

# Written submissions and appeals

## Background

The new *Planning Act* commenced on 30 September 2005. Development applications made on or after 30 September 2005 are subject to the provisions of the new *Planning Act*. The most significant change to the *Act* was the introduction of limited third party appeal rights.

## How do you know that a development application has been made?

All development applications are exhibited for 14 days. The applications are on display at the Department's planning offices, relevant local government offices and at the Government Centre in Palmerston. During this time the applicant is required to place a pink development sign on the land advertising details of the proposal. All applications are notified in the NT News or regional newspaper.

## How do you make a submission to a development application?

You need to write to the consent authority at the address provided in the advertisement or on the pink sign. In certain circumstances the Minister for Planning and Lands is the consent authority. For Darwin, Alice Springs, Litchfield Shire, Katherine and Tennant Creek, the Development Consent Authority is the consent authority. A submission must include your name and address and if the submission is a petition, the name and address of the petition organiser must be included.

You must make a written submission to an application within the close of business on the final day of the exhibition period to be eligible for third party appeal rights. A submission may be received in person, by email or by facsimile by 4pm on the closing date for submissions. A submission may be received by post if the envelope is post marked no later than the closing date for submissions. If a petition has been received as a submission to a development application, only the organiser of the petition will be contacted. Only the organiser of the petition will be eligible for third party appeal rights and not the signatories.

Submissions received after the exhibition period will not be accepted and therefore will not be eligible for third party appeal rights.

If you have made a submission on an application you will be invited to attend a meeting of the consent authority, except where the Minister is the consent authority. At the meeting you will be given the opportunity to address the consent authority on your submission. The applicant will also be invited to attend the meeting. You will be informed in writing of the decision of the consent authority.



### Who can make a third party appeal and how?

If you make a submission within the public exhibition period and the consent authority approves the development application, you will be given notice that you may make an appeal to the Lands, Planning and Mining Tribunal within 14 days. Third party appeals cannot be made for reasons of commercial competition.

Third party appeals only exist in certain circumstances and generally only apply to land within a residential zone. There is no right of appeal if the determination relates to the subdivision or consolidation of land. Third party appeal rights do not apply to approvals for a detached dwelling or attached dwellings that do not exceed two storeys above ground level.

Third party appeal rights do not apply to land within any zone other than a residential zone unless the land is adjacent to land in a residential zone or is directly opposite land in a residential zone and is on the other side of a road that has a reserve width of 18 metres or less.

Non-residential uses such as bed and breakfast accommodation, home occupation, childcare centre, medical consulting rooms and caretaker's residence within a residential zone are excluded from third party appeal rights if the use complies with the provisions of the Planning Scheme and the consent authority has not varied or waived any requirements of the provisions.

### Call-in Powers

The Minister has the power to "call in" any development application under the new *Planning Act* and determine the application as the consent authority. Any determination made by the Minister within the call-in powers is not subject to appeal rights.

### Appeal against Minister

Under the new *Planning Act*, a decision by the Minister for Planning and Lands as the consent authority can be appealed by the applicant and by a third party. This does not apply to amendments to the Planning Scheme, including rezoning, and applications for Exceptional Development Permits.

The same rules for third party appeals above apply to the Minister where he is the consent authority.

### Determination of Appeals

The Lands, Planning and Mining Tribunal determine appeals made under the *Planning Act*. The Tribunal can award costs if appeals are frivolous or vexatious. Further information on the Tribunal can be found at <http://www.nt.gov.au/justice/graphpages/courts/lands.shtml>.

**For further information on any of the above information visit [www.nt.gov.au/lands/planning/](http://www.nt.gov.au/lands/planning/) or contact Development Assessment Services on phone (08) 8999 7867.**