

TERRITORY OF AUSTRALIA
NHULUNBUY (BUILDING) BY-LAWS

As in force at #####

TABLE OF PROVISIONS

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Regulations as in force at #####. Any amendments that commence after that date are not included.

NHULUNBUY (BUILDING) BY-LAWS

By-laws under the *Local Government Act*

Part 1 Preliminary

Division 1 General

1 Citation

These By-laws may be cited as the *Nhulunbuy (Building) By-laws*.

2 Application and purpose

- (1) These By-laws apply to and are in force within the whole of the area described in the Schedule to the instrument made under by-law 270 of the Act (for the purpose of extending to the Corporation the functions in relation to building and development control) and published in *Gazette* No. #### dated ####, a copy of which is set out in Schedule 1.
- (2) The purpose of these By-laws is:
 - (a) to establish, maintain and improve building standards;
 - (b) to maintain, enhance and improve the safety, health and amenity of people using buildings;
 - (c) to promote and provide for the construction of environmentally efficient buildings;
 - (d) to provide for an efficient and effective system for granting building permits and administering building matters.

3 Crown to be bound

These By-laws bind the Crown in right of the Territory.

4 Interpretation

- (1) In these By-laws, unless the contrary intention appears –

appropriate fee means the fee determined by the Corporation to

be the fee for a licence, registration or other matter or for a class of licence, registration or other matter.

approved means approved by the Corporation by resolution or by delegated authority.

authorised officer means a person appointed to be, or who is a member of a class of persons appointed to be, an authorised officer or authorised officers under by-law 59.

building includes part of a building, and also includes any structure or part of a structure (including any temporary structure or part of a temporary structure)

building notice means a building notice issued under by-law 37.

building order means a building order made under by-law 40.

building permit means a permit to carry out building work granted under these By-laws.

building work means any physical activity for or in connection with the construction, demolition, installation or removal of:

- (a) a building; or
- (b) plumbing or drainage services, whether or not connected to a building, other than plumbing or drainage services vested in the Power and Water Corporation established by the *Power and Water Corporation Act*.

carry out, in relation to building work, includes to cause to be carried out.

construct, in relation to a building, includes:

- (a) build, re-build, erect or re-erect the building;
- (b) repair the building;
- (c) make alterations to the building;
- (d) enlarge or extend the building; and
- (e) place or relocate the building on land.

Corporation means Nhulunbuy Corporation Limited ACN 009 596 598.

corporation area means the areas described in the Schedule to the instrument referred to in by-law 2(1), a copy of which is set out in Schedule 1.

determined means determined by the Corporation by resolution.

fire upgrading report means a report prepared under by-law 43.

Leases means Special Purpose Lease 214 and Special Purpose Lease 150 granted to the Lessee pursuant to the *Special Purpose Leases Act (NT)* and Special Mineral Lease 11 granted to the Lessee pursuant to the *Mining Act (NT)* in relation to NT Portion 1192 from plan A000708.

Lessee means Swiss Aluminium Australia Limited and Gove Aluminium Limited.

occupancy permit means a permit to occupy granted under Part 4.

owner, in relation to land, includes every person who jointly or severally is entitled to receive or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession or sublessee, including but not limited to a Sublessee.

premises includes a building and land (whether built on or not).

promote or conduct, in relation to a public assembly, includes to be interested in the proceeds or profits, if any, of the public assembly.

public assembly means an assembly of persons whether or not admission to the assembly is gained on payment of money or other consideration and whether or not its purpose is public entertainment.

registrar means the person so appointed under by-law 6.

related building permit, in relation to an application for the grant of an occupancy permit, means a building permit relating to the same building work as that to which the application for the occupancy permit relates.

street includes a road (within the meaning of the *Control of Roads Act*), lane, footway, square, court, alley and right of way.

Sublessee means a person to whom a sublease to occupy premises that are subject to the Lease is granted by the Lessee.

temporary structure means:

- (a) a booth, tent or other temporary enclosure, whether or not a part of it is permanent; or
- (b) a mobile structure.

Town Administrator means the person so appointed by the Corporation who is responsible for exercising the powers and performing the functions under and in relation to these By-laws that, if the Corporation was a municipal council and the corporation area was a municipality, the CEO would be exercising or performing and includes a person acting in the role of Town Administrator.

Tribunal means the Local Government Tribunal under the Local Government Act.

- (2) For the purposes of these By-laws the erection of a building that has been removed and transported from another site or another location on the same site is to be regarded as the erection of a building.

5 Determinations, including determinations of charges, &c.

- (1) Where the Corporation makes a determination under this By-law, it is to publish a notice of its making in a newspaper circulating in the corporation area as soon as reasonably possible after the determination is made.
- (2) The Corporation may determine the fees in relation to an undertaking, service, matter or thing referred to in these By-laws.
- (3) Where the Corporation, in the exercise of a power or the performance of a function under these By-laws –
- (a) supplies a service, product or commodity;
 - (b) furnishes information;
 - (c) receives an application;
 - (d) permits inspection of a register; or
 - (e) takes any other action in relation to which a determination is made,

it may demand and recover the relevant amount determined under clause (2).

6 Registrar

The Corporation may appoint a person to be the registrar for the purposes of these By-laws.

7 Registers

- (1) The registrar must keep such registers as the Corporation determines.

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- (2) The registrar may keep a register in the medium or combination of mediums as the registrar thinks fit, including a computer, microfilm or paper.
 - (3) The registrar must include the following particulars in information recorded in the register or registers kept under these By-laws –
 - (a) all building applications received by the Corporation;
 - (b) all building permits granted by the Corporation;
 - (c) all building orders issued by the Corporation; and
 - (d) all offences against these By-laws –
 - (i) for which an owner of land or the applicant of a building application has been convicted; or
 - (ii) in respect of which an owner of land or the applicant of a building application has paid a sum specified by these By-laws or in pursuance of a notice of infringement issued under these By-laws.

8 Matters of evidence

- (1) An extract from or copy of an entry in a register purported to be signed by the registrar is, in all courts and on all occasions, evidence of the signature of the registrar and of the particulars contained in the entry and the facts on which they are based without requiring the production of the register.
- (2) A statement signed by the registrar concerning particulars of entries in a register, including –
 - (a) whether the name of a person was entered in a register in relation to a building application; or
 - (b) whether a building permit had been issued,is to be received in a court, the Tribunal or by a person acting judicially as evidence of signature of the registrar and of those particulars without requiring the production of the register.
- (3) In relation to the making of a resolution by the Corporation for the purposes of these By-laws, the minutes of a meeting of the Corporation or a document purporting to be a true copy of, or an extract from, the minutes of a meeting of the Corporation signed by the Town Administrator is to be received in a court or the Tribunal or by a person acting judicially as evidence of the particulars contained in the minutes, or that extract or copy, without further proof.

Division 2 Building standards

9 Nhulunbuy Corporation Limited Building Policy – general power

- (1) The Corporation may establish standards and requirements for buildings and the carrying out of building work (“Nhulunbuy Corporation Limited Building Policy”).
- (2) The Nhulunbuy Corporation Limited Building Policy may apply to existing or proposed buildings, whether or not building work is being or is proposed to be carried out on the buildings.
- (3) Unless the contrary intention appears, the terms of the Nhulunbuy Corporation Limited Building Policy should be construed in accordance with by-law 4 of these By-laws.
- (4) In the event of any inconsistency between the Nhulunbuy Corporation Limited Building Policy and these By-laws, these By-laws prevail to the extent of the inconsistency.

10 Nhulunbuy Corporation Limited Building Policy – safety matters

The Nhulunbuy Corporation Limited Building Policy may provide for matters affecting the safety of existing or proposed buildings, whether or not building work is being or is proposed to be carried out on the buildings and, in particular, may provide for:

- (a) the provision, installation, operation, maintenance and replacement of materials, equipment, services and other items in existing or proposed buildings so as to ensure safety;
- (b) the provision, installation, operation, maintenance and replacement of ventilation, lifts, emergency lighting, emergency power, emergency intercommunication systems, fire fighting equipment and other emergency equipment and services;
- (c) the prevention of, and precautions against (and in the event of), life threatening emergencies;
- (d) fire prevention and precautions;
- (e) the provision of certificates as to compliance with any or all of the By-laws.

11 Application of new By-laws

An amendment to these By-laws does not apply to building work for which a building permit is granted under these By-laws before the

commencement of the amendment.

12 Codes, &c.

- (1) The Nhulunbuy Corporation Limited Building Policy may incorporate by reference, either wholly or in part and with or without modification, any standards, codes, rules, specifications or methods, as in force at a particular time or as in force from time to time, prescribed or published by an authority or body, whether or not it is a Territory authority or body, including but not limited to the Building Code of Australia and the National Plumbing and Drainage Code .
- (2) A code or standard adopted under this by-law may require anything referred to in the code or standard to be in accordance with any other code or standard referred to in the code or standard so adopted.

Part 2 Building permits

Division 1 Building permit required

13 Building permit required

A person shall not carry out building work unless a building permit in respect of the work has been granted and is in force under these By-laws and the work is carried out in accordance with the permit.

Maximum Penalty: In the case of a natural person – 77 penalty units.

In the case of a body corporate – 385 penalty units.

Division 2 Applications for building permits

14 Who may make application

An application for a building permit may be made to the Corporation by the owner of the building or the land in or on which the building work is to be carried out, or by the owner's agent.

15 How is an application to be made

An application for a building permit is to be-

- (1) in the form prescribed in the Nhulunbuy Corporation Limited Building Policy;
- (2) accompanied by the relevant fee determined in accordance with by-law 5; and

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- (3) accompanied by any other information, documents specifications or particulars that the Corporation may require.

16 Further information may be required by the Corporation

- (1) The Corporation may require the applicant for the permit to provide additional information or documents or to amend the application before the Corporation grants or refuses to grant a building permit.
- (2) If additional information, or a document or an amended application, required under by-law 16(1) is not supplied within 40 days, the Corporation may treat the application as having lapsed.

17 Building permits

- (1) A building permit may be granted for the whole or a part, or for a stage, of the building work specified in the application.

Division 3 Approvals

18 By-laws and Nhulunbuy Corporation Limited Building Policy to be complied with

- (1) The Corporation shall not grant a building permit unless:
 - (a) the building work and the building permit comply with these By-laws, the Nhulunbuy Corporation Limited Building Policy and the standards applicable under that policy;
 - (b) all relevant planning consents, reports or approvals, if any, have been obtained or are to be granted or supplied concurrently with the building permit and the building permit is consistent with those consents and approvals; and
 - (c) all planning conditions, if any, will be complied with.

19 Amendment and cancellation of building permit

- (1) The Corporation may amend a permit on the application, in writing, of the owner of the land to which the permit relates.
- (2) The Corporation may cancel a permit:
 - (a) on the application, in writing, of the owner of the land to which the permit relates; or
 - (b) if the Corporation is satisfied that the permit was obtained by misrepresentation.

20 Duration of building permit

- (1) A building permit is valid for a period of 2 years commencing from the date on which it is granted.
- (2) The time referred to in by-law 20(1) may be extended for a period of up to one year if an application for that purpose is made to the Corporation before the expiration of the time for which the building permit is valid.

Part 3 Commencement, inspection and certification of building work**21 Notification during building work**

- (1) The person who is carrying out or is in charge of carrying out building work under a building permit must notify the Corporation when building work, that is required in accordance with by-law 21(2) to be inspected, is completed.
- (2) The following are the inspection stages on the completion of which a person carrying out or in charge of the carrying out of the building work shall notify the Corporation:

	Inspection Stage	Description
1.	pre-pour	before pouring the footings, ground floor slab or other in situ concrete building element
2	damp-proofing, flashings etc.	before covering or building in
3.	frame	before covering the framework for floors, walls, roof or other building element
4.	block wall	before pouring any reinforced masonry or block walls
5	precast concrete unit connections	before covering or building in
6.	fire separation	before covering walls, floors or ceilings, for the purpose of checking that fire resistance levels comply with the Building Code of Australia (see note)
7.	wet area	before covering waterproofing in wet areas
8	stormwater drainage	prior to covering any stormwater drainage connections,

23 Directions as to work

- (1) The Corporation may, after inspecting building work, direct the person carrying out the work or in charge of the carrying out of the work to carry out work so that the building work complies with the relevant building permit, the By-Laws or the Nhulunbuy Corporation Limited Building Policy, as the case requires.
- (2) A direction under this by-law may be given orally or in writing. An oral direction will be confirmed in writing.
- (3) Where a person fails to comply with a direction under this by-law, the Corporation may cause a building notice to be served or may take any other action permitted by these By-laws.

Part 4 Occupancy permits

Division 1 Occupancy permits required

24 Occupancy permit to be obtained

- (1) A person shall not occupy a building in or on which building work is carried out after the commencement of this By-Law unless an occupancy permit or an approval to occupy on a temporary basis has been granted for the building.
- (2) A person shall not occupy a building in contravention of the occupancy permit or an approval to occupy on a temporary basis granted in relation to the building.

Maximum Penalty for an offence against this by-law:

In the case of a natural person – 77 penalty units.

In the case of a body corporate – 385 penalty units.

25 Buildings, &c., not to be used for public assembly without occupancy permit

- (1) A person shall not promote or conduct a public assembly in a place, building or temporary structure unless an occupancy permit has been granted which permits its use for that purpose.

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- (2) The occupier of a place, building or temporary structure shall not permit the place, building or temporary structure to be used for the purpose of a public assembly unless an occupancy permit has been granted for that purpose.

Maximum Penalty for an offence against this by-law:

In the case of a natural person – 77 penalty units.

In the case of a body corporate – 385 penalty units.

Division 2 Applications for occupancy permits

26 Who may make application

- (1) An application for an occupancy permit shall be in writing and may be made to the Corporation by the owner of a building or by the owner's agent.
- (2) An owner or owner's agent may apply for an occupancy permit:
- (a) after carrying out building work;
 - (b) if a variation of the existing occupancy permit is sought; or
 - (c) if an occupancy permit is required for any other reason.

27 Declaration for building work

- (1) A person who carries out building work or was in charge of carrying out the work must, after completing the work, make a declaration in the approved form stating the work has been carried out in accordance with the building permit granted for the work.

Maximum Penalty: 77 penalty units.

- (2) The person must not make a false or misleading statement in the declaration.

Maximum Penalty: 77 penalty units.

- (3) The person must, within 14 days after completing the work, give the declaration to the Corporation.

Maximum Penalty: 8 penalty units.

28 Declaration to accompany application

- (1) The Corporation will not grant an occupancy permit unless the application for the permit is accompanied by a declaration which is in accordance with by-law 27.

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- (2) A person who makes a declaration for the purpose of by-law 28(1) must not make a false statement in the declaration.

Maximum Penalty: 77 penalty units.

29 Effect of occupancy permits

An occupancy permit is a certificate that the building or part of the building to which it applies is suitable for occupation and complies in all material respects with the Nhulunbuy Corporation Limited Building Policy.

Part 5 Change of Use

30 Change of Use

- (1) This By-law applies to any building, whether erected before or after the commencement of these By-laws.
- (2) The use of a building shall not be changed to another use unless the change to that other use has been approved by the Corporation.
- (3) Before making any change in the use of a building the owner of the building or the owner's agent must apply in writing to the Corporation setting out the nature of the proposed other use.
- (4) The Corporation shall not approve a change of use of a building to another use unless:
- (a) the building conforms with the requirements of the Building Code of Australia applicable to that other use;
 - (b) all relevant planning consents, reports or approvals (if any) required under these By-laws and the Nhulunbuy Corporation Limited Building Policy have been obtained or **supplied**;
 - (c) all planning conditions, if any, have been complied with.
- (5) Upon approving of a change of use the Corporation shall:
- (a) revoke the existing occupancy permit issued in relation to the building (if any); and
 - (b) issue an original occupancy permit in accordance with these By-laws with respect to the new use.

Comment [a1]: Please confirm that you intend this to refer to the Nhulunbuy Land Development Policy and any future development by-laws that the Corporation intends to put in place. (We understand that the Corporation intends to revise its current planning processes to match those provided in the Planning Act).

Part 6 Enforcement of safety and building standards

Division 1 Emergencies

31 Emergency orders

- (1) Where in the opinion of the Corporation it is necessary to do so because of a threat to life arising out of:
 - (a) the condition or use of; or
 - (b) the conduct, or proposed conduct, of a public assembly in, a building, place or temporary structure, the Corporation may, in writing, make an emergency order.
- (2) An emergency order made under by-law 31(1) may require the owner of a building, place or temporary structure, or the owner's agent:
 - (a) to evacuate the building, place or temporary structure or a specified part of it;
 - (b) not to conduct or promote, or allow the conduct or promotion, of a public assembly on or in the building, place or temporary structure or a specified part of it, or to immediately cease to conduct or promote such a public assembly;
 - (c) to stop work or to carry out building work or other work;
 - (d) to demolish or remove a building;
 - (e) to erect or install on or around a building such structures or appliances as are necessary to protect persons or property on or in a public place; and/or
 - (f) to comply with such directions as are specified in the order; within a reasonable period of time.
- (3) An emergency order made under by-law 31(1) also may prohibit:
 - (a) the occupation of a building, place or temporary structure; or
 - (b) the use of a building, place or temporary structure or a specified part of it, for the purpose of a public assembly.

32 Work may be carried out by Corporation

- (1) If an owner fails to carry out work as required by an emergency order, the Corporation may engage appropriate tradespeople to

carry out the work.

- (2) The costs and expenses incurred by the Corporation in carrying out work referred to in by-law 32(1) are a debt due and payable by the owner to the Corporation.

33 Police assistance

The Corporation or other person exercising the functions of the Corporation under this Division may request the assistance of a member of the Police Force, and a member of the Police Force may assist, in evacuating a building, place or temporary structure in accordance with an emergency order or in removing persons from a building, place or temporary structure in or on which the Corporation or person is carrying out work in accordance with an emergency order.

34 Completion of work

- (1) On completion of work required by an emergency order to be carried out, the owner or the owner's agent shall notify the Corporation in writing and include with the notification such information relating to the building, place or temporary structure as is required by the Corporation.
- (2) The Corporation shall inspect the completed work and report to the owner or the owner's agent that the order has been complied with and cancel the order, or refuse to make such a report and require the order to be complied with.

35 Contravention of emergency order

- (1) A person shall not contravene or fail to comply with an emergency order.

Maximum Penalty: In the case of a natural person – 77 penalty units.

In the case of a body corporate – 385 penalty units

- (2) It is a defence to a prosecution for an offence against this by-law if the defendant proves that he or she was not aware of the fact that a public assembly in respect of which the offence arose was the subject of an order under this Division.

Division 2 Building notices and orders

36 Fire hazards

For the purposes of this Division, a building, place or temporary

structure is or contains a fire hazard if it has insufficient:

- (a) means of escape in the event of fire for the persons occupying or using it;
- (b) protection to delay the spread of fire or smoke or both or to facilitate escape from it;
- (c) devices, appliances and equipment for the detection and extinguishing of fire; or
- (d) means of preventing fire or the spreading of fire.

37 Building notices

The Corporation may serve a building notice on an owner of a building, place or temporary structure, or on the owner's agent, if the Corporation is of the opinion that:

- (a) building work has been carried out on the building, place or temporary structure without a building permit required by these By-laws or in contravention of a building permit or these By-laws or the Nhulunbuy Corporation Limited Building Policy;
- (b) its use contravenes these By-laws or the Nhulunbuy Corporation Limited Building Policy, or the occupancy permit granted in relation to it;
- (c) it is unfit for use or occupation; or
- (d) it is a danger to its users or the users of adjoining properties or streets.

38 Contents of notices

A building notice may require the owner of a building, place or temporary structure, or the owner's agent, to show cause, within the period specified in the notice, why occupation of the building, place or temporary structure, or its use for a public assembly, should not be prohibited, or why the owner or agent:

- (a) should not evacuate the building, place or temporary structure;
- (b) should be allowed to conduct or promote, or allow the conduct or promotion, of a public assembly or should not immediately cease to conduct or promote a public assembly on or in the building, place or temporary structure;
- (c) should not cease to carry out building work or should not operate or carry out building work or other work on or in the building, place or temporary structure;

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- (d) should not demolish or remove a building;
 - (e) should not erect or install on or around a building such structures or appliances as are necessary to protect persons or property on or in a public place; and/or
 - (f) should not comply with such directions as are specified in the order.

39 Representations by owner

An owner of a building, place or temporary structure in respect of which a building notice is issued, or the owner's agent, may, in the manner and within the time specified in the notice, make representations to the Corporation, about the matters contained in the notice.

40 Building orders

- (1) The Corporation may make a building order, after the time allowed under by-law 39 for making representations has expired.
- (2) Before making a building order, the Corporation shall consider the representations, if any, made to him or her under by-law 39.
- (3) The Corporation may make a building order requiring building work or other work to be carried out without first serving a building notice if the Corporation is of the opinion that the building work required to be carried out is of a minor nature.

41 Contents of building orders

A building order may prohibit the occupation of a building, place or temporary structure or its use for a public assembly, or require its owner or the owner's agent:

- (a) to evacuate the building, place or temporary structure or a specified part of it;
- (b) to stop work or to carry out building work or other work on or in it; and/or
- (c) to comply with such other directions as are specified in the order.

42 Building orders to stop building work

- (1) Where, in the opinion of the Corporation, building work on land contravenes these By-laws or the Nhulunbuy Corporation Limited Building Policy, is a danger to the public or affects the support of adjoining property, the Corporation may make a building order

requiring the owner or other person carrying out the work to stop the work, notwithstanding that a building notice has not been served.

- (2) The Corporation shall serve a copy of the order on a person apparently in charge of a site on which the building work is being carried out.

43 Fire upgrading reports

- (1) Where the Corporation is of the opinion that a building, place or temporary structure is or may contain a fire hazard, the Corporation may inspect the building, place or temporary structure and prepare a fire upgrading report as to the work necessary to overcome the hazard.
- (2) A fire upgrading report shall, if a fire hazard is found to exist, contain a program for work to remedy the hazard and any other prescribed matters.
- (3) The Corporation shall serve a copy of a fire upgrading report on the owner of the building, place or temporary structure or the owner's agent.

44 Assistance of Fire Service

The Corporation may ask the Northern Territory Fire and Rescue Service established by the *Fire and Emergency Act* to assist in the preparation of a fire upgrading report.

45 Representations by owner

An owner of a building, place or temporary structure in respect of which a fire upgrading report is issued, or the owner's agent, may, in the manner and within the time specified in the report, make representations to the Corporation about the matters contained in the report.

46 Building orders relating to fire hazards

- (1) The Corporation may make a building order in relation to a building, place or temporary structure in respect of which a fire upgrading report is issued, after the time allowed under by-law 45 for making representations has expired.
- (2) A building order made under by-law 46(1) shall direct the owner of the building, place or temporary structure concerned, or the owner's agent, to carry out a program of work as directed and may contain any other matters prescribed in the Nhulunbuy Corporation Limited Building Policy.

47 Work may be carried out by Corporation

- (1) Where an or an owner's agent fails to carry out work as required by a building order, the Corporation may carry out the work.
- (2) The costs and expenses incurred by the Corporation in carrying out work referred to in by-law 47(1) are a debt due and payable by the owner to the Corporation.

48 Police assistance

The Corporation or a person performing the functions of the Corporation may request the assistance of a member of the Police Force, and a member of the Police Force may assist, in removing persons from a building, place or temporary structure in or on which the Corporation or person, or an agent of the Corporation or person, is carrying out or is about to carry out work in accordance with a building order.

49 Completion of work

- (1) On the completion of work required to be carried out under a building order, the owner, or the owner's agent, shall give written notice of the completion to the Corporation.
- (2) The Corporation shall, within 28 days after the receipt of the notice, inspect the completed work and report to the owner or the owner's agent that the order has been complied with and cancel the order, or refuse to make such a report and, in writing, require the order to be complied with.

50 Amendment or cancellation of certain building orders

- (1) An owner, or an owner's agent, required to comply with a building order made after the issue of a fire upgrading report may, if there is a change in circumstances after the original fire upgrading report is made, request the Corporation to amend or cancel the building order.
- (2) On a request being made, the Corporation may:
 - (a) refuse to amend or cancel the building order;
 - (b) issue an amended fire upgrading report; or
 - (c) cancel the fire upgrading report.
- (3) An owner or the owner's agent may not later than 14 days after the decision of the Corporation under by-law (2), appeal against the decision.

51 Duration of order

- (1) A building order remains in force until it has been complied with or is cancelled by the Corporation.
- (2) The Corporation shall not cancel the building order while an appeal in relation to the order is not finally disposed of.

52 Contravention of building order

A person who contravenes or fails to comply with a building order is guilty of an offence.

Maximum Penalty: In the case of a natural person – 77 penalty units.

In the case of a body corporate – 385 penalty units.

Part 7 General enforcement provisions

53 Fixed penalties

- (1) A person who is alleged to have contravened or failed to comply with these By-laws and on whom a notice of infringement is served, may pay to the Corporation, as an alternative to prosecution, the sum specified by this by-law in lieu of the penalty that may otherwise be imposed under these By-laws.
- (2) For the purposes of this by-law –
 - (a) a notice of infringement is to be in the form set out in Schedule 2;
 - (b) a notice of infringement may be issued by an authorised officer;
 - (c) the sum specified by this By-law is \$600;
 - (d) the sum specified by this By-law may be paid to the Corporation or to the person from time to time performing or carrying out the duties of a cashier on behalf of the Corporation; and
 - (e) in order to avoid prosecution, the sum specified by this by-law is to be paid not later than 21 days after the date of the service of the notice of infringement on the person.

54 Prosecution of offences

A prosecution for an offence against these By-Laws must be commenced within 2 years after the day on which a member of the

Police Force, the Corporation or an authorised officer becomes aware of the commission of the alleged offence.

55 Recovery of penalties

Subject to any contrary provisions in these By-laws, proceedings for an offence against these By-laws are to be dealt with by a court of summary jurisdiction constituted by a magistrate.

56 Offences by corporations

- (1) Where a corporation contravenes, whether by act or omission, a provision of these By-Laws, each person being a director of the corporation or a person concerned in the management of the corporation shall be taken to have contravened the same provision unless the person proves that he or she had no knowledge of the commission of the offence and could not, by the exercise of due diligence, have prevented the commission of the offence.
- (2) A person may be proceeded against and found guilty pursuant to this by-law whether or not the corporation has been proceeded against or been found guilty.
- (3) Nothing in this by-law affects the liability imposed on a corporation for an offence committed by the corporation against these By-Laws.
- (4) Without limiting any other law or practice relating to the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had at a particular time, a particular intention, is evidence that the corporation had that intention at that time.

57 Additional orders that may be made by the Court

- (1) The Corporation may bring proceedings in a court prescribed by declaration of the Corporation for an order under this by-law in the event of a breach, or threatened or apprehended breach, of these By-laws or a notice or order issued under these By-laws.
- (2) The court may, if it is satisfied that a breach, or threatened or apprehended breach, has been or will be committed or is likely to be committed, make:
 - (a) an order to restrain the breach or other conduct by the person by whom the breach is committed or by whom the threatened or apprehended breach is likely to be committed;
 - (b) an order requiring building work to be carried out;
 - (c) an order requiring the payment of money into court in respect of building work carried out by, or to be carried out by, the

Corporation; and/or

- (d) any necessary ancillary orders.
- (3) A person may make an application for an order under this by-law during proceedings for an offence against these By-laws and an order may be made instead of or in addition to a penalty imposed in those or any other proceedings.

58 Orders to be enforced by Local Court

An order referred to in by-law 57 is to be enforced in the local court.

Part 8 Miscellaneous

59 Authorised Officers

- (1) The Corporation may appoint persons or classes of persons to be authorised officers to exercise the powers and functions of the Corporation pursuant to these By-laws from time to time.
- (2) Subject to by-law 59(1), a member of the Police Force or an authorised officer may, at all reasonable times, for the purpose of performing a function or exercising a power of the member of the Police Force, or for the purpose of performing a function or exercising the powers of an authorised officer under by-law 58, enter any land, building, place or temporary structure if the member or person has reasonable grounds to believe that it is necessary to do so for that purpose.

60 Access to residential premises

- (1) A person shall not enter a part of a building used for residential purposes without the consent of the occupier of the part, or the provision of written notice of the intention to enter the premises to the occupier of the part.
- (2) The written notice of intention to enter the premises must specify the day on which the person intends to enter the premises and must be given before that day.

61 Additional powers of authorised officer

In addition to his or her powers under this Part, an authorised officer may:

- (a) demand that the owner or occupier of any land, building, place or temporary structure produce any records relating to the building or any building work;
- (b) search for, inspect, take extracts from and make copies of

such records; and

- (c) make any inquiry that the authorised officer considers necessary relating to any building work, land, building, place or temporary structure and take samples or photographs of materials for the purposes of an inquiry.
- (d) inspect the premises and any article, matter or thing on the premises; and
- (e) for the purpose of an inspection:
 - (i) open any ground and remove any flooring and take such measures as may be necessary to ascertain the character and condition of the premises and of any pipe, sewer, drain, wire or fitting, and
 - (ii) require the opening, cutting into or pulling down of any work if the authorised officer has reason to believe or suspect that anything on the premises has been done in contravention of these By-Laws
- (f) take measurements, make surveys and take levels and, for those purposes, dig trenches, break up the soil and set up any posts, stakes or marks, and
- (g) require any person at those premises to answer questions or otherwise furnish information in relation to the matter the subject of the inspection or investigation.

62 Access where safety of public at risk

Notwithstanding by-law 59(1), an authorised officer may enter residential premises at any time if the safety of the public or the occupants is at risk or the residential premises are affected by an emergency order under Part 6.

63 Offences

A person shall not:

- (a) fail or refuse to produce records on being required to do so by an authorised officer in pursuance of by-law 61;
- (b) make a false or misleading statement in answer to an inquiry in pursuance of that by-law; or
- (c) assault, delay, obstruct, hinder or impede an authorised officer in the performance of a function or exercise of a power under

these By-Laws.

Maximum Penalty: 39 penalty units

64 Notice of authorisation

The Corporation shall issue a notice of authorisation to each person appointed as an authorised officer under by-law 59 of these By-laws and the holder shall produce the notice whenever required to do so by a person in charge of any premises in relation to which the authorised person has exercised or is about to exercise his or her powers under the By-laws.

Part 9 Appeals and Continuing Offences

65 Reviewable decision

A decision of the Corporation, the Town Administrator or an authorised officer is a reviewable decision for the purpose of Chapter 18 of the *Local Government Act (NT)*, as amended from time to time.

Note

Chapter 18 of the Local Government Act provides a procedure by which a person adversely affected by a reviewable decision may appeal the decision. Pursuant to the Act, an application to review the decision must generally be made within 14 days of the decision.

66 Continuing offence

If a person is guilty of an offence against these By-laws the Corporation may, in addition to the penalty specified for the offence, impose a further penalty, not exceeding 1 penalty unit per day, in respect of each day during which the offence continued to be committed after the first day on which it was committed.

Part 10 Delegation

67 Delegation by Corporation

The Corporation may delegate its powers and functions under Division 2 of Part 6 and Part 7 to:

- (a) the Town Administrator; or
- (b) an authorised officer.

68 Delegation by Town Administrator

The Town Administrator may delegate (or sub-delegate) a power or function to an authorised officer.

Schedule 1

by-law 2(1)

COPY OF GAZETTE NOTICE UNDER SECTION 270(2)(a) OF LOCAL GOVERNMENT ACT

"NORTHERN TERRITORY OF AUSTRALIA

Local Government Act

ADDITION OF BUILDING AND DEVELOPMENT CONTROL FUNCTIONS TO NHULUNBUY CORPORATION LIMITED

I, Malarndirri Barbara Anne McCarthy, the Minister for Local Government, in pursuance of section 270(2)(a) of the *Local Government Act*, hereby add to the local government functions of Nhulunbuy Corporation Limited ACN 009 596 598 functions in relation to building and development control in the area described in the Schedule.

Dated .

Malarndirri Barbara Anne McCarthy
Minister for Local Government

NOTE: On publication of this notice, the Nhulunbuy Corporation Limited has in the area described in the Schedule additional local government functions in relation to development and building control.

SCHEDULE

All those parcels of land at Nhulunbuy in the Northern Territory of Australia containing a total area of 679.83 hectares more or less, being Northern Territory Portions 1192 and 1316 (which include the town centre, the main residential areas and the main industrial area) and being more particularly delineated on Survey Plans A708 and A952 lodged with the Surveyor General, Darwin."

Schedule 2

by-law 13(2)(a)

Local Government Act

Nhulunbuy (Building) By-laws

NOTICE OF INFRINGEMENT

NHULUNBUY CORPORATION LIMITED

To:

(name of alleged offender)

of:

(address of alleged offender)

It is alleged that at _____ at _____ am/pm on _____ 20 _____,
(place) (time) (date)

you committed an offence as indicated below against the *Nhulunbuy (Building) By-laws*:

By-law:

Offence:

(nature of offence)

Address of premises:

Amount: \$

In pursuance of by-law 51 of the *Nhulunbuy (Building) By-laws* you may pay to the Nhulunbuy Corporation Limited, instead of the penalty by which the offence is otherwise punishable, the amount shown above to the person at the address shown on the reverse of this notice of infringement, not later than 14 days after the date of service of this notice of infringement, in order to avoid prosecution.

Dated _____ 20 _____.

Authorised person

THIS NOTICE MUST ACCOMPANY PAYMENT

**PLEASE SEE REVERSE FOR IMPORTANT INFORMATION
ABOUT THIS NOTICE**

(Reverse side of form)

If you wish to pay the amount shown on the front of this notice, complete the following and return it to the Nhulunbuy Corporation

Nhulunbuy (Building) By-laws

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Limited as indicated below. On payment of the amount you will not be liable for a further penalty or costs in relation to this offence.

I, _____ of _____

tender the amount shown on the front of this notice of infringement, being assured that on payment of that amount no further action will be taken by the Nhulunbuy Corporation Limited for this offence.

Signed: _____ Date: _____ 20 .

Payment of the amount in full must be made by cash or cheque not later than 14 days after the date of service of this notice of infringement and must be accompanied by this notice. Payment may be made between 8.00 am and 4.15 pm Monday to Friday (except public holidays) to:

<i>In person:</i>	<i>By post:</i>
The Registrar	The Town Administrator
Nhulunbuy Corporation Limited Office	Nhulunbuy Corporation Limited
Endeavour Square	PO Box 345
Nhulunbuy	Nhulunbuy NT 0881

If you wish to be dealt with by a court in relation to this offence, do not pay the amount shown on the front of this notice but complete the following and return it to the Nhulunbuy Corporation Limited as indicated below. A summons may then be issued requiring you to appear before the Court of Summary Jurisdiction to be dealt with in relation to this offence.

I, _____ of _____

wish to be dealt with by a court in relation to this offence and, for that reason, have not paid the amount shown on the front of this notice.

Signed: _____ Date: _____ 20 .

Return to:

<i>In person:</i>	<i>By post:</i>
The Registrar	The Town Administrator
Nhulunbuy Corporation Limited Office	Nhulunbuy Corporation Limited
Endeavour Square	PO Box 345
Nhulunbuy	Nhulunbuy NT 0881

If you do nothing in response to this notice, a summons may be issued requiring you to appear before the Court of Summary Jurisdiction to be dealt with in relation to this offence.

Schedule 3

Nhulunbuy Corporation Limited
Nhulunbuy (Building) By-laws

INSPECTION CERTIFICATE

BUILDING PERMIT NUMBER

PROPERTY ADDRESS

Number Street Name

Suburb

State

Postcode

LOT/PORZION NUMBER

LOCATION CODE

Description of Inspection Stage

Date of Inspection

I _____ certify that the building work has been inspected at this required stage as listed on the building permit and I am satisfied that all reasonable care has been taken to ensure that works associated with this inspection has, in all material respects, been carried out in accordance with the *Nhulunbuy (Building) By-laws*.

Firm/Company Name

Registration Number

Signature

Date

ENDNOTES

1

KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

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LIST OF LEGISLATION

Nhulunbuy (Building) By-laws (SL No. [TBA])

Notified	[TBA]
Commenced	[TBA]