

NORTHERN TERRITORY OF AUSTRALIA

Planning Act 1999

AMENDMENT TO NT PLANNING SCHEME 2020

I, ANDREW JAMES KIRKMAN, Delegate of the Minister for Infrastructure, Planning and Logistics, 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 30 JULY 2021.



Delegate of the Minister for Infrastructure, Planning and Logistics

SCHEDULE

**AMENDMENT TO NT PLANNING SCHEME 2020
Amendment No. 21**

1. Citation

This amendment to the NT Planning Scheme 2020 may be cited as Amendment No. 21.

2. Amendment to Clause 3.5

At sub-clause 5,

Omit, insert

5. The use and development of land is not to be of a nature that attracts birds or bats to an extent that prejudices the safe operation of an airport.

3. Amendment to Clause 3.6

1. At sub-clause 2,

Omit

This clause does not apply to:

Insert

This Overlay does not apply to:

2. After sub-clause 2,

Omit, insert

3. This overlay does not apply to the use and development of land for **dwelling-groups** or **dwelling-multiple** when the land is subject to Overlay 3.11 RCFR (Rapid Creek Flood Response).
4. In this Overlay:
 - (a) "flood level" means the water level associated with a 1.0% AEP flood event or where that level cannot be determined, the level determined by the Controller of Water Resources within the meaning of the *Water Act 1992*;
 - (b) "AEP" means Annual Exceedance Probability, which is the likelihood, in percentage terms, of a flood of a given size occurring in a specified area in any one year;
 - (c) "DFE" means Defined Flood Event, which:
 - i. in an area subject to a floodplain management plan that defines a flood event, is as specified in that plan; or
 - ii. if there is no floodplain management plan that defines a flood event for an area, is the 1% AEP flood event;
 - (d) "DFA" means Defined Flood Area, which is the area that is inundated by the DFE as defined on mapping produced by the NT Government;
5. The consent authority may **consent** to a use or development that is not in accordance with sub-clause 5 only if it is satisfied that the application demonstrates that there is no increased risk to people and property including adjoining property, or increased cost to the community.

Requirements

6. In a DFA:
 - (a) the storage or disposal of environmentally hazardous industrial material and the development of **fuel depots** should be avoided;
 - (b) the minimum floor level of **habitable rooms** should be 300mm above the flood level for the **site**; and
 - (c) the use of fill to achieve required floor levels should be avoided.

4. Amendment to Clause 3.7

After sub-clause 2,

Omit, insert

3. This Overlay does not apply to:
 - (a) **outbuildings** and extensions to existing **dwelling**s; or
 - (b) extensions to existing commercial or industrial buildings; or
 - (c) a use or development within the SSSA that would otherwise be *Permitted*, and complies with the requirements of Part 5.

4. This overlay does not apply to the use and development of land for **dwelling**s-group or **dwelling**s-multiple when the land is subject to Overlay 3.11 RCFR (Rapid Creek Flood Response).

5. In this Overlay:
 - (a) "AEP" means Annual Exceedance Probability, which is the likelihood, in percentage terms, of inundation by storm surge;
 - (b) "PSSA" means Primary Storm Surge Areas, which are those coastal areas within a 1% AEP of inundation by storm surge as defined on mapping produced by the NT Government;
 - (c) "SSSA" means Secondary Storm Surge Areas, which are those coastal areas adjacent to the PSSA with a 0.1% AEP of inundation by storm surge as defined on mapping produced by the NT Government; and
 - (d) "storm surge" means the elevation in sea level which accompanies the movement of a cyclone particularly near, or over, a coastline, attributed to a cyclone's intensity and wind stress build-up.

6. Land within the PSSA is to be used or developed only with **consent**.

7. The consent authority may **consent** to a use or development within the PSSA that is not in accordance with sub-clauses 7-9 only if it is satisfied that the application demonstrates that there is no increased risk to people and property, including adjoining property.

8. The use or development of land within the SSSA should have regard to sub-clauses 8 and 9.

Requirements

9. Development in the PSSA should be limited to uses such as open space, recreation, non-essential public facilities (wastewater treatment works excepted) and short-stay tourist camping/ caravan areas.

10. Development within the SSSA should be confined to those uses permitted in the PSSA as well as industrial and commercial land uses.
11. Residential uses, strategic and community services (such as power generation, defence installations, schools, **hospitals**, public shelters and major transport links) should be avoided in the PSSA and the SSSA.

5. Amendment to Part 4

1. In the Specific Development Requirements column of any Assessment Table in Part 4, where Clause 5.5.3 Commercial and Other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, and FD occurs,

Omit, insert

5.5.3 Commercial and Other Development in Zones HR, CV, CB, C, SC, TC, OR, CP, FD and T

2. In the Specific Development Requirements column of the Assessment Table in Part 4 for Zones LR, LMR, MR, HR, RR, RL, CL, H, A, R, WM, FD and T, where Dwelling-Community Residence is listed,

Omit

All specific development requirements except 5.4.14 Dwelling-Community Residence.

6. Amendment of Clause 4.10

In the Assessment Table after **Dwelling-Community Residence**,

Insert

Dwelling-Group	Impact assessable			5.4.4 Extensions and Structures Ancillary to a Dwelling-Group or Dwelling-Multiple 5.4.6 Private Open Space 5.4.7 Communal Open Space 5.4.8 Building Design for Dwelling-Group, Dwelling-Multiple, Rooming Accommodation and Residential Care Facility
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In the Assessment Table after **Hotel/Motel**,

Insert

Industry-Light	Impact assessable			5.5.4 Expansion of Existing Use or Development in Zones CB, C, SC and TC
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7. Amendment to Clause 4.16

1. In the Specific Development Requirements column in the Assessment Table, against Hotel/Motel:

Omit

outbuildings

Insert

ancillary structures

2. In the Specific Development Requirements column in the Assessment Table, against **Abattoir, Animal Boarding, Bar-Public, Car Park, Car Wash, Club, Dwelling-Caretakers, Education Establishment, Emergency Services Facility, Food Premises-Café/Take away, Food Premises-Fast Food Outlet, Food Premises-Restaurant, Fuel Depot, Hotel/Motel, Industry-General, Industry-Light, Intensive Animal Husbandry, Leisure and Recreation, Medical Clinic, Motor Body Works, Motor Repair Station, Office, Passenger Terminal, Recycling Depot, Renewable Energy Facility, Rooming Accommodation, Service Station, Shop, Showroom Sales, Transport Terminal, Vehicle Sales and Hire, and Warehouse,**

Omit

5.6.2 Expansion of existing Developments in Zones LI and GI

8. Amendment to Clause 4.22

In the Assessment Category column in the Assessment Table, against **Medical Clinic**

Omit

Merit assessable

Insert

Permitted

9. Amendment to Clause 5.2.1

After sub-clause 4(c),

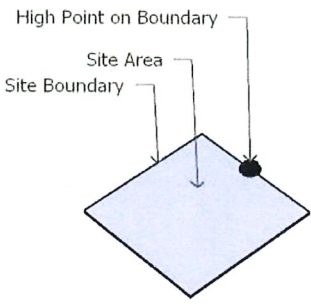
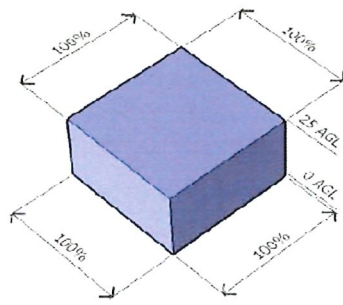
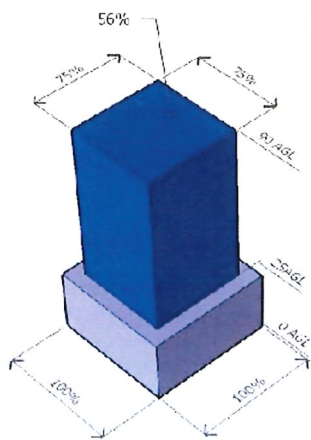
Insert

Editor's Note: Any use or development of land that intrudes into a protected airspace, such as the use of cranes, within 15km of an airport or RAAF base may have additional restrictions and approval requirements from the airport operator under the [Airports Act 1996 \(Cth\)](#), [Airports \(Protection of Airspace\) Regulations 1996 \(Cth\)](#), and [Defence Regulation 2016 \(Cth\)](#). More information is available on [NT.GOV.AU](#).

10. Amendment to Clause 5.2.3.2

After sub-clause 3, at Diagram to Clause 5.2.3.2: Volumetric Control in Central Darwin,

Omit, insert

<p>Site</p> <p>High Point on Boundary</p> <p>Site Area</p> <p>Site Boundary</p> 	<p>Measurement: Building height is to be measured from the highest point on the <i>site</i> boundary.</p>
<p>Tier 1 (Podium)</p> 	<p>Height: Maximum 25m Above Ground Level (AGL), exclusive of any plant or equipment, aerials, or lightning rods.</p> <p>Floor Area: Up to 100% of the <i>site</i> area.</p> <p>Setbacks: Verandahs, balconies or windows to rooms designed for accommodation are to be setback a minimum of 6m from adjoining <i>site</i> boundaries other than to a street or public open space.</p> <p>Note: For the purpose of this clause accommodation means room designed for being slept in, for domestic living and dining purposes and food preparation areas but does not include bathrooms, toilets, reception and foyer areas and conference rooms.</p>
<p>Tier 2 (Tower)</p> 	<p>Height: Subject to clause 5.2.3.1, maximum 55m AGL in the Esplanade Character Area only, inclusive of any plant or equipment or aerials. This requirement does not apply to lightning rods</p> <p>Floor Area: Up to 56% of the <i>site</i> area and up to a maximum of 1200m² in any single tower.</p> <p>Setbacks: Minimum 6m from the <i>site</i> boundary. Minimum 12m between towers on the same <i>site</i>.</p> <p>Dimensions: The maximum length of each side of Tier 2 is to be no more than 75% of the length of the adjacent boundary.</p>

11. Amendment to Clause 5.4.13

At sub-clause 3,

Omit, insert

3. The consent authority must not **consent** to a **dwelling-independent** that is not in accordance with sub-clause 7 unless:
 - (a) documentary evidence that an existing wastewater management system does not comply or will not comply with the requirements of the Code of Practice for Wastewater Management as a result of the proposed dwelling-independent, is provided by:
 - i. a registered certifying plumber and drainer or certifying engineer (hydraulic) (for locations within declared building control areas under the provisions of the *Building Act 1993*); or
 - ii. a licenced plumber and drainer or hydraulic consultant (for locations where the *Building Act 1993* does not apply);and
 - (b) it can be demonstrated by a site and soil evaluation report completed by an appropriately qualified site-and-soil evaluator that a wastewater management system complying with the requirements of the Code of Practice for Wastewater Management can be installed for the proposed development.

Editor's Note: The [Code of Practice for Wastewater Management](#) provides further guidance on the requirements of a site-and-soil evaluator.

12. Amendment to Clause 5.5.11

At sub-clause 2,

Omit

sub-clauses 2-10

Insert

sub-clauses 3-10

13. Amendment to Clause 6.6.2

At sub-clause 4,

Omit

building setbacks

Insert

building setbacks

14. Amendment to Clause 6.6.1

1. At sub-clause 1, after development requirements within,

Insert

Part 3 and

2. At sub-clause 6(b),

Omit

loading bays

Insert

loading bays

3. At sub-clause 7,

Omit

sub-clause 6

Insert

sub-clause 7

15. Amendment to Schedule 2: Definitions

1. Clause 2.1 Defined Uses **clearing of native vegetation**

Omit

'a **storey** or group of **storeys** in whole or in part;'

Insert

'a storey or group of storeys in whole or in part;'

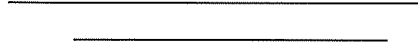
2. Clause 2.1 Defined Uses **demountable structure**

Omit

'from **site** to **site**'

Insert

'from site to site'



NORTHERN TERRITORY OF AUSTRALIA

Planning Act 1999
Section 29

Reasons for Decision

NORTHERN TERRITORY PLANNING SCHEME 2020
AMENDMENT No. 21

I have decided to amend the NT Planning Scheme 2020 to make minor administrative amendments, and to address minor drafting errors which have become apparent during the assessment of applications against the scheme.

I am satisfied that the amendment:

- is not significant enough to require exhibition, as the amendments are administrative in nature; and
- has merit and is in the public interest as it:
 - addresses unintended consequences of transitioning requirements to the new format and structure of the planning scheme;
 - updates the scheme to respond to legislative changes regarding the installation of onsite wastewater systems in relation to dwellings-independent;
 - updates the scheme to refer to additional Commonwealth legislative requirements relating to the use and development of land in proximity to airports; and
 - corrects a range of minor drafting errors


ANDREW JAMES KIRKMAN
Delegate
Minister for Infrastructure, Planning and Logistics

30 / 7 / 2021