

# PART 1 - GUIDANCE

## 1.1 Citation

1. The Northern Territory Planning Scheme 2020 may be cited as the Planning Scheme.

## 1.2 Application

1. This Planning Scheme applies to the whole of the Northern Territory with the exception of an area subject of a specific planning scheme made under section 8 of the *Planning Act 1999*.

## 1.3 Purpose of the Planning Scheme

1. The purpose of the Planning Scheme is to:
  - (a) further the Objectives of the *Planning Act 1999*;
  - (b) establish the strategic planning framework to inform and guide all development in the Territory;
  - (c) establish controls to guide development; and
  - (d) provide a clear framework for the assessment and determination of development applications.

## 1.4 Commencement

1. The Planning Scheme came into effect on 31 July 2020. Amendments that have been made to the Planning Scheme are listed in [Schedule 1](#).

## 1.5 Interpretation

1. A reference in this Planning Scheme to any Act includes any regulation or instrument made under it and, where amended or replaced, means the latest version of the legislation, regulation or instrument.
2. A reference in this Planning Scheme to an external document or standard means the latest version of the document or standard published by the author.
3. A reference in this Planning Scheme to data (including mapping informing overlays) managed by another agency means the latest version of the data published by that agency.

## 1.6 Structure of the Planning Scheme

1. The structure of the Planning Scheme includes:
  - (a) [Strategic Framework \(Part 2\)](#)  
The Strategic Framework establishes guidance to facilitate development and decision making in a coordinated manner while recognising the differences between various regions and local areas across the Planning Scheme area.
  - (b) [Overlays \(Part 3\)](#)  
Overlays, including overlay maps, identify areas of land that have specific development requirements.
  - (c) [Zones and Assessment Tables \(Part 4\)](#)  
Zone maps and associated zone purpose and outcomes statements establish the location of compatible development, establish development expected in a zone and an indication of what that development might look like respectively.

Assessment Tables identify the assessment category of potential use and development within each zone and applicable development requirements.

Specific Use Zones shown on the zone maps for certain areas provide for particular development outcomes which are not consistent with the available zones or Development Requirements within the Planning Scheme.

**Editor's Note: the *Planning Act 1999* provides direction to the interpretation and application of Specific Use Zones in effect prior to the commencement of this Scheme**

- (d) [Development Requirements \(Part 5\)](#)  
Requirements that apply to development within the Planning Scheme area and are divided into two categories:
  - i. General Development Requirements; and
  - ii. Specific Development Requirements.
- (e) [Subdivision and Consolidation Requirements \(Part 6\)](#)  
Requirements that apply to the subdivision and consolidation of land within the Planning Scheme area.
- (f) [Aboriginal Communities and Towns \(Part 7\)](#)  
Requirements that apply to development within Aboriginal Communities and Towns listed in Schedules 6 and 7.

- (g) [Schedules](#)  
The Schedules provide:
- i. a range of interpretive provisions and administrative guidelines to supplement considerations and directions within the Parts of the Planning Scheme;
  - ii. Specific Use Zones; and
  - iii. Specific Use Zones in effect prior to the commencement of this Scheme.

## 1.7 Operation of the Planning Scheme

1. Where there is inconsistency between Parts within this Planning Scheme, the following rules apply:
  - (a) the Strategic Framework in Part 2 is to guide the interpretation of all Parts;
  - (b) overlays in Part 3 prevail over all Parts to the extent of the inconsistency;
  - (c) Area Plans within the Strategic Framework prevail over zone purposes and outcomes in Part 4 (but not over the assessment category set out in the assessment tables) and Parts 5 and 6 to the extent of the inconsistency;
  - (d) zone purposes and outcomes in Part 4 prevail over Parts 5 and 6 to the extent of the inconsistency; and
  - (e) the provisions of Parts 1, 2, 3, 5, 6 and 7 apply to development described in Schedule 4.1 (Specific Use Zones) except where they conflict with any conditions specified in that Schedule.

## 1.8 When development consent is required

1. The need for **consent** and the level of assessment that applies to the use and development of land is set out in the framework below:
  - (a) Permitted – use and development that is compatible with the purpose of the zone provided it is established and operated to comply with all relevant development requirements.

Use and development of land is *Permitted* without **consent** when the following apply:

- i. it is shown as *Permitted* on the relevant assessment table in Part 4; and
- ii. it does not require **consent** by virtue of an overlay in Part 3; and
- iii. it complies with all relevant development requirements set out in Part 5; or
- iv. a provision of the Planning Scheme expressly sets out that it is *Permitted*.

- (b) Merit Assessable – use and development that requires the exercise of discretion by the consent authority to ensure it can be established and operated in a way that does not impact on the **amenity** of the area and accords with the relevant zone purposes and outcomes.

Use and development of land requires **consent** and is *Merit Assessable* when any of the following apply:

- i. it is shown as *Merit Assessable* on the relevant assessment table in Part 4;
- ii. it is shown as *Permitted* on the relevant assessment table in Part 4 but:
  - (1) requires **consent** by virtue of an Overlay as set out in Part 3; or
  - (2) does not comply with the relevant development requirements set out in Part 5;
- iii. it is for the consolidation of land or a subdivision for the purpose of a Unit Title Scheme for a development that has previously been granted **consent**, or
- iv. a provision of the Planning Scheme expressly requires assessment as *Merit Assessable*.

**Editor’s note: the Planning Act and Regulations exempt some types of consolidation and subdivision from requiring consent.**

- (c) Impact Assessable – use and development that requires the exercise of discretion by the consent authority to determine if it is appropriate given the location of the **site** and the potential impacts on surrounding uses, and if it accords with the Strategic Framework.

Use and development of land requires **consent** and is *Impact Assessable* when any of the following apply:

- i. it is shown as *Impact Assessable* on the relevant assessment table in Part 4;
- ii. it is for the subdivision of land other than that included at Clause 1.8(1)(b)(iii); or
- iii. it is identified as *Impact Assessable* in Clause 1.9; or
- iv. it is a *Prohibited* development which relates to a **heritage place** as set out in Clause 1.10(7)(b); or
- v. a provision of this Planning Scheme expressly requires assessment as *Impact Assessable*.

- (d) Prohibited – use and development to which the consent authority must not grant **consent**.

Use and development of land is *Prohibited* if:

- i. it is shown as *Prohibited* on the relevant assessment table in Part 4, unless it is **ancillary** as allowed by Clause 1.9; or
- ii. a provision of this Planning Scheme expressly prohibits **consent**.

## 1.9 Ancillary use and development

1. Unless expressly provided for in this Planning Scheme:
  - (a) where the definition of a development in Schedule 2 includes use or development that may be established if **ancillary**, the **ancillary** use or development included in the definition are *Permitted* provided they comply with any relevant development requirements in Parts 3 and 5;
  - (b) if an **ancillary** use or development described in (a) does not comply with Parts 3 and 5, the **ancillary** use or development requires **consent** and the level of assessment that applies is *Merit Assessable*;
  - (c) an **ancillary** use or development not specified in the definition of the **primary use** in Schedule 2 requires **consent** and the level of assessment that applies to the **ancillary** use or development is either:
    - i. the assessment category specified in the assessment table for the zone in Part 4; or
    - ii. if Undefined or Prohibited it is *Impact Assessable*.

## 1.10 Exercise of Discretion by the Consent Authority

1. In considering an application for **consent** for a use or development, the consent authority must consider the use or development in its entirety except in relation to:
  - (a) an application to alter, change or vary a development permit under sections 43A, 46 or 57 of the Act;
  - (b) **access** to a **main road**; or
  - (c) a *Merit Assessable* application under Clause 1.8(1)(b)(ii)(2).
2. In considering an application for **consent** for a use or development that has become *Merit Assessable* under Clause 1.8(1)(b)(ii)(2), the consent authority must consider the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements.
3. In considering an application for **consent** for a use or development identified as *Merit Assessable* the consent authority must take into account all of the following:
  - (a) the relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;

- (b) any Overlays and associated requirements in Part 3 that apply to the land;
  - (c) the guidance provided by the relevant zone purpose and outcomes in Part 4 relevant to a variation of requirements in Parts 5 or 6; and
  - (d) if an Area Plan in Part 2 applies to the land, any component relevant to a variation of requirements in Parts 5 or 6.
4. In considering an application for a use or development identified as *Impact Assessable* the consent authority must take into account all of the following:
    - (a) any relevant requirements, including the purpose of the requirements, as set out in Parts 5 or 6;
    - (b) any Overlays and associated requirements in Part 3 that apply to the land;
    - (c) the guidance provided by the relevant zone purpose and outcomes in Part 4; and
    - (d) any component of the Strategic Framework relevant to the land as set out in Part 2.
  5. The consent authority may **consent** to a proposed use or development that is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
    - (a) the purpose and administration clauses of the requirement; and
    - (b) the considerations listed under Clause 1.10(3) or 1.10(4).
  6. When consenting to the use or development of land, the consent authority may impose a condition requiring a higher standard of development than is set out in a requirement of Parts 3, 5 or 6 if it considers it necessary to the achievement of the Strategic Framework, the purpose of the overlay or the zone, or it considers it is otherwise necessary to do so.
  7. The consent authority must not grant **consent** for a use or development identified as *Prohibited* unless:
    - (a) the *Prohibited* use or development is **ancillary** as set out in Clause 1.9; or
    - (b) the *Prohibited* use or development relates to a **heritage place** and it has the approval of the Minister responsible for the administration of the *Heritage Act 2011*.

## 1.11 Exceptions

1. This Planning Scheme does not prevent the use or development of unzoned land unless:
  - (a) for subdivision or consolidation;
  - (b) an Overlay specifically requires **consent**, or

- (c) an Interim Development Control Order specifically requires **consent**.
2. Despite sub-clause 1 this Planning Scheme does not prevent the use or development of land in accordance with [Schedule 3 \(Exceptions\)](#).