity** of those lots.~~
- ~~6. In this clause, "estate development" has the meaning within the *Unit Titles Act*.~~

5. Amendment of NT Planning Scheme

omit

all references to "the Scheme"

substitute

the Planning Scheme.

NORTHERN TERRITORY OF AUSTRALIA

Planning Act

NOTICE OF AMENDMENT OF NT PLANNING SCHEME
AMENDMENT No. 74

I, DELIA PHOEBE LAWRIE, the Minister for Planning and Lands, under section 28(1) of the *Planning Act*, give notice that -

- (a) I have amended the NT Planning Scheme in response to the introduction of the *Unit Title Schemes Act* by inserting a new clause 11.1.4 Subdivision for the Purposes of a Unit Title Scheme; amending clauses 11.4 Rural Subdivision, 11.4.1 Site Characteristics in Rural Subdivisions, 11.4.2 Infrastructure in Rural Subdivisions, 11.4.3 Lot Size and Configuration in Rural Subdivisions to include a reference to unzoned land; repealing clause 11.4.6 Estate Development in Zones RL, R and H and omitting all references to "the Scheme" and substituting "the Planning Scheme"; and
- (b) copies of the amendment are available from the Offices of the Department of Planning and Infrastructure:
- Ground Floor, Cavenagh House, 38 Cavenagh Street, Darwin;
 - Level 1, Alice Plaza, Todd Mall, Alice Springs;
 - Level 1, Government Centre, 5 First Street, Katherine; and
 - Regional Office, Leichhardt Street, Tennant Creek.

Dated

17 June

2009



Minister for Planning and Lands

NORTHERN TERRITORY OF AUSTRALIA

Planning Act Section 29

Reason for Decision

NT PLANNING SCHEME AMENDMENT

AMENDMENT No. 74

The NT Government has committed to the reform and modernisation of the laws relating to unit titles and community titles legislation.

The *Unit Title Schemes Act* provides a new scheme for the development of land and its subdivision into units and common property. In due course, it will replace the *Unit Titles Act* and related legislation.

A major change resulting from the changes to the unit title legislation is an amendment to the *Planning Act* so that the provisions of that Act regarding subdivision and consolidations apply to all subdivisions and consolidations relating to unit titles. The effect is that all unit titles will be issued based on subdivision plans approved under the *Planning Act*.

The *Planning Regulations* have been amended so that it is clear that the consent authority, in making its decision, must decide whether any building or part of a proposed building will be suitable for separate occupancy of the kind suited for the subdivision of land. In considering the application, the consent authority will be required to assess whether any buildings in the proposed development are suitable to comprise separate land title lots.

Thus, the consent authority will do more than simply check that there is an occupancy permit under the *Building Act* or under any transitional operation of the various acts repealed by the *Building Act*. Instead, it will look to see if the building is such that the *Australian Building Code* would operate so as to permit the building to be occupied for the purpose for which it is being subdivided.

In those areas of the Northern Territory where the *Building Act* applies, a building must conform to the *Building Act* at the date the development application (for unit title subdivision) under consideration is made. The intention is that if an old building is to be considered for a unit title subdivision it must be upgraded to meet the NT Planning Scheme and the current *Building Act/Code* requirements.

The new legislation provides greater flexibility for developers and more transparency and protection for consumers. The changes to the *Planning Regulations* and the NT Planning Scheme mean that consumers can be confident that their property investment meets current fire, health and safety standards.

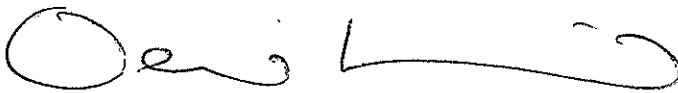
New NT Planning Scheme clause 11.1.4 (Subdivision for the Purposes of a Unit Title Scheme) introduces criteria for the assessment of applications for unit title subdivisions. The purpose of the clause is to ensure that the new ownership arrangements allow each element of the development to continue to be available to the occupants and visitors of the development; that older developments are upgraded; and that the development will not have a detrimental impact on the land or result in a loss of amenity within the locality.

The amendment alters clauses 11.4.1 (Site Characteristics in Rural Subdivisions), 11.4.2 (Infrastructure in Rural Subdivisions) and 11.4.3 (Lot Size and Configuration in Rural Subdivisions) by including "unzoned land" so that the subdivision criteria that applies to rural land also applies to unzoned land.

The amendment omits clause 11.4.6 (Estate Development in Zones RL, R and H) since the provisions of that clause have been incorporated within new clause 11.1.4.

All references to "the Scheme" in the NT Planning Scheme have been replaced with "the Planning Scheme" since "the scheme" will mean the unit titles scheme under the *Unit Title Schemes Act*.

Because Government has made the policy decision to change the unit title legislation resulting in a major change to planning processes, the proposed changes to the NT Planning Scheme are not considered significant but rather a consequential outcome of the legislative changes.



DELIA PHOEBE LAWRIE
Minister for Planning and Lands

17/6/2009