

# **Business Papers**

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## **Town Planning Committee Meeting**

**Tuesday, 7 April 2015  
5:00 pm**

# Notice of Meeting

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To the Lord Mayor and Aldermen

You are invited to attend a Town Planning Committee Meeting to be held in Council Chambers, Level 1, Civic Centre, Harry Chan Avenue, Darwin, on Tuesday, 7 April 2015, commencing at 5.00 pm.



**B P DOWD**  
**CHIEF EXECUTIVE OFFICER**

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# Town Planning Committee Meeting

Tuesday, 7 April 2015

## ***Guests***

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### **From 5.15 pm.**

Fabio Finocchiaro, Executive Director, Lands Services, Mark Meldrum, Director Lands Planning and Douglas Lesh, Director Development Assessment Services, from the Department of Lands, Planning and the Environment will be in attendance from 5.15 pm to brief the Committee on building setbacks at the Open Section of the Meeting.

### **From 5.45 pm.**

Gary Nairn, Commissioner, from the Northern Territory Planning Commission will be in attendance from 5.45 pm to brief the Committee on building setbacks at the Open Section of the Meeting.

# OPEN SECTION

TP04/1

## CITY OF DARWIN

### TOWN PLANNING COMMITTEE

**TUESDAY, 7 APRIL 2015**

MEMBERS: Member G A Lambert, (Chairman); The Right Worshipful, Lord Mayor, Ms Katrina Fong Lim; Member J M Anictomatis; Member R K Elix; Member H I Galton; Member J A Glover; Member G J Haslett; Member R M Knox; Member G Lambrinidis; Member A R Mitchell; Member S J Niblock; Member R Want de Rowe; Member K J Worden.

OFFICERS: Chief Executive Officer, Mr B Dowd; General Manager Infrastructure, Mr L Cercarelli; Manager Design, Planning & Projects, Mr D Lelekis; Executive Manager, Mr M Blackburn; Strategic Town Planner, Ms C Robson; Town Planner, Ms N Smith; Committee Administrator, Mrs P Hart.

GUESTS: Fabio Finocchiaro, Executive Director, Lands Services, Mark Meldrum, Director Lands Planning and Douglas Lesh, Director Development Assessment Services, from the Department of Lands, Planning and the Environment will be in attendance from 5.15 pm to brief the Committee on building setbacks.

Gary Nairn, Commissioner, from the Northern Territory Planning Commission will be in attendance from 5.45 pm to brief the Committee on building setbacks.

**Enquiries and/or Apologies: Penny Hart**  
**E-mail [a.smit@darwin.nt.gov.au](mailto:a.smit@darwin.nt.gov.au) - PH: 810300 670**

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### **Committee's Responsibilities**

*THAT effective as of 16 April 2012, Council in pursuant to Section 32(2)(b) of the Local Government Act 2008 hereby delegates to the Town Planning Committee the power to make decisions within the approved budget relating to:*

- \* Development Applications referred from the Development Consent Authority
  - \* Town Planning Strategy, Policies and Procedures
  - \* Development and Planning Matters referred to Council from Developers, Community Groups and Individuals
  - \* Signage Applications, Policies and Procedures
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# OPEN SECTION

TP04/2

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# OPEN SECTION

TP04/3

## Town Planning Committee Meeting – Tuesday, 7 April 2015

### 1. MEETING DECLARED OPEN

### 2. APOLOGIES AND LEAVE OF ABSENCE

Common No. 26105036

#### 2.1 Apologies

#### 2.2 Leave of Absence Granted

- A. THAT it be noted Member G J Haslett is an apology due to a Leave of Absence previously granted on 17 March 2015, for the period 26 March 2015 to 7 April 2015.
- B. THAT it be noted Member G A Lambert is an apology due to a Leave of Absence previously granted on 17 March 2015, for the period 30 March 2015 to 10 April 2015.
- C. THAT it be noted Member R M Knox is an apology due to a Leave of Absence previously granted on 24 February 2015, for the period 1 April 2015 to 14 April 2015.
- D. THAT it be note Member H I Galton is an apology due to a Leave of Absence previously granted on 31 March 2015, for the period 1 April 20165 to 13 April 2015.

### 3. ELECTRONIC MEETING ATTENDANCE

Common No. 2221528

#### 3.1 Electronic Meeting Attendance Granted

THAT Council note that pursuant to Section 61 (4) of the Local Government Act and Decision No. 21\00010 – 16/04/12, the following member was granted permission for Electronic Meeting Attendance at this the Town Planning Committee Meeting held on Tuesday, 7 April 2015:

- Member G J Haslett
- Member G A Lambert
- Member R M Knox
- Member H I Galton

# OPEN SECTION

TP04/4

## Town Planning Committee Meeting – Tuesday, 7 April 2015

### **4. DECLARATION OF INTEREST OF MEMBERS AND STAFF**

#### **4.1 Declaration of Interest by Members**

#### **4.2 Declaration of Interest by Staff**

### **5. CONFIDENTIAL ITEMS**

### **6. WITHDRAWAL OF ITEMS FOR DISCUSSION**

THAT the Committee resolve under delegated authority that all Information Items and Officers Reports to the Town Planning Committee Meeting held on Tuesday, 7 April 2015 be received and considered individually.

### **7. CONFIRMATION OF MINUTES PERTAINING TO THE PREVIOUS TOWN PLANNING COMMITTEE MEETING**

THAT the Committee resolve that the minutes of the previous Town Planning Committee Meeting held on Tuesday, 2 December 2014 tabled by the Chairman, be received and confirmed as a true and correct record of the proceedings of that meeting.

### **8. BUSINESS ARISING FROM THE MINUTES PERTAINING TO THE PREVIOUS TOWN PLANNING COMMITTEE MEETING**

#### **8.1 Business Arising**

# OPEN SECTION

TP04/5

## Town Planning Committee Meeting – Tuesday, 7 April 2015

### 9. DEPUTATIONS AND BRIEFINGS

#### 9.1 **Building Setbacks** Common No. 2950902

*Fabio Finocchiaro, Executive Director, Lands Services, Mark Meldrum, Director Lands Planning and Douglas Lesh, Director Development Assessment Services, from the Department of Lands, Planning and the Environment will be in attendance from 5.15 pm to brief the Committee on building setbacks.*

*Gary Nairn, Commissioner, from the Northern Territory Planning Commission will be in attendance from 5.45 to brief the Committee on building setbacks.*

THAT the presentations from the Department of Lands, Planning and the Environment, and the Northern Territory Planning Commission, regarding building setbacks be received and noted.



**ENCL: TOWN PLANNING COMMITTEE/OPEN**  
**NO**

**AGENDA ITEM: 10.1**

### **STRATEGIC PLANNING ISSUES – APRIL 2015**

**REPORT No.: 15TS0045 NS:dj COMMON No.: 2481144**

**DATE: 07/04/2015**

**Presenter: Cindy Robson, Acting Manager Design, Planning and Projects**

**Approved: Luccio Cercarelli, General Manager Infrastructure**

### **PURPOSE**

The purpose of this report is to provide an updated schedule of identified strategic Town Planning matters for referral to Town Planning Committee meetings.

### **LINK TO STRATEGIC PLAN**

The issues addressed in this Report are in accordance with the following Goals/Strategies of the City of Darwin 2012 – 2016 as outlined in the 'Evolving Darwin Towards 2020 Strategic Plan':-

#### **Goal**

1. Collaborative, Inclusive and Connected Community

#### **Outcome**

- 1.4 Improved relations with all levels of government and significant stakeholders

#### **Key Strategies**

- 1.4.2 Play an active role in strategic and statutory planning processes

### **KEY ISSUES**

- Under the Town Planning Committee format, meetings will be utilised to consider strategic town planning matters, reflecting a greater focus on strategic planning issues by Council;
- This report presents an updated schedule of previously identified and known strategic town planning matters and the timeframes for reporting on these matters. The schedule is of known current issues and will be influenced by unforeseen strategic matters requiring consideration either directly raised by Council or via external parties such as the Northern Territory Planning Commission; and
- Progress and updating of the schedule will be reported at Town Planning Committee meetings.

### **RECOMMENDATIONS**

THAT the Committee resolve under delegated authority:-

THAT Report Number 15TS0045 NS:dj entitled Strategic Planning Issues – April 2015, be received and noted.

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 REPORT NUMBER: 15TS0045 NS:dj  
 SUBJECT: STRATEGIC PLANNING ISSUES – APRIL 2015

## **BACKGROUND**

At the Town Planning Committee Meeting held on 5 August 2013, Council resolved as follows:

*DECISION NO.21\1233 (02/07/13)*

### **Town Planning Committee Review 2013**

*Report No. 13TS0108 (02/17/13) Common No. 2481144*

- A. THAT Report Number 13TS0108 LC:mm entitled Town Planning Committee Review, 2013, be received and noted.*
- B. THAT in order to provide a primary focus on strategic Town Planning, Council endorses the Alternative Process as set out in Report Number 13TS0108 LC:mm, Town Planning Committee Review 2013.*

Council has resolved that Town Planning Committee Meetings would be held once every two (2) months, with a focus on strategic town planning matters.

This report provides an updated schedule of previously identified strategic town planning matters and time frames for addressing these matters.

## **DISCUSSION**

The following table provides a list of matters that Council has considered prior to the Town Planning Committee; along with other items scheduled for this meeting and therefore will be removed from the next Strategic Planning Issues report:

<b>Issue</b>	<b>Issue Source</b>	<b>Date</b>	<b>Comment</b>
Review of Outdoor Advertising Signs Code	City of Darwin	April 2015	Refer to Confidential Report Number 14TS0295 and subsequent presentation material contained in the April 2015 Confidential Town Planning Workshop.
Section J of the Building Code Australia (BCA)	City of Darwin	April 2015	This item was reported on in conjunction with the issue of shading of air-conditioning units on buildings; refer to Report Number 14TS0199 contained in the April 2015 Town Planning Agenda.

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 SUBJECT: STRATEGIC PLANNING ISSUES – APRIL 2015

Issue	Issue Source	Date	Comment
Shading of air-conditioning units on buildings	City of Darwin	April 2015	This item was reported on in conjunction with the issue of Section J of the BCA; refer to Report Number 14TS0199 contained in the April 2015 Town Planning Agenda.

The following table provides a list of new strategic matters that have been raised by Elected Members since the previous update report was presented on strategic planning matters.

Issue	Issue Source	Date
Creation of Urban Development Policy and Strategy	City of Darwin	June 2015
Assessment criteria and definition for Serviced Apartments in the Northern territory Planning Scheme	City of Darwin	June 2015
Sea containers in residential zones	City of Darwin	August 2015
Car parking on the podium level	City of Darwin	August 2015

The following table provides a list of ongoing strategic planning projects in which City of Darwin staff are currently working with the Northern Territory Government.

Issue	Issue Source	Date	Comment
Draft Darwin City Centre Master Plan	<ul style="list-style-type: none"> <li>City of Darwin</li> <li>Northern Territory Government</li> <li>Australian Government</li> </ul>	Ongoing	The final version of the Draft Darwin City Centre Master Plan is scheduled to be presented to Council for consideration at the 1 <sup>st</sup> Ordinary in April.

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Issue	Issue Source	Date	Comment
Urban infill and densification	Northern Territory Government	Ongoing	Area plans are currently being developed through a Project Control Group with the Northern Territory Government. Findings will be exhibited for consultation upon completion.
Car parking, Public Transport and alternative transport arrangements	City of Darwin	Ongoing	To be considered in light of the Darwin CBD Parking Strategy Review, CBD Traffic Study and Draft City Centre Master Plan both during these projects and after their completion.
Building setbacks	City of Darwin	Ongoing	<p>The Town Planning Committee is receiving presentations from the Chairman of the Northern Territory Planning Commission and Department of Lands, Planning and the Environment.</p> <p>Council wrote to the Minister for Lands, Planning and the Environment in January 2015. A response has since been received advising that the Department of Lands, Planning and the Environment “will work with City of Darwin staff to understand the issues in greater detail and provide me with advice”.</p> <p>The issue is also being discussed with the Chief Executive of the Department of the Chief Minister.</p>

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Issue	Issue Source	Date	Comment
Greater Darwin Regional Land Use Plan	Northern Territory Planning Commission	Ongoing	Council responded to the Community Consultation Report exhibited in November 2014.
Contribution Plan for community facilities and open space	City of Darwin	Ongoing	The area plans currently being developed (through a Project Control Group with the Northern Territory Government) have a direct correlation to the contribution plans for community facilities and open space. Once the findings are exhibited, a report to Council will be produced for consideration.
The height, bulk and over development of land in the Darwin CBD Zone	City of Darwin	Ongoing	To be considered in light of the outcomes of the Draft Darwin City Centre Master Plan, Greater Darwin Regional Land Use Plan and the Northern Territory Planning Scheme Amendment to Clause 6.3 – Building Heights in Central Darwin.
Universal Design Principles in planning and construction of new buildings.	City of Darwin	June 2015	This report will be combined with the Development of an Age Friendly City report.
The Development of an Age Friendly City	City of Darwin	June 2015	This report will be combined with the Universal Design Principles in Planning and Construction of New Buildings report.

### **CONSULTATION PROCESS**

In preparing this report, the following City of Darwin officers were consulted:

- Strategic Town Planner
- Town Planner

### **POLICY IMPLICATIONS**

Not assessed.

### **BUDGET AND RESOURCE IMPLICATIONS**

Not assessed.

### **RISK/LEGAL/LEGISLATIVE IMPLICATIONS**

Not assessed.

### **ENVIRONMENTAL IMPLICATIONS**

Not assessed.

### **COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION**

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

**CINDY ROBSON**  
**ACTING MANAGER DESIGN,**  
**PLANNING & PROJECTS**

**LUCCIO CERCARELLI**  
**GENERAL MANAGER**  
**INFRASTRUCTURE**

For enquiries, please contact Cindy Robson on 8930 0528 or email:  
c.robson@darwin.nt.gov.au.

**ENCL:** TOWN PLANNING COMMITTEE/OPEN  
**YES**

**AGENDA ITEM:** 10.2

**BUILDING CODE AUSTRALIA - SECTION J & SHADING OF AIR CONDITIONERS**

**REPORT No.:** 14TS0199 BS:dj **COMMON No.:** 2481144

**DATE:** 07/4/2015

**Presenter:** Acting Manager Design, Planning & Projects, Cindy Robson

**Approved:** General Manager Infrastructure, Luccio Cercarelli

**PURPOSE**

The purpose of this report is to provide Council with information on Section J of the Building Code of Australia and the Shading of Air Conditioners.

**LINK TO STRATEGIC PLAN**

The issues addressed in this Report are in accordance with the following Goals/Strategies of the City of Darwin 2012 – 2016 as outlined in the 'Evolving Darwin Towards 2020 Strategic Plan':-

**Goal**

1. Collaborative, Inclusive and Connected Community

**Outcome**

1.4 Improved relations with all levels of government and significant stakeholders

**Key Strategies**

1.4.2 Play an active role in strategic and statutory planning processes

**KEY ISSUES**

- Section J of the Building Code of Australia (BCA) provides minimum energy efficiency standards for construction throughout Australia for building classes 2-9.
- There are chapters within the BCA which detail specific requirements for the Northern Territory.
- Both the Building Code of Australia and the Northern Territory Planning Scheme have specific controls relating to air-conditioners.
- The Building Code of Australia addresses the efficiency of air-conditioners while the Planning Scheme addresses visual screening and access for maintenance.

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 SUBJECT: BUILDING CODE AUSTRALIA - SECTION J & SHADING OF AIR CONDITIONERS

## **RECOMMENDATIONS**

THAT the Committee resolve under delegated authority:-

- A. THAT Report Number 14TS0242 entitled Building Code Australia - Section J & Shading of Air Conditioners be received and noted.
- B. THAT Council prepare a draft Planning Scheme amendment requiring air conditioners to be shaded or placed in a shaded position and forward the proposed amendment to the Minister of Lands and Planning requesting an amendment to the Northern Territory Planning Scheme.

## **BACKGROUND**

Council have requested a report on the following decision:

*DECISION NO.21\1475 (01/10/13)*

### **Strategic Planning Issues**

*Report No. 13TS0161CR:mm (01/10/13) Common No. 2481144*

- A. *THAT Report Number 13TS0161CR:mm entitled, Strategic Planning Issues, be received and noted.*
- B. *That the following issues be included within the Strategic Planning Issues identified within Report Number Report Number 13TS0161CR:mm:*
  - *Propose amendments to the Planning Scheme to require air conditioners to be shaded or placed in a shaded position.*
  - *Prepare a report for Council to inform members of the desirability of including the Section J requirement in the NT building code.*

## **DISCUSSION**

### **THE NATIONAL CONSTRUCTION CODE AND SECTION J OF THE BCA**

The National Construction Code (NCC) provides the minimum necessary requirements for safety, health, amenity and sustainability in the design and construction of new buildings (and new building work in existing buildings) throughout Australia.

The NCC is an initiative of the Council of Australian Governments (COAG) developed to incorporate all on-site construction requirements into a single code. The NCC comprises the Building Code of Australia (BCA), Volume One and Two; and the Plumbing Code of Australia (PCA), as Volume Three.



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Volume One: pertains primarily to Class 2 to 9 buildings which are commercial, industrial and multi-residential buildings and includes Section J - Energy Efficiency.

Volume Two: pertains primarily to Class 1 and 10 buildings which are houses, sheds and carports and includes Part 3.12 - Energy Efficiency.

Within the Northern Territory, the NCC which includes the BCA is administered through the Northern Territory Department of Lands, Planning – Environment, Building Advisory Services and private certifiers.

A full list and summary of the building classes and definitions are contained in **Attachment A**. A building must have to the degree necessary, a level of thermal performance to facilitate the efficient use of energy for artificial heating and cooling. The following information is assessed for Class 2 to 9 buildings against Section J of the BCA:

- Energy efficiency
- Building fabric
- External glazing
- Building sealing
- Air-Conditioning and ventilation systems
- Artificial lighting and power
- Hot Water Supply
- Access for maintenance and facilities for monitor

The following information is assessed for Class 1 and 10 buildings against Part 3.12 of the BCA:

- Energy efficiency
- Building fabric
- External glazing
- Building sealing
- Air movement
- Services

Both Section J and Part 3.12, relate to the efficient use of energy and transfer of energy for artificial heating and cooling which occurs through walls, windows, doors or the roof, which when measured gives the star rating of the building. Examples of improving a star rating may include minor changes to a design such as the moving of a carport from one side of the building to the other, the color of the floor coverings, external fans, type and placement of installation and external structure elements. Vegetation is not used in assessing the energy rating.

Section J and Part 3.12 of the BCA apply to the Northern Territory to a varying degree. Although the national minimum requirement is a star rating of 6 stars, the Northern Territory, in 2010 adopted a minimum rating of five (5) stars for Class 1 buildings (residential houses) and Class 10 buildings (non-habitable buildings or structures). A 3.5 minimum star rating was adopted for Class 2 buildings (a Building containing 2 or more sole occupancy units each being a separate dwelling) and a

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Class 4 building (a dwelling in a building, if it is the only dwelling in the building) refer **Attachment B**.

The Northern Territory Government has the authority to vary the requirements of the BCA and has decided not to implement the requirement for the remaining classes of buildings (commercial buildings) to comply with Section J in the NT Building Code at this time. This is due to the current BCA not taking into consideration the tropical climatic zone of Darwin and the issues this causes to developers and service providers.

The Northern Territory Government has informed the City of Darwin that a review of the national BCA is currently underway. This review is expected to identify and cover individual climatic zones which when completed may result in the Northern Territory having variable controls for the different climatic zones. At the completion of the review, the Northern Territory Government will review building regulation requirements for the entire Northern Territory.

The Northern Territory Government has confirmed that amendments to the BCA will be sent out for public consultation.

## **Summary**

Class 1 and 10 buildings (houses, sheds and carports) are required to obtain a 5 star rating.

Class 2 buildings (a building containing 2 or more sole occupancy units each being a separate dwelling) are required to obtain a 3.5 star rating.

Class 4 buildings (a dwelling in a building, if it is the only dwelling in the building) are required to obtain a 3.5 star rating.

The remainder of classes currently do not require to be assessed against Section J for the time being. The Northern Territory Government is waiting for the review of the energy efficiency sections of the BCA to conclude and then will review building regulations within the Northern Territory.

It is recommended that Council respond to the Northern Territory Government on any proposed changes to the BCA resulting from the review.

## **AIR CONDITIONERS**

The Northern Territory Planning Scheme requires air conditioners for multiple dwellings, hostels, supporting accommodation, commercial and other developments to locate air conditioners where they are accessible for servicing and conceal service ducts, pipes, air conditioners and air conditioning plants.

## **8.2 Commercial and other Development in Zones HR , CV, CB, C, SC, TC, OR, CP, FD and T**

2. *The design of buildings in Zones HR, CV, CB, C, SC, TC, OR, CP, FD and T should:*

- e) *maximise energy efficiency through passive climate control measures;*
- g) *conceal service ducts, pipes, air conditioners, air conditioning plants etc;*
- h)

A general condition applied to development permits by the Development Consent Authority (DCA) when issued, states:

*“All air-conditioning condensers are to be appropriately screened from public view, located so as to minimise thermal and acoustic impacts on neighbouring properties and condensate disposed to ground level in a controlled manner to the satisfaction of the consent authority”.*

However, as the above condition is requested after the issuing of a Development Permit and the Planning Scheme does not refer to the placement of air conditioners during the application process, it is recommended that Council writes to the Minister of Lands and Planning requesting amendments to the Planning Scheme.

The Growth Management Queensland – Air Conditioner Guide refers to the *Australian Institute of Refrigeration, Air conditioning and Heating’s Residential Air Conditioning Best Practice Guidelines*. However, this guide provides further information on the location of air conditioners when being installed. These are:

### **5. Correct location of an air conditioning system**

*The outdoor (condensing) unit should be located where it:*

- *is on the shady side of the building or in a shaded area away from the direct western sun*
- *has unobstructed airflow to prevent over-heating of the motor*
- *is not adjacent to neighbours’ windows, outdoor living areas, etc to minimise effects of potential noise from the system during operation*
- *is not adjacent to walls, fences or overhangs that could cause hot air recirculation and/or noise amplification*
- *is not more than 15 metres away from the indoor unit location.*

## **Summary**

To ensure that the general condition placed on Development Permits can be met, it is recommended that Council prepare a draft Planning Scheme Amendment requiring air conditioners to be shaded or placed in a shaded position and forward the proposed amendment to the Minister of Lands and Planning requesting an amendment to the Northern Territory Planning Scheme. Alternatively, a letter could simply be written to the Minister requesting the amendment be made, however, it is

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CONDITIONERS

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considered more proactive to prepare a suitable draft amendment and forward this with any request to the Minister.

### **CONSULTATION PROCESS**

In preparing this report, the following City of Darwin officers were consulted:

- Strategic Town Planner
- Town Planner
- Planning Officer

In preparing this report, the following external parties were consulted:

- Director - Building Advisory Services
- Technical Officer - Building Advisory Services
- Director – Development Assessment Services
- Manager - Development Assessment Services

### **POLICY IMPLICATIONS**

There are no policy implications for Council as a result of this application.

### **BUDGET AND RESOURCE IMPLICATIONS**

There are no budget or resource implications for Council as a result of this application.

### **RISK/LEGAL/LEGISLATIVE IMPLICATIONS**

There is no risk, legal or legislative implications for Council as a result of this application.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications for Council, however, improved planning and building controls will have desirable environmental outcomes.

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CONDITIONERS

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### **COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION**

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

**CINDY ROBSON**  
**ACTING MANAGER DESIGN,**  
**PLANNING & PROJECTS**

**LUCCIO CERCARELLI**  
**GENERAL MANAGER**  
**INFRASTRUCTURE**

For enquiries, please contact Cindy Robson on 89300528 or email:  
c.robson@darwin.nt.gov.au.

#### **Attachments:**

**Attachment A:** Building classes definitions  
**Attachment B:** Northern Territory building note

### Further information

#### Classification Summary of Buildings and Structures defined in the Building Code of Australia

CLASSES OF BUILDING		
<b>Class 1</b>	<b>Class 1a</b>	A single dwelling being a detached house, or one or more attached dwellings, each being a building, separated by a <i>fire-resisting</i> wall, including a row house, terrace house, town house or villa unit.
	<b>Class 1b</b>	A boarding house, guest house, hostel or the like with a total area of all floors not exceeding 300m <sup>2</sup> , and where not more than 12 reside, and is not located above or below another dwelling or another Class of building other than a private garage.
<b>Class 2</b>	A building containing 2 or more sole-occupancy units each being a separate dwelling.	
<b>Class 3</b>	A residential building, other than a Class 1 or 2 building, which is a common place of long term or transient living for a number of unrelated persons. <i>Example: boarding-house, hostel, backpackers accommodation or residential part of a hotel, motel, school or detention centre.</i>	
<b>Class 4</b>	A dwelling in a building that is Class 5, 6, 7, 8 or 9 if it is the only dwelling in the building.	
<b>Class 5</b>	An office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8 or 9.	
<b>Class 6</b>	A shop or other building for the sale of goods by retail or the supply of services direct to the public. <i>Example: café, restaurant, kiosk, hairdressers, showroom or service station.</i>	
<b>Class 7</b>	<b>Class 7a</b>	A building which is a carpark.
	<b>Class 7b</b>	A building which is for storage or display of goods or produce for sale by wholesale.
<b>Class 8</b>	A laboratory, or a building in which a handicraft or process for the production, assembling, altering, repairing, packing, finishing, or cleaning of goods or produce is carried on for trade, sale or gain.	
<b>Class 9</b>	A building of a public nature -	
	<b>Class 9a</b>	A health care building, including those parts of the building set aside as a laboratory.
	<b>Class 9b</b>	An assembly building, including a trade workshop, laboratory or the like, in a primary or secondary school, but excluding any other parts of the building that are of another class.
	<b>Class 9c</b>	An aged care building.
<b>Class 10</b>	A non habitable building or structure -	
	<b>Class 10a</b>	A private garage, carport, shed or the like.
	<b>Class 10b</b>	A structure being a fence, mast, antenna, retaining or free standing wall, swimming pool or the like.

TYPE OF CONSTRUCTION		
Rise in storeys	Class of building <b>2,3,9</b>	Class of building <b>5,6,7,8</b>
4 or More	A	A
3	A	B
2	B	C
1	C	C

**Note:** The classification of buildings and the type of construction can vary from the standard model depicted in the tables. Concessions can be provided that change the type of construction. The concessions can relate to the design of the building, its size, and the number of escapes.

**BUILDING ADVISORY SERVICES BRANCH**

# **BUILDING NOTE**

Contact Officer: Peter Zagorski

Edition Number: 68 Date: 5/5/2010

## **BCA Energy Efficiency Provisions**

From 1 May 2010 new energy efficiency provisions applicable for the Northern Territory will be adopted into the Building Code of Australia (BCA 2010).

The Northern Territory has a variation in BCA 2010 that adopts some of the BCA 2009 energy provisions namely:

5 Star rating will apply to:

- Class 1 buildings (houses)
- Class 10 buildings (non habitable) with a *conditioned space*.

3.5 Star rating will apply to:

- Class 2 & 4 buildings

Northern Territory legislation is such that any new works, which require a building permit will need to comply with the new provisions. These provisions are not retrospective.

### **APPLICATION OF PROVISIONS TO PERMITS ISSUED AND DESIGNS COMMENCED PRIOR TO ADOPTION OF THE BCA ON 1 MAY 2010**

Section 51 of the *NT Building Act* provides for application of new regulations. In summary the section states that new provisions of the BCA do not apply if-

- a permit is granted before the provision is adopted ; or
- a Building Certifier certifies in writing that substantial progress was made on the design before the provision was adopted.

Nevertheless, a Building Certifier and owner may agree that the new energy provisions of the BCA will apply.

In determining compliance a Building Certifier could simply require an owner to submit evidence that the design was substantially started or completed prior to 1 May 2010. This evidence could be in the form of a statement in writing and signed by the owner. In addition, so that future owners are aware of the issue, as part of the building permit a statement to acknowledge that the proposed building work does not include energy provisions as specified in the current BCA is required.

Substantial design of a building does not apply to a planning permit issued by the Development Consent Authority.

## APPLICATION OF THE PROVISIONS

### Class 1 and 10 Buildings

There are two methods for assessing applications for compliance with the energy efficiency provisions that meet the performance requirements of the BCA.

- Deemed to Satisfy - assessing compliance with the acceptable construction provisions under Part 3.12 (BCA Volume 2 ); or
- Alternative Solutions
  - the verification method using a stated value (V2.6.2.1) or
  - using a reference building (V2.6.2.2) or
  - expert judgement, assessing compliance of an alternative solution against the performance requirements.

#### Verification using stated value. ( V2.6.2.1)

A building must have an energy rating of not less than 5 stars determined using a thermal calculation method that complies with the ABCB Protocol for house energy Rating software.

The Northern Territory at this stage will only accept AccuRate as the approved software. Upon advice from the Department of the Environment, Water, Heritage and the Arts that other software packages have achieved full approval from it, consideration will be given to the adoption in the Northern Territory of other packages.

#### Using a reference building (V2.6.2.2)

This method requires the evaluation of the proposed design compared against a reference house. The method involves doing two energy evaluations.

#### Expert Judgement

A peer review process is an alternative compliance method to assess new housing using expert judgement. The design criteria for a well ventilated building with no mechanical cooling other than ceiling fans (called a free running building) has been the subject of consideration as to how to best accommodate expert assessment.

Faced with similar issues, the Queensland Government has developed a peer review structure to support the Alternative Solution expert judgement method when used for architecturally designed free running buildings.

Following negotiations with the Queensland administration, the Northern Territory will be able to access the Queensland peer review system.

Accordingly, the Northern Territory gives recognition to experts on the Queensland Peer Review Panel. Experts listed on this panel are engaged through a normal contractual arrangement. The Queensland Government website has information on the process and panel experts <http://www.dip.qld.gov.au/guidelines/energy-efficiency.html>



The appointed expert will assess the plan and provide either a 'pass' or 'fail' report justifying any decision. The report would form part of the relevant building approval issued by the building certifier.

### **Class 2 and 4 Buildings**

There are two methods for assessing applications for compliance with the energy efficiency provisions that meet the performance requirements of the BCA.

- Deemed to Satisfy - assessing compliance with the acceptable construction provisions under Part J (BCA Volume 1 ); or
- Alternative Solutions
  - the verification method using a stated value (JV1) using a thermal calculation method.

#### Verification using stated value. ( JV1)

For a class 2 building or class 4 part of building

- each sole occupancy unit has an energy rating of not less than 3 stars; and
- the average energy rating of all sole occupancy units is not less than 3.5 stars.

The Northern Territory at this stage will only accept AccuRate as the approved software. Upon advice from the Department of the Environment, Water, Heritage and the Arts that other software packages have achieved full approval from it, then consideration will be given to the adoption in the Northern Territory of other packages.

### **Accreditation of AccuRate Assessors**

The Northern Territory administration sees AccuRate assessors as another of many unregulated professions operating under good practice guidelines in the marketplace.

In June 2008, a Protocol for Assessor Accrediting Organisations was issued and the Northern Territory encourages good practice in accordance with the protocol for accreditation without regulating for registration.

### **APPLICATION OF PROVISIONS TO ALTERATIONS, ADDITIONS AND EXTENSIONS TO EXISTING BUILDINGS**

Building Certifiers commonly deal with permit applications that are for parts of a building (additions and extensions) and interpreting compliance of that part of the building with the BCA. This process should be no different when considering additions and extensions in relation to compliance with the energy efficiency provisions.

The Building Certifier in determining the degree of compliance needs to consider the appropriateness of each criteria to the particular case. Any decision made under this context can extend to not requiring a particular level of performance to be achieved, if that is the appropriate action to be taken.

There will be instances when it is not practicable or appropriate for the energy efficiency

provisions to be applied to other alterations that are not additions or extensions (for example the replacing or changing of a window).

It is not possible to include all situations that might have to be considered by Building Certifiers in the future. Nevertheless, the following situations are provided as a general guide. The ultimate decision on all situations, however, rests with the relevant Building Certifier in determining compliance.

**New habitable room addition to an existing Class 1 dwelling**

Compliance of new work with all measures.

**Extension to an existing habitable room in existing Class 1**

Compliance of new work with all measures.

**Conversion of a Class 10 to a Class 1**

Compliance with all measures

**Non habitable room addition and extensions**

Services, if provided, to comply

**Replacement Works**

Replacement of roof cladding would not be expected to invoke energy efficiency measures for the roof although, if original approval required light coloured roofing, then this must be maintained.

Replacement of windows is not generally expected to require consideration of shading or ventilation. A new window increasing/decreasing the size of an existing opening should require consideration of solar heat gain, conductance and shading.

**DOCUMENTATION**

Building permits must include full details showing how the building will comply with the energy efficiency provisions. The energy efficiency details will need to be shown on or specified in the documents submitted to the Building Certifier.

Approved Plans will need to specify actual details of the various components. Generic reference is not acceptable.

A schedule should be used for evidencing such things as glazing ratio, ventilation ratios and shading protection.

A table should be used for evidencing requirements dealing with the building fabric supplemented with drawing references (eg. ventilation opening areas on table should reference plan showing location/distribution).



Fabio Finocchiaro  
**Director Building Control**  
5 May 2010

# OPEN SECTION

TP04/6

## Town Planning Committee Meeting – Tuesday, 7 April 2015

11. **INFORMATION ITEMS**
12. **GENERAL BUSINESS**
13. **CLOSURE OF MEETING**