

NORTHERN TERRITORY OF AUSTRALIA

Planning Act 1999

Section 29

Reasons for Decision

NORTHERN TERRITORY PLANNING SCHEME

AMENDMENT No. 546

I have approved a Planning Scheme Amendment that introduces new planning rules for the regulation of sex services businesses in the Northern Territory.

In accordance with section 25(2)(c) of the *Planning Act 1999*, I have determined to alter the proposal as it was exhibited, and amend the planning scheme in accordance with the altered proposal.

I decided to alter the proposal in response to feedback provided during the public exhibition process for this planning scheme amendment. These alterations have been made in response to submissions, as well as for consistency with the objects of the *Sex Industry Act 2019*, other provisions of the NT Planning Scheme and the *Planning Act 1999*.

I decided to alter the proposal without re-exhibition. The alterations aim to balance the competing view points on this topic. Re-exhibition of the amended proposal is unlikely to result in a more suitable set of controls that achieve such a balance.

I approved this altered proposal because the controls will enable the sex industry to operate in accordance with the laws of the Northern Territory as they apply to all individuals and businesses generally, including laws governing employment, occupational health and safety, workers compensation and rehabilitation, planning, taxation and discrimination.

In making this decision, consideration was given to a range of matters, including:

- concerns from the community raised through the planning process;
- submissions from the industry; and
- consistency with the objects of the *Sex Industry Act 2019*.



EVA DINA LAWLER

Minister for Infrastructure, Planning and Logistics


27/ 5 /2020

NORTHERN TERRITORY OF AUSTRALIA

Planning Act 1999

AMENDMENT TO NT PLANNING SCHEME

I, EVA DINA LAWLER, Minister for Infrastructure, Planning and Logistics, under sections 25(2)(c) of the *Planning Act 1999*, amend the NT Planning Scheme by making the amendment, specified in the Schedule.

Dated  27th May 2020.

Minister for Infrastructure, Planning and Logistics

SCHEDULE

**AMENDMENT TO NT PLANNING SCHEME
AMENDMENT No. 546**

1. Citation

This amendment to the NT Planning Scheme may be cited as Amendment No. 546.

2. Amendment of Clause 3.0 (Definitions)

(1) After 'clearing of native vegetation' -

Insert

“**commercial sex service premises**” means a premises from which a **sex services business** operates and that business engages **sex workers** (but does not include **sex services business** as a **home occupation**).

(2) “home occupation”

Omit

“**home occupation**” means an occupation or profession which is carried on in a **dwelling** or on the **site** of a **dwelling** by a person resident in the **dwelling** and may include the caring for up to five children including children who reside in the **dwelling**;

Insert

“**home occupation**” means an occupation or profession which is carried on in a **dwelling** or on the **site** of a **dwelling** by a person resident in the **dwelling**, and may include:

- (a) the caring for up to five children including children who reside in the **dwelling**; or
- (b) a **sex services business** consisting of up to two **sex workers** who reside in the **dwelling** plus one support staff.

(3) After “service station”

Insert

“**sex worker**” means a person who performs **sex work**

“**sex work**” means the provision by a person of services that involve the person participating in sexual activity with another person in return for payment or reward.

“**sex services business**” means a business that provides for or arranges **sex work**.

3. Amendment to Clause 5.0 – Zone Purpose and Tables

- (1) In the table to clauses 5.1 – Zone SD (Single Dwelling Residential), 5.2 -Zone MD (Multiple Dwelling Residential), 5.3 – Zone MR (Medium Density Residential), 5.4 – Zone HR (High Density Residential), 5.5 - Zone CV (Caravan Parks), 5.6 – Zone CL Community Living), 5.9 – Zone SC (Service Commercial), 5.10 – Zone TC (Tourist Commercial), 5.13 – Zone DV (Development), 5.14 – Zone PS (Public Open Space), 5.15 – Zone OR (Organised Recreation), 5.16 - Zone H (Horticulture), 5.17 – Zone A (Agriculture), 5.18 - Zone RR (Rural Residential), 5.19 - Zone RL (Rural Living), 5.20 – Zone R (Rural), 5.21 – Zone CP (Community Purpose), 5.22 – Zone CN (Conservation), 5.23 – Zone HT (Heritage), 5.24 – Zone RD (Restricted Development), 5.25 – Zone WM (Water Management), 5.26 – Zone FD (Future Development) and 5.27 – Zone T (Township)

After “**child care centre**”

insert

commercial sex service premises x

- (2) In the table to clauses 5.7 - CB (Central Business), 5.8 - C (Commercial),

After “**child care centre**”

insert

commercial sex service premises D 6.5.1, 6.18

- (3) In the table to clauses 5.11 - LI (Light Industry), 5.12 - GI (General Industry),

After “**child care centre**”

insert

commercial sex service premises P 6.5.1, 6.18

4. Repeal and substitution of Clause 7.10.7 (Home Occupation)

Clause 7.10.7 –

Repeal, substitute

7.10.7 – Home Occupation

1. The purpose of this clause is to ensure that **home occupations** are established and operated in a manner that does not detract from the residential **amenity** of the locality.
2. A **dwelling** may be used for the purpose of a home occupation where:
 - (a) the occupation or profession is carried out only by persons residing in the **dwelling**;
 - (b) the total of the **floor area** of the **dwelling** plus the other areas of the **site** that are used for the **home occupation** (including areas used temporarily) does not exceed 30m² (excluding the area utilised by the support staff engaged by the **sex services business**);
 - (c) no greater demand or load is imposed on the services provided by a public utility organisation than that which is ordinarily required in the locality;
 - (d) with the exception of sex services businesses, a business sign that is not more than 0.5m² in area may be displayed;
 - (e) no goods or equipment are visible from outside the **site**; and
 - (f) not more than one vehicle kept on the **site** is used for the purpose of the **home occupation**.
3. The consent authority may approve an application for a **home occupation** that is not in accordance with sub-clause 2 only if it is satisfied the proposed **home occupation** is appropriate for the **site** having regard to the potential impact of the **home occupation** on the residential **amenity** of adjoining and nearby property.
4. A **dwelling** may be used for **sex work** by the resident provided:
 - (a) the lot on which the **dwelling** is situated is not:
 - i. abutting a lot with an established pre-school, primary school, secondary school (whether it be a middle, senior or combined secondary school), approved child care service, or premises the sole use of which is that of a **place of worship**; or
 - ii. directly opposite a lot on the other side of a public road with a reserve of 18m or less in width with an established, pre-school, primary school, secondary school (whether it be a middle, senior or combined secondary school), approved child care service, or

premises the sole use of which is that of a **place of worship**;

(b) no signs, other devices or markings that indicate that the premises is used for the purpose of engaging in **sex work**.

5. The consent authority must not **consent** to a development that is not in accordance with sub-clause 4.

6. Sub-clause 4(a) does not prevent a pre-school, primary school, secondary school (whether it be a middle, senior or combined secondary school), approved child care service, or premises the sole use of which is that of a **place of worship** from establishing on land which abuts or is directly opposite existing premises used for sex work, nor does the establishment of one of these uses require an abutting or directly opposite premises used for sex work to cease operating.

7. Unless otherwise specified in this Scheme, this Planning Scheme does not prevent the continued use of a **sex services business** in an existing premises as established prior to the making of Amendment Number 546 to this Planning Scheme.

5. Amendment to clause 6.5 (Vehicle Parking)

Clause 6.5.1 – Parking Requirements

In the Table to Clause 6.5.1, in the “Use of development” column, after “community centre”

insert

Use or Development	Minimum number of car parking spaces required	Minimum number of car parking spaces required Within Zone CB in Darwin
Commercial sex service premises	2.5 for every 100m ² of net floor area	3 for every 100m ² of net floor area.

6. New Clause 6.18

After clause 6.17

Insert

6.18 Commercial sex service premises

1. The purpose of this clause is to ensure that **commercial sex service premises** are established and operated in a manner that does not detract from the **amenity** of the locality.
2. A premises may be used for **sex work** as a **commercial sex services premises** provided:
 - (a) the lot on which the **premises** is situated is not:
 - i. abutting a lot with an established pre-school, primary school, secondary school (whether it be a middle, senior or combined secondary school), approved child care service, or premises the sole use of which is that of a **place of worship**; or
 - ii. directly opposite a lot on the other side of a public road with a reserve of 18m or less in width with an established pre-school, primary school, secondary school (whether it be a middle, senior or combined secondary school), approved child care service or premises the sole use of which is that of a **place of worship**;
 - (b) signage is limited to the name of venue, hours of operation and contact details, with other devices and markings to be discreet.
3. The consent authority must not **consent** to a development that is not in accordance with subclause 2.
4. Sub-clause 2(a) does not prevent a, pre-school, primary school, secondary school (whether it be a middle, senior or combined secondary school), approved child care service, or premises the sole use of which is that of a **place of worship** from establishing on land which abuts or is directly opposite existing premises used for **sex work**, nor does the establishment of one of these uses require an abutting or directly opposite premises used for **sex work** to cease operating.
5. Unless otherwise specified in this Scheme, this Planning Scheme does not prevent the continued use of a **sex services business** in an existing premises as established prior to the making of Amendment Number 546 to this Planning Scheme.

7. Amendment to Clause 12.1 (Aboriginal Community Living Areas)

(1) After subclause 3(m) –

insert

(n) **home occupation**, subject to clause 7.10.7

(2) After subclause 4 –

insert

5. An application for a **commercial sex services premises** is to comply with the requirements of Clause 6.18.

6. Unless otherwise specified in this Scheme, this Planning Scheme does not prevent the continued use of a **sex services business** in an existing premises as established immediately prior to the making of Amendment Number 546 to this Planning Scheme.
