



PLANNING ACT 2002

NORFOLK ISLAND PLAN

DEVELOPMENT CONTROL PLAN NO. 6

COMMUNITY TITLE

APRIL 2016

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PART A - PRELIMINARY

1. Title of the Development Control Plan

This Plan is called “Development Control Plan No. 6 – Community Title” (‘this plan’)

2. Purpose of this Plan

The primary purpose of this plan is to provide in greater detail than provided in the Community Title Act 2015 or the Norfolk Island Plan 2002, the requirements for *community scheme development applications*.

3. Commencement Date

The date of commencement of this plan is the date of publication in the Gazette of the relevant notice under paragraph 23(2)(a) of the Planning Act 2002.

4. Background

- a. The Community Title Act 2015 (“the Act”) provides for the division of land into lots and common property.
- b. *Community division* is “development” as defined in the Planning Act 2002 (“the PA”). The Norfolk Island Plan (the “NI Plan”) makes *community division* a permissible use or development for certain land.
- c. A *community scheme development application* for *community division* must be submitted under the PA to seek development consent to divide land into lots and common property as described in the Act.

5. General

- a. Words and phrases used in this plan have the meaning provided by any statutory definitions in the Act or in the PA or in the NI Plan or in the Land Titles Act 1996 (NI) (“the LTA) as made from time to time in that order unless otherwise stated. In the absence of any statutory definition under any relevant law applicable in Norfolk Island, words or phrases will have their ordinary and natural meaning.
- b. Where there is any inconsistency between any part of this plan and any part or parts of the Act or the PA or the NI Plan, this plan shall be construed as subject to the Act, the PA and/or the NI Plan to the extent of the inconsistency.
- c. References to sections and subsections are references to the Act unless otherwise stated.
- d. Words in italics are references to statutory definitions in the Act or the PA or the NI Plan unless the context requires otherwise or unless stated otherwise.

6. Aims and Objectives for this Plan

- a. This plan is intended to provide guidelines and requirements for *community division* development to:
 - i. Assist proponents in developing *community division* proposals and preparing *community scheme development applications*; and
 - ii. Assess *community scheme development applications*.
- b. The objectives of this plan are:
 - i. To ensure, subject to the Act, the PA and the NI Plan, that use and development of land for *community division* is undertaken in a manner that is sensitive to the Island’s unique environmental and cultural heritage.
 - ii. To allow for land use and development that would not otherwise be achieved by conventional subdivision as defined in the Subdivision Act 2002.
 - iii. To ensure that community division development is consistent with and complies with the NI Plan.
- c. In addition to the aims and objectives for use or development specified in the NI Plan, the specific aims and objectives for *community division* and subsequent use and / or development in a *community scheme* are:
 - i. To encourage high quality social, environmental and economic outcomes.

- ii. To ensure that all proposed lots are provided with an appropriate level of amenity, and are physically capable of development.
- iii. To promote the efficient development and use of land.
- iv. To ensure logical, efficient and orderly provision of infrastructure.
- v. To ensure all proposed lots have access to appropriate service infrastructure.
- vi. To ensure that road and pedestrian networks within a *community scheme* are safe and efficient.

7. Application of this Plan

7.1 Land to which this plan applies

- a. This plan applies to all land in Norfolk Island to which the NI Plan applies, where *community division* is a permissible (with consent) use or development.

7.2 Use and development to which this plan applies

- a. At land where *community division* is not a prohibited use or development, a proponent may apply, through a *community scheme development application*, for consent to use or develop proposed lots in a *plan of community division* for any activity that is not specified as a prohibited use or development in Column 4 of the Table of Use of Development for the applicable zone(s).
- b. A *community scheme development application* may:
 - i. propose *community division* for all *community lots* in a *community scheme* to be used for one category of use or development, defined a “single use or development”¹ in Cl. 92A of the Norfolk Island Plan, or
 - ii. Propose *community division* for *community lots* in a *community scheme* to be used for various different categories of use or development, defined as “multiple use or development”² in Clause 92B of the NI Plan.

7.3 Relationship between this plan and any other plans

- a. This plan is a development control plan (DCP) under Part 3 of the PA and forms part of the NI Plan.

¹“Cl. 92A. What is single use or development? (1) Where use or development constitutes an integral and subservient part of an existing use or development, it shall be treated as part of that existing use or development and similarly categorised under clauses 114 and/or 117.”

² “Cl. 92B. What is multiple use or development? (1) If any proposed use or development is not an integral and subservient part of an existing or proposed use of land, then each use or development shall be categorised separately under clauses 114 and/or 117 and shall accord with the relevant development standard or other requirements where applicable under the Plan.”

- b. This plan operates in conjunction with legislation and instruments that manage planning, development, building and land in Norfolk Island, including:
- i. Planning Act 2002 (the PA);
 - ii. Community Title Act 2015 (the Act);
 - iii. Land Titles Act 1996 (the LTA);
 - iv. Building Act 2002;
 - v. Norfolk Island Plan 2002 (the NI Plan);
 - Development Control Plan 2 – Water Resources; (DCP 2)
 - Development Control Plan 3 – Multi Units. (DCP 3).

PART B- GUIDELINES, CONTROLS, POLICIES AND RULES

8. Density and general lot layout design

- a. A *plan of community division* must comply with the dwelling entitlements and density provisions of the NI Plan.³
- b. The maximum number of *community lots* resulting from the *community division* of land, including the conversion of existing development into a *community scheme*, must not exceed the number of dwelling unit entitlements (excluding the common property) that would be permitted under the NI Plan.
- c. *Community lots* and /or dwelling entitlements may be averaged out across a lot (or contiguous lots) as defined in the NI Plan⁴, to cluster housing and any other use or development, as well as infrastructure and related use and development, provided at least one of the following objectives can be demonstrated:
- i. The proposed layout and design of the plan of *community division* allows for more efficient use of service infrastructure and utilities than scattered use or development;
 - ii. Clustering use and development would help to:
 - protect the environment and / or natural qualities of the land; or
 - preserve and maintain visual amenity and landscape quality, or
 - Maintain viable agriculture and protect rural land.
 - iii. Clustering is designed to retain a significant area of unbuilt open space for a specified reason, such as recreation, agriculture, environmental conservation.

³ Including the requirements of DCP 3 – Multi Units: Cl. 10 – Density

⁴ Not the definition of “Lot” as defined in the Community Title Act 2015.

- d. Where lots are clustered as described in subclause (c) above:
 - i. The proposed layout and design of the *plan of community division* shall be consistent with the development standards, performance criteria and use and development principles of the NI Plan; and.
 - ii. All remaining land (other than *community development lots*) must be common property.

9. Standards for community division of land

- a. *Community division* can only be developed where the minimum area of the *community parcel* or Lot ⁵ is sufficient to accommodate the *community division* and the proposed use or development of the subsequent *lots*, ⁶ developed and used in accordance with the applicable use and development standards specified in the NI Plan.
- b. The area and shape of each *lot* ⁷ in a *plan of community division* must be practical and allow for an efficient layout to meet the intended use and development as well as all ancillary uses and buildings.
- c. Each *community lot* that would be created in the *community division* must be appropriate and adequate for separate occupation by humans.
- d. A building or item intended to establish a boundary (or part of a boundary) of a *lot* or *lots* must be appropriate for that purpose.

10. Use and development categories

- a. In a *community scheme* that proposes multiple use and development as described in clause 4.2(b)(ii), each use or development that is not an integral and subservient part of an existing or proposed use of land, and can be separately categorised in the NI Plan under Clause 114 *Administrative Definitions* or Clause 117 *Purpose Definitions*, shall sit on its own *community lot*.
- b. As such, each dwelling unit and each mixed use unit shall sit on its own *community lot*, whether attached or detached.

⁵ As defined in the NI Plan Cl. 114: “LOT means a piece of land or space described in a land title”.

⁶ As defined in the Act.

⁷ As defined in the Act

- c. All proposed use or development proposed to be included in a *community scheme* must be consistent with the NI Plan, specifically:
 - i. the Zoning Scheme in Part B1 that applies to the land that is the subject of the *community scheme*, including development standards; and
 - ii. the relevant Overlay Provisions in Part B2; and
 - iii. the relevant Use and Development Principles in Part B3.
- d. The lots resulting from the *community division* of land may be lawfully used for the purposes / use and development that is approved in a *community scheme development approval*.
- e. The terms of a *community scheme development approval* will be subject to the relevant provisions of the NI Plan including this plan, and will depend on the location, zoning, characterisation and nature of the development proposed.

11. Specific requirements for a community scheme development application

- a. Subject to the Act and the PA, a *community scheme development application* is required in order to seek development approval for *community division*.⁸
- b. *Community scheme development applications* shall be consistent with the NI Plan.
- c. A *community scheme development application* may be required to seek development approval for various types of *community schemes*, including, for example:
 - i. *Community division* at “greenfield sites”⁹ to create a *community scheme*;
 - ii. *Community division* to convert an existing use or development to a *community scheme*;
 - iii. Alterations and amendments to an existing *community scheme* where changes are proposed to matters of use and development managed under the PA, such as change of use of lots or variation of boundaries between lots;¹⁰
 - iv. *Community division* of a *development lot*;¹¹
 - v. Amalgamation of *community plans*.¹²
- d. In addition to the information required to accompany a development application listed under Clause 95¹³ of the NI Plan, a *community scheme development application* shall also include, where applicable, the following:

⁸ Reference Part 3 Division 1 of the Act

⁹ A “Greenfield” site is undeveloped land in a city or rural area either used for agriculture, landscape design, or left to evolve naturally. These areas of land are usually agricultural or amenity properties being considered for urban or industrial development.

¹⁰ Section 54(6)(d)

¹¹ Section 60

¹² Section 62

- i. The *Scheme Description*, if required ¹⁴ under section 34 of the Act;
 - ii. A *preliminary plan of community division*, as required under section 16(1)(a) of the Act;
 - iii. Supporting plans and / or documentation to show the proposed *community division* and all lots, dimensions, access, roads, use of lots, structures like buildings, fences, power lines and relevant topographical features such as creeks. The level of detail required will vary depending on the scale and complexity of the *plan of community division*;
 - iv. A water management plan (to show storage location, capacity, reticulation);
 - v. An on-site waste water management plan (to show location, capacity; reticulation and method of disposal);
 - vi. A solid waste management plan;
 - vii. A vegetation / landscape management plan;
 - viii. A fire management plan;
 - ix. A services infrastructure plan, including details of upgrades (timing, staging, general design, responsibilities for upgrade works and financing);
 - x. A Staging Plan, to provide details on how use and development in the *community scheme* would be staged in primary, secondary and tertiary plans of *community division*. The Staging Plan will give an indication of the final size of the *community scheme* and time frames in which it will be completed.
- e. The documentation shall demonstrate the requirements of the Act, the PA and the NI Plan can be satisfied.

12. Amendment of community plans

- a. Changes to a *plan of community division*, such as amendments that affect the delineation or boundaries of lots or of common property or create new lots, or changes to the existing or proposed use and development of lots, may require *community scheme development approval* before seeking to amend, amalgamate or cancel a *plan of community division* under Part 7 of the Act.
- b. When it is proposed to amend a *plan of community division* in a manner described above, it will be necessary for the Minister responsible for the PA, or the delegate

¹³ Cl. 95: *When is a development application required and what information must the application contain?*

¹⁴ Section 34(3) - a scheme description is not required to be lodged with the Registrar if the plan of community division does not create more than 6 community lots or does not create a development lot, or if each of the community lots is to be used predominantly for residential purposes. For community divisions that meet the conditions of section 34(3), a community scheme is not required to accompany the community division development application. However if the plan of community division is subsequently amended to increase the number of community lots or change the use of a lot or lots, a community scheme development application would be required and a scheme description would be required to accompany the development application.

thereof for purposes of the PA, to endorse a copy of the *scheme description* (appropriately amended if necessary) as having received *community scheme development approval* before an application is made to amend the *plan of community division* under Part 7 of the Act.¹⁵

13. Conversion of existing use and development to a community plan

- a. A *community scheme development application* can be made to convert an existing approved multi-unit or mixed use development to community title.
- b. In addition to requirements for a development application specified in the Act, the PA, the NI Plan or this plan, a *community scheme development application* to convert an existing approved multi-unit or mixed use development to community title must include the following:
 - i. Identification of buildings, structures, service infrastructure and access to be retained, demolished and / or modified;
 - ii. Professionally qualified certification to demonstrate that the buildings to be retained are structurally sound and suitable for occupation, comply with and meet the requirements of the National Construction Code¹⁶ and / or what works are proposed to upgrade the buildings to a safe standard.
- c. Conditions of a *community scheme development approval* for conversion of existing use or development to a *community scheme* may require and can include specific works, such as those required to upgrade a use or development to a safe or satisfactory standard, to be completed prior to the registration of the *plan of community division*.

14. Common land and infrastructure

- a. Subject to the Act, the PA and the NI Plan, a *community scheme development application* will demonstrate that adequate provision is made for appropriate easements for *service infrastructure* such as drainage, electricity supply, water supply and sewerage services.
- b. Common trenching of services will be encouraged.
- c. Provision for shared service infrastructure such as for water storage and effluent disposal systems will be encouraged.

¹⁵ Section 54(6)(d) of the Act.

¹⁶ *The National Construction Code Australia* as amended or updated from time to time.

- d. Where provision is made for shared water storage and /or effluent disposal systems to service multiple units, the capacity and standards of that service infrastructure must meet the requirements of DCP No. 2 – Water Resources. Each unit does not necessarily require an individual water tank or effluent disposal system but the overall water storage capacity and capacity of the effluent disposal system must meet the requirements of DCP No. 2 – Water Resources.
- e. The service infrastructure must be delineated, as far as it is practical to do so, on the certified *plan of community division*.
- f. It is expected that the service infrastructure will be shown through common property that is not contained within a building. It is not necessary for the *plan of community division* to show that part of the service infrastructure within the boundaries of a *community lot* if it does not provide a service to any other lot or the common property.

15. Standards and requirements for Multi Unit Development.

- a. DCP No. 3 – Multi Units¹⁷ applies to all use and development that is defined as Multi Unit development: *Residence – Dual Occupancy; Residence – Accommodation Units and Residence – Multi Unit*.
- b. DCP No. 3 specifies matters which are to be applied when a development application is made and assessed for multi unit development, unless variation or departure from those guidelines and controls can be reasonably justified. DCP No. 3 specifies objectives and performance measures for the following:
 - i. Building Height
 - ii. Building setbacks from front, side and rear boundaries;
 - iii. Density;
 - iv. Building siting and design;
 - v. Landscaping;
 - vi. Private open space;
 - vii. Privacy;
 - viii. Solar access;
 - ix. Noise;
 - x. Vehicular access and parking;
 - xi. Facilities and amenities;
 - xii. Waste disposal and garbage storage facilities;
 - xiii. Laundry facilities;

¹⁷ DCP No. 3 *Multi Units* applies to specific types of multi unit residential development; but does not include Residential Care Establishments; or Resorts; and does not address mixed commercial / residential development. In spite of that, the standards in *DCP No. 3* may be used to guide design and assessment of multi unit development for Residential Care Establishments, Resorts and other developments that include a residential component.

- xiv. Television antennas and satellite dishes;
 - xv. Pipes and vents.
- c. Where there are opportunities for shared access and communal or common facilities to be provided at common property, it is expected that the standards and requirements of DCP No. 3 will be applied in the *community scheme*.
- d. Examples of communal or common facilities to be shared in a *community scheme* include but are not necessarily limited to vehicular parking and access, waste disposal and garbage storage facilities, laundry facilities, television and communications infrastructure.

16. Standards for communal open space and common areas

- a. Communal open space areas¹⁸ must be distinguished from private open space (e.g. attached decks) associated with each *community lot*.
- b. Communal open space areas must be designed to meet user needs and determined by:
 - i. Overall housing density;
 - ii. The character, style and design of the *community scheme* and demand generated by various use or development in the *community scheme*;
 - iii. Need to ensure non-discriminatory access and use while maintaining reasonable security and safety in the context of the Norfolk Island community and crime prevention measures appropriate for the community from time to time.
 - iv. The quality, accessibility and extent of alternative, nearby and public open space;
 - v. The maintenance of public as well as user health and amenity; and
 - vi. The maintenance of an appropriate balance between the natural environment and any built environment within and external to the community scheme.

17. Standards for access

- a. Each *lot* in a *plan of community division* must have satisfactory vehicular access to a public road or a commonly owned road or vehicular access easement within the *community scheme*.
- b. Internal access for pedestrians and vehicles, including pathways, roads and driveways, must be designed to clearly indicate their function. They must provide acceptable levels of access, safety, amenity and convenience for users and Police/emergency vehicles.
- c. Subject to the Act, the PA, the NI Plan and the Disability Discrimination Act 1992 (Commonwealth), access to each lot in a *plan of community division* must have

¹⁸ Area within common property which is open and without any building or similar structure on it.

satisfactory¹⁹ access for persons who are disabled and the body corporate must have satisfactory methods or procedures for the safe evacuation from any lot in a *plan of community division* of persons who are disabled or injured or otherwise requiring assistance of any kind to enter or leave any lot.

- d. Where any lot in a *plan of community division* is to be used for any commercial purpose²⁰, the *plan of community division* must provide adequate satisfactory separate access and parking for such commercial lot distinct from the access and parking available for private residential users and occupiers of the community scheme development.
 - e. Where any lot in a *plan of community division* is to be used for any industrial class of use or development or closed environment agricultural purpose²¹, the *plan of community division* must provide adequate satisfactory separate access and parking for such industrial lot distinct from the access and parking available for private residential users and occupiers of the community scheme.
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¹⁹ Satisfactory in terms of compliance with the Act, the PA and the NI Plan as well as satisfactory to the Police, Fire, Ambulance and Rescue etc. services in Norfolk Island.

²⁰ For example, café, service of food, service of alcohol, shop, entertainment, convenience store, retail outlet of any kind)

²¹ For example, manufacturing, vehicle or boat repairs, assembling of kit form goods or furniture, assembling or testing of electronic or powered equipment, hydroponics, tank fish farming, etc.)