



Development Consent Authority

Northern Territory

Practice Direction No. 6

Date: 21 October 2005

Subject: **Planning Act, sections 43A, B & C and 57
Assessment of applications for Alteration Permits and
Variations of Conditions of Development Permits;**

This Practice Direction supersedes Practice Direction N^o 4.

- Noting that the *Planning Act* has been amended removing the previous reference at section 57 permitting a consent authority to vary a condition of a permit if the authority was satisfied

“that the variation would not result in the development being substantially different from the development originally permitted.”

thereby removing the lack of clarity in the use of the term “substantially different”.

- Noting that the newly introduced section 43B of the *Planning Act* allows a consent authority to permit an alteration to an existing building or existing works only if –
 - (a) the proposed alteration will not alter a measurable aspect of the existing building or existing works by a margin greater than 5% and, in the opinion of the consent authority, will not materially affect the amenity of adjoining or nearby land or premises; or
 - (b) in the opinion of the consent authority, the proposed alteration is not conveniently measurable and will not materially affect the amenity of adjoining or nearby land or premises.”
- Noting that section 57(3), *Planning Act*, now permits a consent authority to vary a condition of a permit if the authority is satisfied –
 - (a) the proposed variation will not alter a measurable aspect of the development by a margin greater than 5% and, in the opinion of the consent authority, will not materially affect the amenity of adjoining or nearby land or premises; or
 - (b) in the opinion of the consent authority, the alteration resulting from the proposed variation is not conveniently measurable and the proposed variation will not materially affect the amenity of adjoining or nearby land or premises.”

I direct that the following guidelines be used when assessing applications to be considered by the DCA in the application of sections 43A,B,C & 57 to allow the consent authority to form an opinion on measurable aspects.

1. Measurable aspects are those measures in the NT Planning Scheme that are provisions for design criteria with numerical values. They include, but are not limited to, minimum allotment sizes, building heights, open space, building setbacks, floor areas, building site coverage, plot ratios, and car parking spaces – the measurable aspects for each Planning Division are detailed in the Attachment to this Direction.
2. Two tests apply to applications under sections 43A and 57(1) of the *Planning Act*.
3. An application that does not affect a measurable aspect of a development is subject only to the second test.
4. The first test for an application is that the proposed change does not affect any measurable aspect of a development by more than 5%. For permits that were in existence before the amendments to the Planning Act, the change is to be measured against the permit that was in place immediately before the commencement of the amended Planning Act on 30 September 2005 and is to be measured against the provision made in that permit not by the Scheme's minimum specified requirements. The Scheme and existing practise define how the measures are to be made.
5. Applications which do not satisfy the first test are not to be accepted for lodgement. Where a post lodgement assessment by DAS staff identifies that the first test is not satisfied the applicant is to be informed and advised that the application will be refused on the basis that the first test cannot be satisfied.
6. If the proposed change does not result in a change of more than 5% to any measurable aspect of the development then the second test is applied.
7. The second test for an application is that the proposed change must not "materially affect the amenity of adjoining or nearby land or premises".
8. The second test is a matter that only the consent authority (or its delegate) can determine, however Development Assessment Services staff will report on an applications' ability to satisfy this test and should provide advice to applicants on whether it is their opinion that the second test can be satisfied by the application.
9. Where DAS staff are not of the opinion that the second test can be satisfied they should advise the applicant that it may be more appropriate to request the Authority consider the proposed change through a development application. It remains the prerogative of the applicant to lodge and have the consent authority consider an application to vary a condition of permit where satisfaction of this test is unsure.
10. Regardless of the first and second test an application cannot be approved if it would result in an increase in the number of dwellings capable of separate occupancy (Sections 43B(2) and 57(4)).
11. Generally, applications will be processed without notification to any party and will be determined under delegation.

12. Should an application pass neither the first (if applicable) nor second test, a development application is required for the proposed changes to the approved development. Only the proposed changes will be assessed and a condition of any development permit issued for the changes will link it to the development permit which approved the original development. Both permits will exist side by side.



JOHN PINNEY AM
Chairman

Schedule of Measurable Aspects of Development

Alice Springs Town Plan 1992

Provisions	Measurable Item
SUBDIVISION	
16.1.1 Minimum Lot Size	area
RESIDENTIAL USES	
17.1.1 Private Open Space	area and dimensions
17.1.2 Communal Open Space	area
17.1.3 Landscaping	area
17.2 Building Envelopes	distance from boundaries
17.7 Home Occupation	floor area & area of advertising sign
INDUSTRIAL USES	
18.1 Building Site Coverage	area
18.2 Building Setbacks	distance from boundaries
18.3 Landscaping	area
19.0 Service Stations	width of crossover, separation of fuel pumps from the road reserve & area of landscaping
COMMERCIAL USES	
20.0 Shops	floor area
21.0 Offices	floor area
22.0 Site Coverage	ground floor area
23.0 Plot Ratio	floor area divided by site area
24.0 Landscaping	area
PARKING	
27.1.1 Parking Requirements	number of spaces
27.5 Parking Layout	dimensions of parking space & manoeuvring space
27.6 Screening	landscaped area
LOADING BAYS	
28.0 Loading Bays	dimensions

Darwin Town Plan 1990

Provisions	Measurable Item
SUBDIVISION	
16.1 – 16.5 Minimum Lot Size	area
16.6 Minimum Lot Size in I1, I2, I3	area and dimensions
16.9 Allotment Size & Configuration	building envelope dimensions
RESIDENTIAL DEVELOPMENTS	
17.1 Open Space for Cluster Dwellings	area and dimensions
17.2 Landscaped Area for Flats etc	area and dimensions
17.2A Landscaped Buffer	dimensions
17.3 Building Setbacks	distance from boundaries
17.6 Residential Density	minimum site area required
17.7 Home Occupation	floor area, area of advertising sign
17.8 Dependant Relative Unit	floor area
17.10 Bed and Breakfast Accommodation	area of advertising sign
INDUSTRIAL USES	
18.1 Building Site Coverage	area
18.2 Building Setbacks	distance from boundaries
18.2.3 Building Setbacks - Interface	distance from boundaries
COMMERCIAL USES	
19.1-19.3 Shops & Offices	floor area
19.4 Service Stations	width of crossover, distance between crossovers, separation of fuel pumps from the road reserve
19.6 Building Setbacks	distance from boundaries
PARKING	
21.1 Parking Requirements	number of spaces
21.5 Parking Layout	dimensions of parking space & manoeuvring space, distance from street frontage

Katherine Town Plan 1981

Provisions	Measurable Item
15 Showrooms	distance from another zone
16 Warehouses	floor area
17 Offices	floor area
18 & 19 General Store	floor area & distance from residential zone
20 & 54 Shops	floor area & distance from other zones
24 Parking Area	distance from development
33 Size of Parking Space	dimensions
34 Parking Provision	number of spaces
23.0 Loading Bays	dimensions
40 Lot Size	area
41 Motels, 44 Detached Dwellings, 45 Hotels	area, site dimensions & distance from the road
46 Tavern, 47 offices	floor area
48 Plot Ratio	floor area divided by site area
49 & 49A Caravans	area, frontage, setbacks, distances from facilities
50 Drive-in Takeaway Food Outlet	area, frontage, crossover widths
53 Service Stations	distance from intersection, site frontage, width of crossover, separation of fuel pumps from the road reserve
56 Industrial Site Requirements	area, frontage, dimensions
57 Site Coverage	area
58, 67 & 68 Setbacks	distance from boundaries
59, 62, 63 Floor Area	area
60 Plot Ratio	floor area divided by site area
64 Rural Zones	area

Litchfield Area Plan 2004

Provisions	Measurable Item
PARKING	
6.2.1 Parking Requirements	number of spaces
6.2.4 Parking Layout	dimensions of parking space & manoeuvring space
6.2.5 Screening of Parking Areas	width of landscaped strip
LOADING BAYS	
6.3 Loading Bays	dimensions
ADVERTISING SIGNS	
6.4 Advertising Signs	dimensions
SETBACKS	
6.5, 7.2, 8.2, 9.2, 9.5, 9.6 setbacks	distance from boundaries
LANDSCAPING & OPEN SPACE	
7.1, 8.3 & 9.3 Landscaping and Open Space	area
ASSOCIATED RESIDENTIAL USES	
7.7.1 Caretaker's Residence	floor area
7.7.3 Dependant Unit	floor area
7.7.4 Home Occupation	floor area & area of advertising sign
7.7.5 Home Based Contracting	total area used & area of advertising sign
COMMERCIAL DEVELOPMENT	
8.1 Site Coverage	ground floor area
8.4 Shops	floor area
8.5 Service Stations	width of crossover, separation of fuel pumps from the road reserve & area of landscaping
INDUSTRIAL DEVELOPMENT	
9.1 Building Site Coverage	area
CLEARING NATIVE VEGETATION	
10.2 Clearing Native Vegetation	area to be cleared
SUBDIVISION	
11.1, 11.4, 11.5 Subdivision	area

Palmerston Town Plan 1982

Provisions	Measurable Item
8 Dependant Relative Unit	floor area
14 Scale of Development	floor area & distance from other zones
15 Density	Minimum site area required, plot ratio
16 Open Space for Attached Dwellings etc	area and dimensions
18 Size of Parking Space	dimensions
19 Parking Area	distance from development
20 Access Driveways	dimensions manoeuvring space
21 Parking Provision	number of spaces
22 Loading Spaces	dimensions
25 Drive-in Takeaway Food Outlet	number of vehicles, driveway widths and proximity to an intersection
27 Service Stations	width of crossover, distance between crossovers & separation of fuel pumps from the road reserve

Tennant Creek Control Plan 1998

Provisions	Measurable Item
SUBDIVISION	
14.2, 14.3, 15.4 Minimum Lot Size	area
LANDSCAPING & OPEN SPACE	
15.1, 16.3 Landscaping & Open Space	area
SETBACKS	
15.2, 15.3, 16.2 Setbacks	distance from boundaries
RESIDENTIAL DEVELOPMENT	
15.7 Home Occupation	floor area & area of advertising sign
INDUSTRIAL USES	
16.1 Building Site Coverage	area
17.0 Service Stations	width of crossover, separation of fuel pumps from the road reserve & area of landscaping
COMMERCIAL USES	
18.0 Shops	floor area
19.0 Offices	floor area
20.0 Site Coverage	ground floor area
21.0 Plot Ratio	floor area divided by site area
22.0 Landscaping	area
PARKING	
24.1 Parking Requirements	number of spaces
24.5 Parking Layout	dimensions of parking space & manoeuvring space
24.6 Screening	landscaped area
LOADING BAYS	
25.0 Loading Bays	dimensions