

1.1 Governance

Administrative Provisions

Authority

The Territory Plan 2008 (the Plan) is prepared and administered by the ACT Planning and Land Authority as required by Section 12 (1) (a) of the *Planning and Development Act 2007* (the Act) and in accordance with Chapter 5.

Object of the Plan

The object of the territory plan is to ensure, in a manner not inconsistent with the national capital plan, the planning and development of the ACT provide the people of ACT with an attractive, safe and efficient environment in which to live, work and have their recreation (Section 48 of the Act).

Commencement

The Plan commenced operation on 31 March 2008 (or date to be confirmed).

Land

The Plan applies to land within the ACT as shown on the Territory Plan Maps (Section 56 of the Act).

Definitions

The meaning of terms used within the Plan are defined within the Definitions in Section 13 of the Plan, or within the Act (refer to Dictionary in the Act).

Functions of the Plan (refer s46-56 of the Act)

The Plan is a statutory document which is:

- a key part of the policy framework for administering planning in the ACT, particularly where the Authority has decision-making roles,
- used to manage development, in particular land use and the built environment,
- used to assess development applications
- used to guide the development of new estate areas (future urban land) and the management of public land.

The Territory, the Executive, Ministers and Territory authorities must not do or give approval for anything that is inconsistent with the Plan, nor the National Capital Plan. (Section 50 of the Act)

Relationship with the *National Capital Plan*

Section 26 of the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth) describes the specific nature of the relationship between the Territory Plan and the *National Capital Plan*:

The Territory Plan has no effect to the extent that it is inconsistent with the National Capital Plan, but the Territory Plan shall be taken to be consistent with the national Capital Plan to the extent that it is capable of operating concurrently with the National Capital Plan.

Relationship with the Planning Strategy

The Plan is a statutory mechanism to implement the strategic land use, environmental, transport, built form and social policies within an adopted Planning Strategy. The Executive must make a Planning Strategy that sets out long term planning policy and goals to promote the orderly and sustainable development of the ACT, consistent with the social environmental and economic aspirations of the people. (Section 105 of the Act).

The Planning Strategy may be used to develop or guide the amendment of the Statement of Strategic Directions in the Plan, however it is not part of the Plan and has no application to decisions on development proposals or compliance actions. (Section 108 and 109 of the Act).

The Canberra Spatial Plan (March 2004) and *Sustainable Transport Plan* (April 2004) are taken to be the current Planning Strategy. (Section 440 of the Act)

Relationship with the *Territory Plan 2002*

The Plan replaces the Territory Plan 2002.

Relationship with Other Plans

The Plan replaces all master plans, neighbourhood plans, guidelines etc that were listed on the Authority's Register of Planning Guidelines prior to the commencement of this Plan. However, those documents remain as ACTPLA publications and can be referred to in Codes within the Plan.

Map (refer s56 of the Act)

Contents

The Plan map identifies all land covered by the Plan. It graphically depicts the spatial elements of the Plan, as shown on the legend, and supports the written statement. Each piece of land is coded for the Zone that applies and any overlays that are applicable, including precincts.

(Note: The cadastral database over which the maps are normally printed do not form part of the Plan. It is shown for information only.)

Use of Zones and Overlays

Planning controls for each Zone identified on the map are documented within the relevant Development Tables and Codes.

Overlays identify special attributes of land that are sensitive to the effects of development or may constrain development. The relevance and application of these attributes are documented in either Codes, the Act, Volume 2, or Volume 3 of the Plan in relation to Future Urban Areas.

Statement of Strategic Directions

Function

The Statement of Strategic Directions gives effect to the object of the Plan, providing a policy framework, giving collective guidance on the specific policies of the Plan and promoting the Planning Strategy.

The Statement of Strategic Directions is to guide:

- long term planning of the ACT,
- preparation and making of Variations to the Plan, and
- guide environment impact statements, planning reports, and strategic environmental assessments (Section 52 of the Act).

Content

The Statement of Strategic Directions comprises two sets of principles:

- sustainable development;
- spatial planning and urban design.

The ordering of the principles does not reflect the priority of any one or set of principles. Each needs to be equally considered where relevant.

Development Approval

Development

Section 7 of the Act defines *development* in relation to land, as:

- (a) building, altering or demolishing a building or structure on the land;
- (b) carrying out earthworks or other construction work on or under the land;
- (c) carrying out work that would affect the landscape of the land;
- (d) use of land, or a building or structure on the land including:
 - beginning a new use of the land, building or structure on the land (Section 8 of the Act);
 - continuing a use of land, building or structure on the land (Section 8 of the Act);
 - changing a use of the land, or a building or structure on the land, whether by adding a use or stopping a use and substituting another use (Section 8 of the Act);
- (e) subdividing or consolidating land;
- (f) varying a lease relating to the land (note where a lease variation is to add a new lease authorised use, the relevant assessment track is the track identified in the development table as applying to the proposed new land uses);
- (g) Putting up, attaching or displaying a sign or advertising material otherwise than in accordance with a licence issued under this Act or permit under the *Roads and Public Places Act 1937* (Section 7 and 8 of the Act).

Approvals

The Act requires *development* to be assessed in accordance with the provisions of the Plan and the Act (Section 50, Chapter 7), unless it is defined as *exempt development* by the Act (Section 133), Regulation (Section 134) or within the development tables of the Plan (Section 54 and 133(a)).

Zones and Zone Objectives

The Zones are depicted on the Plan maps to:

- apply different planning policies to different land areas and different types of land uses, and
- provide a structure of land uses that can be applied to parcels of land.

There are 11 Zones, four of which have sub-Zones.

Each Zone or sub-Zone has objectives that provide broad policies for defined land areas, inform controls in Codes and applied by Development Tables and provide context to the formulation of proposals to vary the Plan. The objectives are also relevant to the assessment of merit track development proposals (s120) and impact track development proposals (s129).

Development Tables

The Development Table for each Zone lists the following:

- **exempt development** for which planning approval is not required (however, building approval and/or lease authorisation may be required);
- **assessable development** and the minimum assessment track that applies to the development application:
 - code assessment track,
 - merit assessment track, or
 - impact assessment track

The development table specifies the minimum assessment track for development applications in that Zone. The details of the proposal will determine the assessment track applicable to the development. If the minimum assessment track is code track, then the proposal must be consistent with the relevant rules of the Code to be assessed by the method.

- **prohibited development**, which means that development applications cannot be made for such defined development – unless the development application is for approval to use land for a purpose that is authorised by a lease, in this case the development can still be made and it is assessable under the impact track (Section 134); and
- the applicable **Codes**

Codes

Codes identify planning, design and environmental controls for differing land uses, development types, Zones, and precincts. A development application will be assessed against the rules or criteria within the applicable Code or Codes.

- **Precinct Codes** – apply to geographical areas which may include more than one Zone or parts of Zones,
- **Development Codes** – apply to specific Zones or development types,
- **General Codes** – may apply to defined development types and/or planning and design issues throughout the ACT and to Territory authorities.

Where inconsistencies exist between provisions of applicable Codes, the Act specifies that the Precinct Codes take precedence over Development Codes that in turn take precedence over General Codes.

(Note: Additional explanation of Codes is provided within the Introduction to each Code)

Each Code's controls are expressed as either **rules**, which are generally quantitative, or as qualitative **criteria**.

- Proposals in the **code track** must comply with all rules relevant to the development.
- Proposals in the **merit track** have the option to comply with the rules or the criteria, unless the rule is mandatory. Where it is proposed to meet the criteria, the onus is on the applicant to demonstrate, by supporting plans and written documentation, that the proposed development satisfies the criteria and therefore the intent of the element.
- Proposals in the **impact track** must address the rules or criteria and justify any non-compliances.

Determinations

The determination of a development application will be made by the ACT Planning and Land Authority, or by the Minister if called in under Section 158 of the Act.

The relevant considerations for applications within the **Code assessment track** are:

- the rules specified within the applicable Code(s). – note the criteria in the codes have no application in the code assessment track (see section 116 of Act).

The relevant considerations for applications within the **Merit assessment track** are:

- objectives of the Zone,
- rules and criteria within the applicable Code(s),
- suitability of the land for the development of the kind proposed,
- each representation made in response to notification,
- any advice from a government entity under Section 148 of the Act,
- the plan of management (if public land), and
- land management agreements (Section 120 of the Act)
- the probable impact of the proposed development including the nature, extent and significance of probable environmental impacts (see section 119 and 120 of Act).

The relevant considerations for applications the **Impact assessment track** are:

- statement of strategic directions (Section 128)
- EIS (s128)
- land management agreements (Section 128)
- objectives of the Zone,
- rules and criteria within the applicable Code(s),
- each representation made in response to notification,
- any advice from a government entity under Section 148 of the Act,
- the plan of management (if public land)

- the probable impact of the proposed development including the nature, extent and significance of probable environmental impacts,
- any completed EIS, and
- the conclusions of any inquiry which has been undertaken about the EIS

Future Urban Areas

Identification of Future Urban Areas

The Plan may identify future urban areas and include the structure plans that apply to those areas. Future Urban Areas are identified on the Map by an 'FUA' Overlay (Section 51 of the Act)

Volume 3 of the Plan Written Statement contains Plan documents relevant to Future Urban Areas.

Structure Plans

Structure Plans contain the principles and policies for development of future urban areas. They guide the development, where appropriate, of concept plans (Section 92 of the Act).

Concept Plans

Concept Plans apply the principles and policies in a structure plan. Concept Plans are taken to be precinct codes that are used to guide the preparation and assessment of development in the area to which the Concept Plan applies. Where they contain rules or criteria relevant to development once the FUA overlay is removed, they continue to be a consideration in assessing developments (Section 93 of the Act).

Development Codes

The Residential Subdivision Development Code applies to the design and subdivision of any residential area that is subject to an Estate Development Plan. The Code may also call up other Codes, Australian Standards or guidelines that apply to the subdivision.