

NORTHERN TERRITORY OF AUSTRALIA

Planning Act 1999

AMENDMENT TO NT PLANNING SCHEME 2020

I, JOSHUA ROLAND BURGOYNE, Minister for Lands, Planning and Environment, under section 12(2)(a) of the *Planning Act 1999*, amend the NT Planning Scheme 2020 by making the amendment, specified in the Schedule.



Dated

20/1/2025

Minister for Lands, Planning and Environment

SCHEDULE

AMENDMENT TO NT PLANNING SCHEME 2020

PA2025/0137

1. Amend Schedule 2: Definitions

Omit

2.1 Defined Uses

clearing of native vegetation means the removal or destruction, by any means, of native vegetation on an area of land, other than:

- (a) the removal or destruction of a declared weed within the meaning of the Weeds Management Act or of a plant removed under the *Plant Health Act 2008*;
- (b) the lopping of a tree;
- (c) incidentally through the grazing of livestock;
- (d) the harvesting of native vegetation planted for harvest;
- (e) in the course of Aboriginal traditional use, including the gathering of food or the production of cultural artefacts;
- (f) by fire;

- (g) the removal or destruction of native vegetation occurring on a site previously cleared in accordance with a permit issued under the Act; or
 - (h) incidentally through mowing an area previously cleared of native vegetation;
- and includes the selective removal of a species of plant, a group of species of plants, a storey or group of storeys in whole or in part;

Insert

2.1 Defined Uses and Works

clearing of native vegetation means the removal or destruction, by any means, of **native vegetation** on an area of land, other than:

- (a) the removal or destruction of a declared weed within the meaning of the *Weeds Management Act 2001* or of a plant removed under the *Plant Health Act 2008*;
- (b) the lopping of a tree;
- (c) incidentally through the grazing of livestock;
- (d) the harvesting of **native vegetation** planted for harvest;
- (e) in the course of Aboriginal traditional use, including the gathering of food or the production of cultural artefacts;
- (f) by fire;
- (g) the removal or destruction of **native vegetation** on a **site** previously cleared in accordance with a permit issued under the Act;
- (h) the removal or destruction of **native vegetation** on a **site** that was cleared and maintained prior to the introduction of clearing of **native vegetation** controls on 4 December 2002;
- (i) incidentally through mowing an area previously cleared of native vegetation; or
- (j) through maintenance of native vegetation regrowth in an area previously lawfully cleared of **native vegetation**. For the purposes of this definition, maintenance includes the removal of native vegetation regrowth provided the regrowth is less than 20 years old; and includes the selective removal of a species of plant, a group of species of plants, a storey or group of storeys in whole or in part;

Insert

2.2 General Definitions

Significant vegetation means **native vegetation** communities including mangrove, rainforest, riparian vegetation, wetland vegetation or sandsheet heath, where:

- (a) mangrove means plant communities occurring in intertidal areas with species that have physiological adaptations to salty conditions, periodic flooding, and low-oxygen soils;
- (b) rainforest means plant communities dominated by non-sclerophyllous trees which generally form a closed upper stratum, which commonly occur in discrete, fire protected patches with increased moisture availability and abrupt edges. This includes

- vegetation that is commonly referred to as monsoon forest and monsoon vine thicket;
- (c) riparian vegetation means plant communities that grow beside or near waterways (including rivers, creeks, drainage lines) and depend on the higher moisture availability and/or more fertile soil conditions in this zone;
 - (d) wetland vegetation means plant communities that grow beside or in wetlands (swamps and lakes) and are subject to intermittent, periodic or permanent flooding or saturation of the soil; and
 - (e) sandsheet heath means vegetation communities occurring on seasonally saturated or inundated sandy to silty hydrosols characterised by the dominance of mid-tall heathshrubs, shrubs and/or low trees in the upper stratum (typically *Banksia dentata*, *Grevillea pteridifolia*, *Lophostemon lactifluus*, *Melaleuca nervosa*, *Melaleuca viridiflora*, and *Verticordia spp.*) and a ground stratum with a diverse range of sedges, herbs and grasses but typically dominated by *Dapsilanthus spathaceus*.

2. Amend 3.2 CNV – Clearing of Native Vegetation

Omit '3.2 CNV – Clearing of Native Vegetation' in full and insert

3.2 CNV – Clearing of Native Vegetation

Purpose

Ensure that **clearing of native vegetation** does not unreasonably contribute to environmental degradation of the locality.

Administration

1. This Overlay applies to land within Zones RR, RL, R, H, A, CN, RD, WM and Unzoned land.
2. On land subject to this Overlay:
 - (a) on land parcels less than 100ha, the **clearing of native vegetation** of more than one hectare in aggregate of land (including any area already cleared of *native vegetation*) requires **consent**, or
 - (b) on land parcels 100ha and over, the **clearing of native vegetation** of more than 10ha in aggregate of land (including any area already cleared of *native vegetation*) requires **consent**.
3. Notwithstanding sub-clause 2:
 - (a) all **clearing of native vegetation** in Zone CN requires **consent**, other than as provided for by sub-clause 5; and
 - (b) on land parcels 100ha and over, the **clearing of native vegetation** of more than one hectare that includes **significant vegetation** requires **consent**, other than as provided for by subclause 5.

4. The consent authority may **consent** to the **clearing of native vegetation** that is not in accordance with subclause 6 only if it is satisfied that it is appropriate in the context of the **site** and the locality having regard to such matters as:
 - (a) the suitability of the **site** for the proposed use;
 - (b) the values associated with the environmental characteristics (as applicable);
 - (c) the significance, extent and likelihood of any potential environmental impacts; and
 - (d) the measures the application proposes will be implemented to mitigate any potential impacts.

5. This Overlay does not apply to the **clearing of native vegetation** that:
 - (a) is required or controlled under any Act in force in the Territory, including but not limited to:
 - i. *Environment Protection Act 2019*;
 - ii. *Environment Protection and Biodiversity Conservation Act 1999* (Cth);
 - iii. *Pastoral Land Act 1992*;
 - iv. *Petroleum (Environment) Regulations 2016*;
 - v. *Territory Parks and Wildlife Conservation Act 1976*; or
 - (b) is for the following purposes:
 - i. a firebreak as specified by the *Bushfires Management Act 2016* or the *Fire and Emergency Act 1996*, up to 5m wide along a boundary of a lot having an area of 8ha or less, or up to 10m wide on a lot having an area greater than 8ha, unless otherwise specified by a Regional Fire Control Committee;
 - ii. an internal fence line up to 10m wide on a lot having an area greater than 8ha;
 - iii. an internal vehicle access track up to 10m wide and at least 100m away from any cleared land used for a vehicle access track within the same site;
 - iv. construction of a telecommunications facility, where the area of clearing does not exceed 250m²;
 - v. a geotechnical survey if the area cleared is:
 - i. for an area in which a survey is conducted—a maximum area of 100m²; and
 - ii. for an area necessary for reasonable **access** to an area in which a survey is conducted—a maximum of 10m wide;
 - vi. a road to **access** the land or other land; or
 - vii. the maintenance and repair of public infrastructure.

Requirements

6. The **clearing of native vegetation** is to:
 - (a) avoid impacts on **significant vegetation**;
 - (b) be based on land capability and suitability for the intended use;
 - (c) avoid impacts on drainage areas, wetlands and waterways;

- (d) avoid habitat fragmentation and impacts on native wildlife corridors;
and
 - (e) avoid impacts on highly erodible soils.
7. An application for the **clearing of native vegetation** is to demonstrate consideration of the following:
- (a) the *Land Clearing Guidelines*;
 - (b) the presence of threatened wildlife as declared under the *Territory Parks and Wildlife Conservation Act 1976*;
 - (c) the presence of **significant vegetation**;
 - (d) the presence of essential habitats, within the meaning of the *Territory Parks and Wildlife Conservation Act 1976*;
 - (e) the impact of the clearing on regional biodiversity;
 - (f) whether the clearing is necessary for the intended use;
 - (g) whether there is sufficient water for the intended use;
 - (h) whether the soils are suitable for the intended use;
 - (i) whether the slope is suitable for the intended use;
 - (j) the presence of permanent and seasonal water features such as billabongs and swamps;
 - (k) the retention of **native vegetation** adjacent to waterways, wetlands and rainforests;
 - (l) the retention of **native vegetation** buffers along boundaries;
 - (m) the retention of **native vegetation** corridors between remnant **native vegetation**;
 - (n) the presence of declared **heritage places** or archaeological **sites** within the meaning of the *Heritage Act 2011*; and
 - (o) the presence of any sacred sites within the meaning of the *Northern Territory Aboriginal Sacred Sites Act 1989*.

Editor's Note: The Land Clearing Guidelines provide guidance for best practice in land development. Schedule 2 (Definitions) includes a number of activities that are not considered clearing of native vegetation.

NORTHERN TERRITORY OF AUSTRALIA

Planning Act 1999
Section 29

Reasons for Decision

NORTHERN TERRITORY PLANNING SCHEME 2020
PA2025/0137

Pursuant to section 12(2) of the *Planning Act 1999*, I have decided to amend the NT Planning Scheme 2020 (NTPS) by amending Schedule 2 (Definitions) and NTPS Part 3 Overlay – 3.2 Clearing of Native Vegetation (CNV).

I am satisfied that the amendment:

- pursuant to section 12(2), is not so significant as to require exhibition, as the amendment seeks to clarify defined terms and exempt low risk activities from assessment under the CNV Overlay which would allow for more timely approvals;
- has merit as the amendments will provide reassurance for landholders and the community around maintenance of previous clearing;
- appropriately exempts minor and low risk activities and will provide greater certainty and clarity for proponents developing the Territory;
- improves protections for our natural environment and establishes clear standards for management of native vegetation; and
- will ensure correct operation of the NTPS, to maintain its currency and to keep astride with more contemporary planning and land use concepts.



JOSHUA ROLAND BURGOYNE
Minister for Lands, Planning and Environment

20 / 1 / 2025