

NORTHERN TERRITORY OF AUSTRALIA

*Planning Act 1999*

AMENDMENT TO NT PLANNING SCHEME

I, EVA DINA LAWLER, Minister for Infrastructure, Planning and Logistics, under section 25(2)(c) of the *Planning Act 1999*, amend the NT Planning Scheme by making the amendment, specified in the Schedule.

Dated 10<sup>th</sup> December 2019.



Minister for Infrastructure, Planning and Logistics

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SCHEDULE

AMENDMENT TO NT PLANNING SCHEME

AMENDMENT No. 537

**1. Citation**

This amendment to the NT Planning Scheme may be cited as Amendment No. 537.

**2. Amendment to Clause 1.3 - Exceptions**

(1) After sub-clause 2(af)

*insert*

(ag) subleasing of <b>car parking spaces</b> that are contained within a legally established building in Zone CB in Central Darwin.
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(2) After sub-clause 2

*insert*

7. This Planning Scheme does not prevent the use or development of land for the purpose of an alfresco dining area on land within Zone CB (Central Business) in Central Darwin, only if the alfresco dining area use:
- i. is located at ground level;
  - ii. is associated with a lawfully established use;
  - iii. does not constrain the function or reduce the number of any on-site car parking spaces, loading bays or ancillary manoeuvring spaces; and
  - iv. does not involve development adjacent to a tree within a road reserve or park, or written agreement has been obtained from the relevant authority to indicate that the development will not adversely impact on either the root system or branches of a tree within the road reserve or park.

For purposes of this exception only, alfresco dining means an 'open air dining area', which may include a courtyard, a beer garden, a deck or any other space within private property boundaries or (subject to land owner **consent**) on public land or road reserve, which is:

- permanently open along at least two sides;
- the open sides are at least of equal length to the sides bounded by a wall or the like; and
- where tables and chairs are provided as a seating space for a business whose main function is the provision of food and/or beverages.

### 3. Amendment of the Diagram to Clause 6.3.1 – Building Heights in Central Darwin

Diagram to clause 6.3.1

*Repeal, substitute (refer to page 3)*



#### 4. New Clause 6.5.5 - Parking Provisions for Alfresco Dining in Zone CB - Central Darwin

After clause 6.5.4

*insert*

##### 6.5.5 Parking provisions for Outdoor Dining in Zone CB – Central Darwin

1. The purpose of this clause is to encourage the establishment of alfresco dining areas that contribute positively to the amenity, attractiveness, safety and activity of streets in Zone CB - Central Darwin.
2. This clause only applies to land within Zone CB - Central Darwin, as defined by the diagram to clause 6.3.1.
3. For the purpose of this Clause only, an alfresco dining area means an open air dining area (which may be capable of being enclosed and/or secured), which may include a roofed area on roof tops of towers/ podiums, balconies, ground level **car parking areas**, and any other vacant ground level space within a private property boundary that is not air-conditioned, and is primarily used for the provision of tables and chairs as a seating space for the consumption of food and/or beverages. An alfresco dining area that is an exception pursuant to Clause 1.3(ad) is not subject to this clause.
4. An 'alfresco dining area' in Zone CB in Central Darwin is exempt from providing additional car parking spaces ordinarily required by clause 6.5.1 of this Planning Scheme.
5. On land within the Activated Frontages Zone depicted in the 'Residential and Mixed Use Map' of the Central Darwin Area Plan, an alfresco dining area that results in a loss of up to 25 ground level car parking bays associated with an existing development is exempt from providing additional car parking spaces ordinarily required by clause 6.5.1 of this Planning Scheme.
6. Amendments to the use or function of an 'enclosed open air dining area' such as the provision of air-conditioning will result in the use being subject to full car parking requirements of the NT Planning Scheme.
7. The design of an 'open air dining area' located adjacent to a **dwelling** is to take account and reasonably mitigate noise and privacy impacts.

# **NORTHERN TERRITORY OF AUSTRALIA**

## ***Planning Act 1999*** **Section 29**

### **Reasons for Decision**

## **NORTHERN TERRITORY PLANNING SCHEME** **AMENDMENT No. 537**

Amendment 537 will contribute to the activation of the Darwin CBD and improve utilisation of car parking by:

- exempting all alfresco dining areas from providing car parking;
- allowing alfresco dining areas at ground level, which are open on at least two sides, to be exempt from the requirements of the NT Planning Scheme; and
- exempting the sub-leasing of car parking spaces from the requirements of the NT Planning Scheme.

This amendment is considered suitable for inclusion in the NT Planning Scheme for the following reasons:

- Removing the regulatory burden that applies to establishing an alfresco dining area will encourage the establishment of more outdoor dining uses that are characteristic of Darwin's tropical environment and will contribute positively to the attractiveness, safety and activity of CBD streets.
- Outdoor dining areas above ground level (eg rooftop dining areas) will require consent, and matters such as noise mitigation measures and privacy impacts will be considered to ensure that potential amenity impacts to nearby residents are considered and implemented where necessary.
- Permitting sub-leasing of car parking spaces without consent will increase flexibility of the provision and management of car parking, allowing more efficient use of parking spaces in the Darwin CBD.

Advice provided to the NT Government indicates that there is a surplus of car parking in the Darwin CBD. Therefore, removing the need to provide car parking for an alfresco dining area is not expected to cause an issue for the supply of car parking in Darwin CBD.

The amendment applies only to the Darwin CBD, where the provisions made by this amendment were trialled for 18 months under Interim Development Control Orders 24 and 25. No negative feedback was received during the trial period or during the exhibition period for this amendment.

I altered this proposal after exhibition to exempt alfresco dining areas from providing car parking in Darwin CBD, at the suggestion of Activate Darwin. I decided not to exhibit the altered proposal as it is generally consistent with the overall intent of the original proposal, which sought to make it easier to develop outdoor dining areas. No objections were raised with the intent of this amendment.

A handwritten signature in black ink, appearing to read 'Eva Lawler', with a stylized flourish at the end.

EVA DINA LAWLER

Minister for Infrastructure, Planning and Logistics

10/ 12 / 2019