

NORTHERN TERRITORY OF AUSTRALIA

Planning Act

AMENDMENT TO NT PLANNING SCHEME

I, DELIA PHOEBE LAWRIE, the Minister for Planning and Lands, under section 25 (2)(c) of the *Planning Act*:

- (a) alter the proposal to amend the NT Planning Scheme numbered PA2007/0273 in accordance with the Schedule to this instrument; and
- (b) amend the NT Planning Scheme in accordance with the altered proposal.

Dated 2 December 2009.



Minister for Planning and Lands

SCHEDULE

AMENDMENT TO NT PLANNING SCHEME

AMENDMENT NO. 106

1. Citation

This amendment to the NT Planning Scheme may be cited as Amendment No. 106.

2. New clause 1.3 sub-clause 2(k)

After clause 1.3 sub-clause 2(j) –

insert

1.3 EXCEPTIONS

2. Unless specified, this Planning Scheme does not prevent any of the following:
- (k) the erection of a shed in Zones other than H, A, RR, RL and R that:
 - i. is 6m or more from the **primary street** and 2.5m or more from a **secondary street** when measured to the wall of the shed or where there is no wall, the outer face of any column;
 - ii. has a roofed area of 11m² or less;
 - iii. is 2.3m or less in height;
 - iv. has no openings in walls that are less than 1.5m from a lot or unit title boundary; and
 - v. does not discharge rainwater on an adjacent lot or unit title.

Clause 6.11 refers to setback requirements for garages and sheds not subject to clause 1.3.

If the *Bushfires Act* applies to the land that Act may require provision of a firebreak along the property boundary.

3. New clause 2.10

After clause 2.9 –

insert

2.10 CARPORTS, PERGOLAS AND SHADE SAILS OVER EXISTING CAR PARKING IN MULTIPLE DWELLING DEVELOPMENTS

Where it is proposed to construct a carport, **pergola** or a shade sail over existing car parking in a **multiple dwelling** development **consent** is not required if it:

- (a) is constructed in accordance with the **building setback** requirements of clause 7.3;
- (b) is erected over an existing **car parking space**;
- (c) does not discharge rainwater on an adjacent lot or unit title; and
- (d) does not result in non-compliance with the requirements of clause 6.5.3.

Clause 7.3 refers to setback requirements for **multiple dwellings (residential buildings)** and structures without external walls.

Clause 6.5.3 refers to parking layout.

4. Amendment of clause 3

After the definition of “passenger terminal” –

insert

“**pergola**” is an unroofed open structure constructed at ground level without external walls but may be covered with permeable shade cloth;

After the definition of “plot ratio” –

insert

“**primary street**” means the street or where there is more than one street, the street with the wider carriageway or that which carries the greater volume of traffic but does not include any street where access is prohibited by the controlling Agency; and

See also secondary street

After the definition of “rural industry” –

insert

“**secondary street**” means a street that is not a primary street but does not include any street where access is prohibited by the controlling Agency.

See also primary street

5. Substitution of clause 6.11

Omit clause 6.11 Sheds and substitute:

6.11 GARAGES AND SHEDS

1. The purpose of this clause is to ensure that garages and sheds are sited so they do not detract from the streetscape or the **amenity** of adjoining land.
2. This clause does not apply in Zones LI, GI and DV.
3. Garages and sheds that are not in association with any other use on land in Zone CB or C are prohibited.
4. In this clause a shed except in Zones SD, MD, MR and HR includes a roofed area, whether or not it is enclosed by walls.
5. Garages and sheds are to be set back from lot boundaries in accordance with the table to this clause.

Clause 1.3 sub-clause 2(i) exempts sheds in some circumstances.

Clause 9.1.1 refers to setback requirements for all buildings in Zones LI, GI and DV.

Clause 7.3 refers to setback requirements for residential buildings and ancillary structures such as carports.

TABLE TO CLAUSE 6.11 MINIMUM BUILDING SETBACKS FOR GARAGES AND SHEDS

Lot Boundary	In zones other than CB, C, H, A, R, RL and RR	In zones H, A, RR, R and RL
Primary street frontage	6m	10m <u>or</u> 7.5m in Zones RR and RL for lots with areas less than 1ha
Secondary street frontage	2.5m	10m <u>or</u> 5m in Zones RR and RL for lots with areas less than 1ha
Side and rear lot boundaries	1.5m	10m <u>or</u> 5m in Zones RR and RL for lots with areas less than 1ha

Setbacks relate to lot boundaries and not unit title boundaries.

Building setback is measured from all boundaries to:

- the wall of a garage or shed; and
- where there is no wall, to the outer surface of any support column of the structure.

No part of the roof structure including gutters and eaves, is to encroach more than 0.9m into the minimum **building setbacks** from the lot boundaries described in the Table to clause Clause 6.11.

6. Substitution of clause 7.3

Omit clause 7.3 and substitute:

7.3 BUILDING SETBACKS OF RESIDENTIAL BUILDINGS

1. The purpose of this clause is to ensure **residential buildings** and structures without external walls are located so:
 - they are compatible with the streetscape and surrounding development including residential buildings on the same site;
 - as to minimise any adverse effects of building massing when viewed from adjoining land and the street;
 - as to avoid undue overlooking of adjoining properties; and
 - as to encourage breeze penetration through and between buildings.
2. In this clause a structure without external walls includes a carport, **pergola**, portico and shade sail.
3. Subject to clauses 7.4 and 11.1.2 residential **buildings** and structures without external walls are to be set back from lot boundaries in accordance with table A or B or C (as the case requires) to this clause.

Residential buildings include caretaker's residence, dependant unit, group home, hostel, hotel, motel, multiple dwellings, single dwelling and supporting accommodation.

Clause 7.4 relates to setbacks and fencing for multiple dwellings and supporting accommodation in zone MR.

Clause 11.1.2 relates to common building boundaries in integrated residential developments.

TABLE A TO CLAUSE 7.3 MINIMUM BUILDING SETBACKS FOR ONE AND TWO STOREY RESIDENTIAL BUILDINGS AND ASSOCIATED OPEN STRUCTURES IN ZONES OTHER THAN CB, C, H, A, RR, RL AND R

Lot Boundary	Minimum Setback
Primary street frontage for 1 and 2 storey buildings	6m <u>and</u> 4.5m for verandahs, balconies and structures without external walls
Secondary street frontage for 1 and 2 storey buildings	2.5m <u>and</u> 1.5m for verandahs, balconies and structures without external walls
Side and rear lot boundaries for 1 and 2 storey buildings	1.5m including structures without external walls <u>and</u> 0.9m for shade sails

Clause 2.4 describes the circumstances when the setback requirements of clause 7.3 apply to specific use zones.

Setbacks relate to lot boundaries and not unit title boundaries.

A structure without external walls includes a carport, pergola, portico and shade sail.

Building setback is measured from all boundaries to:

- the wall of a **residential building**;
- the outer surface of the railings of a balcony or a verandah;
- the outer surface of any support column of a ground level verandah; and
- the outer surface of any support column of structures without external walls except that the setback of a shade sail is measured to the outer extremity of the fabric.

No part of the roof structure including gutters and eaves, is to encroach more than 0.9m into the minimum **building setbacks** from the lot boundaries described in Table A to Clause 7.3.

Amendment No. 106

TABLE B TO CLAUSE 7.3 MINIMUM BUILDING SETBACKS FOR RESIDENTIAL BUILDINGS OVER TWO STOREYS IN HEIGHT AND ASSOCIATED OPEN STRUCTURES IN ZONES OTHER THAN CB, C, H, A, RR, RL AND R	
Lot Boundary	Minimum Setback
Primary street frontage for buildings over two storeys in height	7.5m for residential buildings including verandahs and balconies <u>and</u> 4.5m for structures without external walls
Secondary street frontage for buildings over two storeys in height	2.5m for residential buildings including verandahs and balconies <u>and</u> 1.5m for structures without external walls
Side and rear lot boundaries for buildings over two storeys in height	1.5m for: <ul style="list-style-type: none"> • non-habitable rooms; • habitable rooms <u>without</u> windows and/ or doors facing the subject boundary; and • verandahs and/or balconies where the side of the verandah or balcony is <u>fully</u> screened to the subject boundary; and • structures without external walls excluding shade sails. 3m for: <ul style="list-style-type: none"> • habitable rooms <u>with</u> windows and/ or doors facing the subject boundary; and • verandahs and/ or balconies facing the subject boundary; and • shade sails.
<p>The side of the verandah or balcony is considered to be <u>fully</u> screened if there is a permanently fixed external screen to at least 1.7 metres above floor level that is no more than 25% transparent. Screens used to obscure a view should be:</p> <ul style="list-style-type: none"> • perforated panels or trellis with a maximum of 25% openings or solid translucent panels or louvered slats that are only able to be opened to a 45° angle and do not allow direct overlooking into an adjacent residential building; • permanent, fixed and durable; and • designed and coloured to blend in with the development. 	
<p>Building setback is measured from all boundaries to:</p> <ul style="list-style-type: none"> • the wall of a residential building; • the outer surface of the railings of a balcony or a verandah; • the outer surface of any support column of a ground level verandah; and • the outer surface of any support column of structures without external walls except that the setback of a shade sail is measured to the outer extremity of the fabric. <p>No part of the roof structure including gutters and eaves, is to encroach more than 0.9m into the minimum building setbacks from the lot boundaries described in Table B to Clause 7.3.</p>	

Clause 2.4 describes the circumstances when the setback requirements of clause 7.3 apply to specific use zones.

Setbacks relate to lot boundaries and not unit title boundaries.

A structure without external walls includes a carport, pergola, portico and shade sail.

Amendment No. 106

TABLE C TO CLAUSE 7.3 MINIMUM BUILDING SETBACKS FOR RESIDENTIAL BUILDINGS AND ASSOCIATED OPEN STRUCTURES IN ZONES H, A, R, RL AND RR	
Lot Boundary	Minimum Setback for residential buildings including verandahs and balconies and structures without external walls
Primary street frontage	10m <u>or</u> 7.5m in Zones RR and RL for lots with areas less than 1ha
Secondary street frontage	10m <u>or</u> 5m in Zones RR and RL for lots with areas less than 1ha
Side and rear lot boundaries	10m <u>or</u> 5m in Zones RR and RL for lots with areas less than 1ha
<p>Building setback is measured from all boundaries to:</p> <ul style="list-style-type: none"> the wall of a residential building; the outer surface of the railings of a balcony or a verandah; the outer surface of any support column of a ground level verandah; and the outer surface of any support column of structures without external walls except that the setback of a shade sail is measured to the outer extremity of the fabric. <p>No part of the roof structure including gutters and eaves, is to encroach more than 0.9m into the minimum building setbacks from the lot boundaries described in Table C to Clause 7.3.</p>	

Clause 2.4 describes the circumstances when the setback requirements of clause 7.3 apply to specific use zones.

Setbacks relate to lot boundaries and not unit title boundaries.

A structure without external walls includes a carport, pergola, portico and shade sail.

If the *Bushfires Act* applies to the land that Act may require provision of a firebreak along the property boundary.

7.3.1 Additional Setback Requirements for **Residential Buildings** longer than 18 metres and for **Residential Buildings** over 4 **storeys** in height

- For residential buildings, other than **single dwellings** that are longer than 18m or taller than 4 **storeys**, there are setback requirements additional to those outlined in the tables to clause 7.3:
 - for each additional 3m or part thereof in building length over 18m, an additional **building setback** to the affected boundary of 0.5m; and plus
 - for each additional **storey** over four **storeys** above ground level, an additional **building setback** to that **storey** of 1.5m from all boundaries.
- The length of the building excludes verandahs, balconies, carports and porticos that are integrated into the **residential building** design and fully open to affected boundaries.
- No part of a **residential building** is required to exceed a **building setback** of 10.5m from any boundary.

Setbacks relate to lot boundaries and not unit title boundaries.

7.3.2 Distance between **Residential Buildings** on one site

1. Where more than one building comprising one or two **storey residential buildings** is located on a **site** the distance between buildings is to be a minimum of 3m.
2. Where more than one building comprising **residential buildings** that exceeds two **storeys** in height is located on a **site** the distance between buildings is to be a minimum of:
 - (a) 3m for walls to non-habitable rooms and **habitable rooms without** windows or doors; and
 - (b) 4.5m for walls with windows or doors to **habitable rooms** or to a verandah or balcony.
3. For each **storey** over four **storeys**, the distance between buildings referred to in sub-clause 2 is measured from a straight line that is half the average distance between the walls of the buildings.

NORTHERN TERRITORY OF AUSTRALIA

Planning Act

**NOTICE OF AMENDMENT OF NT PLANNING SCHEME
AMENDMENT No. 106**

I, DELIA PHOEBE LAWRIE, the Minister for Planning and Lands, under section 28(1) of the *Planning Act*, give notice that -

(a) I have amended the NT Planning Scheme by:

- inserting a new clause 1.3 sub-clause 2(k) allowing small sheds to establish without planning approval outside Zones H, A, RR, RL and R if the siting requirements are met;
- inserting a new clause 2.10 that allows for carports, pergolas and shade sails over existing car parking in multiple dwelling developments if the siting requirements are met;
- inserting new definitions of "pergola", "primary street" and "secondary street" in Clause 3.0;
- replacing clause 6.11 Sheds with 6.11 Garages and Sheds; and
- replacing clause 7.3 Building Setbacks of Residential Buildings and Pergolas, Carports and the Like with clause 7.3 Building Setback of Residential Buildings;

(b) copies of the Amendment are available from the Offices of the Department of Planning and Infrastructure, at the following locations:

Ground Floor Cavenagh House 38 Cavenagh Street Darwin;

Level 1 Alice Plaza Todd Mall Alice Springs;

Level 1 Government Centre 5-7 First Street Katherine; and

Regional Office Leichhardt Street Tennant Creek.

Dated *2 December* 2009


Minister for Planning and Lands

NORTHERN TERRITORY OF AUSTRALIA

Planning Act
Section 29

NT PLANNING SCHEME AMENDMENT

AMENDMENT No. 106

Reason for Decision

The purpose of Amendment No. 106 is to resolve inconsistencies in the Planning Scheme rules relating to setbacks for residential buildings, garages and sheds. The changes involve:

- details of the method of measuring the setback are specified;
- consistent setback rules for all urban areas - there will no longer be separate requirements for Alice Springs;
- 6 metre front setback for one and two storey residential buildings;
- taller buildings will be sited further from the street boundary;
- residential buildings of similar height are treated in the same way;
- a carport, pergola or a shade sail over existing car parking in a multiple dwelling development does not require planning approval if the siting requirements are met;
- small sheds do not require planning approval if the siting requirements are met;
- a reduction in the setback rules for sheds on rural lots with a site area less than one hectare; and
- setback requirements for garages and sheds are specified.

The majority of the submissions received during the public exhibition period supported the proposal but suggested alterations. As a result of those suggestions, I have simplified the method of measuring setback with an allowance for roof line encroachment and made a number of other minor changes to clarify the rules.



DELIA PHOEBE LAWRIE
Minister for Planning and Lands

2 / 12 / 2009