

DARWIN TOWN PLAN INTERPRETATION AND (EFFECT) ORDINANCE 1969

297

No. 3 of 1970

An Ordinance relating to a town planning scheme for the municipality of Darwin and certain adjacent lands

[Reserved 29 October, 1969]

[Assented to 6 February, 1970]*

WHEREAS the *Town Planning Ordinance* 1964 provides that if the Administrator in Council approves proposals for a town planning scheme submitted to him under section 35 of that Ordinance he shall give notice of his approval of the scheme in the *Gazette* and thereupon the scheme comes into operation and has effect as if it were ordained in that Ordinance:

AND WHEREAS on the fifth day of December, 1966, the Administrator in Council approved proposals so submitted to him for a town planning scheme for a specified area of land that included the municipality of Darwin and certain lands adjacent to that municipality:

AND WHEREAS the Administrator in Council gave notice, in the *Northern Territory Government Gazette* published on the seventh day of December, 1966, of his approval of that town planning scheme:

AND WHEREAS it is desirable to amend that town planning scheme and to provide that it shall have effect to regulate the use of land in the Darwin Town Area:

BE it therefore ordained by the Legislative Council for the Northern Territory of Australia as follows:—

1. This Ordinance may be cited as the *Darwin Town Plan* Short title
(*Interpretation and Effect*) Ordinance 1969.

2. This Ordinance shall come into operation on a date to Commencement
be fixed by the Administrator by notice in the *Gazette*.†

3.—(1.) In this Ordinance, unless the contrary intention Interpretation
appears—

“Crown lease” means a lease of land of the Crown or the Commonwealth granted under the *Crown Lands Ordinance* 1931 (but not including a lease granted under

* Notified in the *Northern Territory Government Gazette* No. 7 of 18 February, 1970, page 41.

† The date fixed was 18 March, 1970 (see *Northern Territory Government Gazette* No. 11 of 18 March, 1970, page 75).

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section 6A of that Ordinance), the *Darwin Town Area Leases Ordinance 1947*, the *Church Lands Leases Ordinance 1947*, or the *Special Purposes Leases Ordinance 1953*;

“owner” means—

- (a) in relation to land held under a Crown lease, the lessee of the Crown lease; or
- (b) in relation to land held for an estate in fee simple, the registered proprietor of the estate;

“Residential C land” means land represented in the Darwin Town Plan by a portion of the plan shown in the manner specified in Part I. of the legend as the manner in which the zone named “Residential C” in that Part is shown;

“the Darwin Town Area” means the land described in the Schedule to the *Darwin Lands Acquisition Act 1945*;

“the Darwin Town Plan” means the document (being a map of the municipality of Darwin and of certain land adjacent to that municipality, together with a legend for the interpretation of colours, designs, numbers, words, letters and symbols on the map) which was approved on the fifth day of December, 1966, by the Administrator in Council as proposals for a town planning scheme for the municipality of Darwin and in relation to which the Administrator in Council gave notice of his approval as a town planning scheme in the *Northern Territory Government Gazette* published on the seventh day of December, 1966;

“the legend” means the legend inserted in the Darwin Town Plan by section 4 of this Ordinance;

“the Tribunal” means the Land and Valuation Review Tribunal established by the *Valuation of Land Ordinance 1963*.

(2.) In this Ordinance a reference to any other Ordinance by its short title shall be read as a reference to that Ordinance or to that Ordinance as amended at any time.

Legend

4. The Darwin Town Plan is amended by omitting its legend and inserting in its stead the legend set out in the Schedule to this Ordinance.

Permitted use of land

5.—(1.) Subject to this Ordinance, land represented in the Darwin Town Plan as amended by this Ordinance by a portion of the plan shown in the manner specified in Part I. of the legend as the manner in which a zone, site or reserve is shown in the plan may be used for a purpose indicated by the words set out in the last column of Part I. of the legend opposite the name of that zone, site or reserve.

(2.) Where under this Ordinance land may be used for a building of a specified kind, the land may be used for the

construction or occupation of a building of that kind but not for the construction or occupation of a building of any other kind.

6.—(1.) Except in accordance with this section or section 8 of this Ordinance, Residential C land may not be used for flats.

Residential C
land

(2.) Subject to the next succeeding sub-section, any Residential C land may be used for flats in any of the following circumstances:—

- (a) if the land is held under a Crown lease and the lease contains a provision, covenant or condition which expressly permits or requires the lessee to use the land for flats;
- (b) if the land is held for an estate in fee simple granted under the *Freehold Titles Ordinance* 1962 and the Crown lease under which the land was held immediately before the grant of the estate in fee simple contained a provision, covenant or condition which expressly permitted or required the lessee to use the land for flats;
- (c) if flats have been lawfully constructed on the land and are in existence on it immediately before the commencement of this Ordinance;
- (d) if an enforceable contract for the construction of flats on the land is in existence at the commencement of this Ordinance and the flats are constructed on it within one year after that commencement or such longer period as the Administrator in writing approves;
- (e) if the Tribunal by order in accordance with this Ordinance permits the land to be used for flats.

(3.) Residential C land may not be used for flats in the circumstances set out in paragraph (d) of the last preceding sub-section except during the period of two months immediately following the commencement of this Ordinance unless during that period the person using the land for flats furnishes to the Chairman of the Town Planning Board established under the *Town Planning Ordinance* 1964-1968 a copy of the contract he relies on to establish those circumstances or otherwise satisfies the Chairman that a contract such as is necessary to establish those circumstances was in existence at the commencement of this Ordinance.

(4.) A provision, covenant or condition in a Crown lease permitting or requiring the land which is or was subject to the lease to be used for residential purposes shall not, without more, be construed as expressly permitting or requiring the lessee to use the land for flats or as having expressly permitted or required the lessee to so use it while the lease was in force.

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(5.) The following conditions apply to and in relation to the use of Residential C land for flats in the circumstances set out in any of paragraphs (a), (b) and (e) of sub-section (2.) of this section:—

- (a) there shall not be more than one residential building on any allotment of land;
- (b) the number of storeys in a residential building on the land shall not exceed two;
- (c) the number of flats in such a building shall not exceed six.

Orders permitting Residential C land to be used for flats

7.—(1.) The owner of any Residential C land may make application to the Tribunal for an order permitting the land to be used for flats.

(2.) The Tribunal has jurisdiction to hear and determine such an application, but shall not grant the application unless it is satisfied that there are such circumstances existing as in the opinion of the Tribunal make it desirable that the land should be used for flats.

(3.) Sub-sections (3.) to (6.) inclusive and sub-section (10.) of section 12 of the *Darwin Town Area Leases Ordinance* 1947-1968 apply, *mutatis mutandis*, to and in relation to an application under section (1.) of this section—

- (a) as if the application were an application to vary a provision, covenant or condition of a lease under the *Darwin Town Area Leases Ordinance* 1947 in relation to the purpose for which the land subject to the lease may be used; and
- (b) in the case of land held for an estate in fee simple, as if the land were held under such a lease.

(4.) An order made by the Tribunal under this section may be absolute or subject to such conditions, whether as to compensation to other persons or otherwise, as the Tribunal thinks fit.

(5.) Sections 27 to 29 (inclusive) and section 31 of the *Valuation of Land Ordinance* 1963-1968 apply to and in relation to an application to the Tribunal under sub-section (1.) of this section and to an order, determination or decision of the Tribunal upon such an application in like manner as they apply to and in relation to a reference to the Tribunal under that Ordinance and an order, determination or decision of the Tribunal upon such a reference .

Saving of variations already made by Tribunal

8. Notwithstanding the preceding provisions of this Ordinance, where after the seventh day of December, 1966, the Tribunal has, in pursuance of its powers under section 12 of the *Darwin Town Area Leases Ordinance* 1947, varied a provision, covenant or condition of a lease in relation to the pur-

pose for which the land subject to the lease may be used, that land may be used for the purpose specified in the provision, covenant or condition so varied, but for no other purpose, so long as the order for the variation continues in force.

9.—(1.) Where in any Crown lease granted and in force under the *Darwin Town Area Leases Ordinance 1947* the lessee has covenanted to use the land for residential purposes only, the land shall not be deemed to be used for any other purpose by reason only of any person *bona fide* resident on the land carrying on, with and subject to the approval of the Administrator under section 9 of that Ordinance, and in accordance with such conditions relating to the use of the land as the Administrator specifies or has specified, his profession, trade, occupation or calling on the land.

Carrying on resident's profession, &c., permitted on residential land if Administrator approves

(2.) Where under this Ordinance land held for an estate in fee simple may be used only for a residential purpose, a person in lawful occupation of the land may request the Administrator to approve that any person *bona fide* resident on the land may carry on his profession, trade, occupation or calling on the land.

(3.) Where such a request is made—

- (a) sub-sections (2.) and (3.) of section 9 of the *Darwin Town Area Leases Ordinance 1947* apply in respect of the request as if the land were land leased under that Ordinance; and
- (b) if the Administrator grants the request, the land shall not be deemed to be used for any purpose other than a residential purpose by reason only of any person *bona fide* resident on the land, carrying on, with and subject to the approval of the Administrator, and in accordance with such conditions relating to the use of the land as the Administrator specifies, his profession, trade, occupation or calling on the land.

10.—(1.) Land that is used by an authorized person for a prescribed purpose may also be used for an ancillary purpose in accordance with sub-section (2.) or (3.) of this section.

Use of land for certain ancillary purposes

(2.) Where the prescribed purpose is not a residential purpose the land may be used, by either the authorized person or his caretaker, for the ancillary purpose of a residence for himself and his family.

(3.) Where the prescribed purpose is a small farm or intensive farming the land may be used by the authorized person for the ancillary purpose of selling, from a shop or stall

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or otherwise, products produced on the land and, in addition, goods commonly sold with such products.

(4.) In this section, in relation to any land—

“authorized person” means the owner or a person occupying the land under a right to do so derived from the owner;

“prescribed purpose” means a purpose for which the land may be used in pursuance of section 5 of this Ordinance.

Existing use of land

11. Sections 51 and 52 of the *Town Planning Ordinance* 1964 apply to and in relation to the use of land for a purpose not permitted by section 5 of this Ordinance as if this Ordinance were a zoning plan coming into operation on the date of commencement of this Ordinance.

Prohibited use of land an offence

12. A person shall not use land to which the Darwin Town Plan applies for a purpose other than a purpose permitted by or under this Ordinance.

Penalty: Four hundred dollars and, in addition, Forty dollars for each day during which the offence continues.

Application of Darwin Town Plan

13. Subject to this Ordinance, the Darwin Town Plan as amended by this Ordinance applies to and in relation to land within the boundaries of the municipality of Darwin and applies also to and in relation to land outside those boundaries but within the Darwin Town Area as if the last mentioned land were part of the municipality of Darwin.

Amendment and effect of Darwin Town Plan as amended

14.—(1.) The Darwin Town Plan as amended by this Ordinance may be amended as if it were a town planning scheme evolved and in operation in accordance with the *Town Planning Ordinance* 1964-1968.

(2.) Subject to this Ordinance, the Darwin Town Plan as amended by this Ordinance has effect as if it were such a town planning scheme.

Assent to section 15 withheld

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(a) the lease shall not be liable to forfeiture for contravention of the covenant; and

(b) no action shall be instituted to enforce the covenant.

Saving of other laws relating to use of land

16. Nothing in this Ordinance permits a person to use any land in contravention of a law of the Territory other than the law contained in this Ordinance.

THE SCHEDULE

Section 4

THE LEGEND

Part I.—Items having effect to regulate the use of land

Item Number	Name of zone, site or reserve	Manner in which zone, site or reserve is shown in Darwin Town Plan	Purpose for which land in zone, site or reserve may be used
1	Residential A Zone	Dark brown	Flats of any height
2	Residential B Zone	Dark brown with blue hatch	Flats of any height with shops and offices on ground floor
3	Residential C Zone	Light brown	Houses; flats up to six in buildings up to two storeys; but not more than one residential building on any allotment of land
4	Residential D Zone	Light brown with green hatch	Houses only, but not more than one house on any allotment of land
5	Residential E Zone	Light brown with purple hatch	Houses with light industry on site
6	Residential F Zone	Uncoloured with light brown stripe	Houses on lots of 5 acres or more
7	Official Residence Site	Light brown with yellow edge	Residence of senior officer of Commonwealth or representative of foreign country
8	Hostel Site	Light brown with brown edge and hatch	Hostel accommodation and offices and the like
9	Private Hotel Site	Light brown with dark brown edge and blue dot	Purposes for which premises in respect of which a private hotel licence is held may be used
10	Motel Site	Light brown with dark brown edge and dot	Residential accommodation in suites, each of which— (a) is self contained (but not necessarily as to kitchen and laundry); and (b) has its own external access and car park
11	Caravan Park Site	Light green with dark green edge and dot	Parking of caravans in allotted areas each of which has its own electric power point and water tap
12	Camping Site	Light green with dark green edge and hatch	Camping, including camping in caravans
13	Holiday Camping Site	Light green with dark green edge and cross hatch	Holiday accommodation in separate sleep-out cabins or self-contained cabins
14	Central Business Zone	Dark blue	Business premises
15	District Business Zone	Light blue with dark blue hatch	Business premises with adequate provision for car parking
16	Local Business Zone	Light blue	Business premises with provision for car parking for a distance of 30 feet from the frontage alignment
17	Showroom Zone	Orange with dark blue hatch	Display of vehicles and machinery (whether new or second hand) in running condition; assembly and maintenance of vehicles and machinery displayed
18	Commercial Recreation Site	Green with dark blue edge	Bowling alleys, squash and tennis courts, fun fairs, and the like, run for commercial profit
19	Public Market Site	Light blue with dark blue edge and letter M	Public market
20	Hotel Site	Light blue with dark blue edge and dot	Purposes for which premises in respect of which a publican's licence is held may be used

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Item Number	Name of zone, site or reserve	Manner in which zone, site or reserve is shown in Darwin Town Plan	Purpose for which land in zone, site or reserve may be used
21	Social Club Site	Green with dark blue edge and dot	Social club premises having facilities such as accommodation, recreation and other amenities, offices and the like
22	Service Station Site	Purple with dark blue edge and dot	Sale of petrol, oil, and smaller motor parts and accessories; routine maintenance of motor vehicles, out-board motors and hulls for out-board motors; but not display of vehicles or spray painting, panel beating or making major repairs
23	Drive-in Theatre Site	Uncoloured with blue edge and orange cross hatch	Drive-in theatre and associated purposes such as sale of light meals, refreshments, confectionery and the like
24	Commercial Car Parking Site	Orange with blue edge	Parking of cars for fee or reward on open ground or in, on or under a building
25	Funeral Premises Site	Light blue with black edge and dot	Mortuary and associated purposes such as preparation rooms, chapels, garages and the like
26	Heavy Industry Zone	Dark purple	Industries likely to cause nuisance by noise, vibration, smoke, fumes or the like
27	Light Industry Zone	Light purple	Industries not specified elsewhere in this legend and not likely to cause nuisance by noise, vibration, smoke, fumes or the like
28	General Industry Zone	Light purple with dark purple hatch	Any purposes permitted for heavy industry or light industry zones
29	Special Industry Zone	Light purple with dark purple cross hatch	Industries that do not give rise to such an attraction to birds as to create a hazard or potential hazard to aircraft using an aerodrome or flying in the vicinity of an aerodrome
30	Service Industry Zone	Light purple with blue hatch	Manufacturing industries and the selling of the manufactured products
31	Motor Transport Zone	Orange with purple hatch	Motor transport industries and associated purposes such as trans-shipment depots, stores, trucking yards and the like
32	Waterside Zone	Light blue with purple hatch	Industry associated with water transport
33	Industrial Storage Zone	Light purple with black hatch	Storing goods but not any building other than a yard office
34	Dangerous Industry Site	Light purple with red edge and cross hatch	Manufacturing or storing explosive materials
35	Extractive Industry Site	Green with purple edge and hatch	Mining or quarrying or extracting oil or natural gas or processing or storing the products mined or quarried or extracted
36	Liquid Fuel Depots Site	Light purple with dark purple edge and blue dot	Bulk storage of liquid fuel in tanks or drums
37	Noxious Industry Site	Light purple with black edge and cross hatch	Industries likely to cause nuisance by smell or effluent
38	Rural A Zone	Light green with dark green broken hatch	Small farms or intensive farming but not pig farming or other farming likely to cause nuisance by smell or effluent
39	Rural B Zone	Light green	Farming or grazing but not pig farming or other farming likely to cause nuisance by smell or effluent

Item Number	Name of zone, site or reserve	Manner in which zone, site or reserve is shown in Darwin Town Plan	Purpose for which land in zone, site or reserve may be used
40	Noxious Uses Site	Light green with black edge and cross hatch	Pig farming or other farming likely to cause nuisance by smell or effluent
41	Private Sports Site	Light green with broken dark green	Sport or recreation controlled by clubs or commercial organizations in rural surroundings—such as riding schools, race clubs, country clubs, gymkhanas and the like
42	Rural Industry Site	Light green with purple edge and hatch	Industries so related to rural products that they are best located in or near areas where the rural products are produced
43	Navy Reserve	Yellow edge and broad dark blue stripe	Navy purposes
44	Army Reserve	Yellow edge and broad pink stripe	Army purposes
45	R.A.A.F. Reserve	Yellow edge and broad light blue stripe	Air Force purposes
46	Railway Reserve	Grey	Railway purposes
47	Hospital Reserve	Yellow edge with red cross	Hospital purposes
48	Quarantine Reserve	Yellow edge with red hatch	Quarantine purposes
49	Education Reserve	Yellow plus name	Education purposes
50	D.C.A. Reserve	Yellow edge with light blue hatch	Civil aviation purposes
51	P.M.G. Reserve	Yellow edge with P.M.G. in red letters	Postal purposes
52	Welfare Reserve	Yellow edge with green hatch	Social welfare purposes
53	Forestry Reserve	Yellow edge with green dots	Forestry purposes
54	Agricultural Reserve	Yellow edge with broken green hatch	Agricultural purposes
55	Gaol Reserve	Yellow edge with black hatch	Gaol purposes
56	Public Recreation Reserve	Dark green	Recreation and amusement of the public
57	Explosives Reserve	Yellow edge with red cross hatch	Storing explosives
58	Cemetery Reserve	Dark green with black edge	Cemeteries or crematoria
59	Local Government Reserve	Green with yellow edge	Local Government purposes
60	Public Car Park Reserve	Orange	Parking of cars by the public
61	Radio or T.V. Studios Site	Light blue with yellow edge and studio number	Radio or television purposes
62	Other Special Purpose sites site	Dark green edge plus name	Purposes permitted by the Crown lease under which the land is held or was held immediately before being granted in fee simple

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Part II.—Items included for information only

Item Number	Name of Item	Manner in which item is shown in Darwin Town Plan
63	Major Road (existing or to be constructed before 1976)	Red line
64	Future Major Road (to be constructed after 1975)	Red dots
65	Secondary Road (existing or to be constructed before 1976)	Orange line
66	Future Secondary Road (to be constructed after 1975)	Orange dots
67	Minor Road	Uncoloured between parallel lines
68	Park Road	Yellow line
69	Railway Track	Black and white rectangles between parallel lines
70	Future Railway Tracks	Grey dots
71	Major Wireless Aerial Site	Red circle
72	Major Power Line	Line broken at intervals by symbol "V"
73	Power Line Easement	Line broken at intervals by symbol "V" and flanked on either side by broken parallel lines
74	Future Industrial Area (after 1975)	Purple stripe
75	Future Waterside Area (after 1975)	Light blue stripe
76	Vacant Land not shown elsewhere	Uncoloured
77	Darwin Town Area Boundary	Thick line broken into long and short rectangles
78	Future Reclamation Area	Black cross hatch
79	Future Water Area	Broken blue single hatch