

**TEMPORARY CARE ACCOMMODATION
GUIDELINES**

**PLANNING AND LAND MANAGEMENT
DEPARTMENT OF URBAN SERVICES**

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TEMPORARY CARE ACCOMMODATION GUIDELINES/EXPLANATORY NOTES

1.0 Preamble

These Guidelines have been developed to provide supplementary information and assistance in interpreting Variation No.55 to the Territory Plan - Provisions for Temporary Care Accommodation. **These Guidelines should be read in conjunction with Variation No.55 to the Territory Plan.**

Variation No.55 allows for the approval of temporary accommodation for persons who are in need of care, or persons who are providing care, subject to special controls which differ from standard multi-unit development requirements. The purpose of these Guidelines is to inform applicants and decision makers of the proposed provisions and how they are intended to be applied.

It should be noted that both Variation No.55, and these Guidelines, have been developed for town planning purposes only. They are intended to ensure that appropriate planning standards are achieved, most specifically in respect of the design and siting of dependant care units. They are not intended to, and do not, regulate the type or standard of care provided. Information on requirements relating to these issues should be separately obtained from appropriate government service agencies, such as ACT Health and Community Care.

2.0 The Purpose of Variation No.55

Prior to the introduction of Variation No.55 the only provisions under the Territory Plan dealing with any type of second dwelling on a site were under the standard controls for multi-unit development, with the main controls being contained within the 'Residential Design and Siting Code for Multi-Unit Dwellings' (Appendix III.2 of the Territory Plan - the Multi-Unit Code).

The Multi-Unit code, in particular, is specifically designed to provide relevant standards (covering such matters as privacy, private open space and carparking, etc) for the development of two or more, potentially separately titled dependant households. These requirements however are unnecessarily stringent, and in some case inappropriate, to meet the needs of many carer/dependant situations.

As a consequence Variation No.55 introduces two new permissible land uses - 'Habitable Suite' and 'Relocatable Unit' - together with associated controls, to the Residential Land Use Policies of the Territory Plan. These changes make it possible for temporary care accommodation to be provided to persons who are providing care, or who are provided care, for reasons of infirmity (due to age) or disability.

The remaining sections of this document provide assistance in the interpretation and application of these new policy provisions.

3.0 GUIDELINES: INTERPRETATIONS AND PLANNING REQUIREMENTS

3.1 Relocatable Units and Habitable Suites - General Requirements

Variation No.55 provides for two types of dependant care units, namely Relocatable Units and Habitable Suites. A Relocatable Unit is a separate dwelling which is detached from the existing (main) dwelling and able to be removed when it is no longer required by the approved user. A Habitable Suite is a dwelling that is incorporated within the main dwelling by way of conversion of existing space, or an extension, but in either case so designed that it can easily revert to rooms of the main dwelling when no longer required by the approved user.

Approval for a Habitable Suite should be sought where the applicant wants to alter or add to the main dwelling to achieve a separate living unit for a dependant. The use of this space as a second dwelling is only permitted while it is being used by the person nominated as the carer/dependant in the approval granted for the temporary care accommodation. Neither a Habitable Suite nor a Relocatable Unit may be offered for use as a separate tenanted space.

In addition, approvals for these uses are conditional on the circumstances of the dependant person, and expire when the dependant person is no longer a permanent resident. It is a requirement of the approval, and the provisions of the *Land (Planning and Environment) Act 1991* (the Land Act), that a Relocatable Unit be removed when the dependant person ceases to be a permanent resident. A Habitable Suite similarly is required to be modified back to be part of (and not able to be used separately from) the main dwelling.

The formal definitions for both a Habitable Suite and a Relocatable Unit are contained within the variation document (see Attachment).

3.2 Meeting the Requirements of the Policy

Applications for the erection and use of a Relocatable Unit or a Habitable Suite may only be approved where the applicant is able to provide evidence that both the personal circumstances and physical building requirements of the Territory Plan provisions are met. (See also Section 3.3 'Making and Application'.)

3.2.1 Personal Circumstances Criteria

An application for either a Relocatable Unit or Habitable Suite may only be approved where, for reasons of infirmity (due to age) or disability, the proposed dependant is unable to fully care for themselves in separate accommodation, or would be likely to put themselves at risk if they did so.

Applications must clearly identify the person for whom care is to be provided and the reasons why he/she requires dependant care accommodation. Details of both the carer and dependant's accommodation arrangements are also required.

Suitable evidence (usually by way of a doctor's certificate, together with the requisite statutory declaration see - section 3.3) will need to be provided to support the applicant's claims for meeting the requirements of the Territory Plan's provisions.

It is not essential that the nominated dependant and carer are related although this is likely to be the usual situation. The relationship between the parties however must be bona fide for the purposes of providing and receiving domestic care and assistance to the dependant. In circumstances where more than one dependant person is to be provided for it will normally be expected that these persons are related. The policy is not intended to be used for commercial purposes or for allowing for dependant care accommodation to remain permanently as a general land use.

3.2.2 Development Requirements

All temporary care accommodation, whether proposed as a Habitable Suite or Relocatable Unit, must also meet all relevant development control requirements identified in Part B1 of the Territory Plan. These requirements include that:

- (a) all proposed buildings and other ancillary or requisite development meet the performance controls of the Territory Plan's Residential Design and Siting Code For Single Dwellings (Appendix III.1); and
- (b) development is limited to a scale which will ensure that the development does not adversely affect the character and amenity of the surrounding residential area (see Objective Schedule 2).

Both the Design and Siting Code For Single Dwellings and Schedule 2 of the Residential Land Use Policy of the Territory Plan include a number of performance measures which provide guidance as to when these requirements will usually be considered met. Proposals not meeting these performance measures may still be approved where individual circumstances indicate that the performance objectives will still be met, however the application will be subject to public notification and objectors may have a right to appeal any final decision in the Administrative Appeals Tribunal.

Principal performance measure requirements applying to all Dependant Care Units include:

- (a) that the dependant care Unit should normally have a maximum Gross Floor Area of 70m²; and
- (b) that one additional car park space (additional to the normal requirement of the Single Residential Design and Siting Code) be provided.

Additional performance measure requirements apply to Relocatable Units. These include that:

- (a) there is a minimum 3.5 metre distance between the unit and the main dwelling;

- (b) the unit have a maximum height of wall of 3.5 metres; and
- (c) that the unit is located behind the main dwelling.

Finally, Relocatable Units may only be approved on land on which a single residential dwelling is erected.

3.3 Making an Application

Applications seeking approval for the erection and use of a Habitable Suite or a Relocatable Unit are made under Part VI of the Land Act.

Applications are required to be made on the approved form, together with the determined fee, and working drawings that demonstrate that the requirements of both the Territory Plan and Building Act will be met. Also required will be relevant supporting details including:

- details from the applicant and lessee identifying the names of all dependant(s) and carer(s);
- details of the circumstances supporting the need for a carer/ dependant accommodation, (generally this should be supported by a letter from a medical professional);
- the proposed housing arrangements for the carer(s) and dependant(s);
- details as to how it is intended to modify the Habitable Suite or remove the Relocatable Unit when the period of approval ceases, and
- a fully executed statutory declaration from the applicant and lessee that the buildings will only be occupied in accordance with these details.

Further details relating to the making of applications, including pre-application services, may be obtained by contacting the Planning and Land Management Shopfront, Challis Street, Dickson.

3.4 Other Matters of Importance

Period of Approval

The approval for temporary care accommodation is unique to the situation and persons described in the Statutory Declaration. As noted above approval lapses only when any change to the situation the application was based on occurs. The Department will however send a letter to the recipient of the approval on an annual basis to assist it in its records and monitoring of compliance.

Extended Absences

In some cases extended absences will occur; most likely when the dependant is in need of more intense medical care.

The approval of the temporary accommodation is only for the particular person or persons nominated in the Statutory Declaration. As it is imperative for the occupier to have the security of continuous accommodation, the approval for the premises would not lapse whilst the possibility exists for the person to return unless the approval period lapses before this.

Property Sale/transfer

Approvals are not transferable. Any intending purchaser of a dwelling with Temporary Care Approval would need to apply separately for approval to use the property for their own temporary care needs. Any new approval would be specifically for the individuals and circumstances set out in the application.

Responsibility and Cost

All costs relating to the location of a relocatable unit or conversion of a Habitable Suite rest with the lessee. Similarly, the obligation to remove a relocatable unit or to re-integrate the Habitable Suite with the dwelling rests with the lessee at the time, together with all associated costs.

Interpretation of 'care' and 'dependant'

Care

The interpretation of the term *care* has to consider both receiving and providing care. *A person providing care looks after and attends to the needs of another person. A person needing or receiving care is one who cannot live independently due to age, health or disability and who requires the attention and assistance of someone else.* In some cases the *person* requiring or giving care may comprise two people.

Dependant

For the purposes of this policy a dependant is *a person who is reliant on another for support and help to meet their needs or care.*