

Australian Capital Territory

Planning and Development (Technical Amendment—Residential and Commercial Zones Codes) Notice 2008*

Notifiable instrument NI2008—289

Technical Variation No 2008-02

made under the

Planning and Development Act 2007, section 89 (Making technical amendments)

This instrument (and the plan variation in it) commences on the day after it is notified.

Variation No 2008–02 to the Territory Plan has been approved by the Planning and Land Authority

The variation specifies minor amendments to the Single Dwelling Development Code, the Multi-unit Dwelling Development Code and the CZ5 Mixed Use Zone Development Code as detailed in Annexure A.

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Delegate of the Planning and Land Authority
9 July 2008

*Name amended under Legislation Act, s 60



Planning & Development Act 2007

**Technical Amendment
to the Territory Plan
Code Variation
V2008-02**

**Amendments to
Single Dwelling Development Code,
Multi-unit Dwelling Development Code and
CZ5 Mixed Use Zone Development Code**

July 2008

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1. INTRODUCTION

Outline of the process

The Commonwealth's *Australian Capital Territory (Planning and Land Management) Act 1988* allows for the Legislative Assembly to make laws to establish a Territory Planning Authority and for that Authority to prepare and administer a Territory Plan. The *Planning and Land Act 2007* establishes the ACT Planning and Land Authority as the Authority which prepares and administers the Territory Plan, including continually reviewing and proposing amendments as necessary.

Technical amendments to the Territory Plan are prepared in accordance with the *Planning and Development Act 2007* (the Act). A code variation is a technical amendment that

- (i) would only change a code; and
- (ii) is consistent with the policy purpose and policy framework of the code; and
- (iii) is not an error variation.

Following the release of the code variation under section 90 of the Act, submissions from the public are invited. At the conclusion of the limited consultation period, any representations are considered by the ACT Planning and Land Authority (the Authority). The Authority then determines a day when the code variation is to commence by way of a commencement notice.

2. EXPLANATORY STATEMENT

Background

The ACT Planning and Land Authority, with reference to comments received from industry and the community, have been working to ensure that the new Territory Plan (2008) is as easy to interpret as possible. This process has identified changes to the Residential Zones - Single Dwelling Housing Development Code and Residential Zones - Multi-unit Dwelling Housing Development Code to enable the development assessment process to be clearer and quicker. The changes will clarify uncertainties within the two codes as well as reducing the requirements imposed on single dwelling developments. A change to the CZ5 Mixed Use Zone Development Code will ensure the residential component of it is consistent with the changes to the Single Dwelling and Multi-unit Dwelling Codes.

Proposed Changes and Reasons

- A. Subdivision of blocks** - reword *Residential Zones - Single Dwelling Housing Development Code* at Part A(1), R1 and Part B, Element 1, R14 and *Residential*

Zones – Multi-unit Dwelling Housing Development Code at Part A(1), R1 and Part B, Element 1, R28.

For clarification, detail as set out in V200 to the old Territory Plan is proposed to be reinserted into the *Residential Zones - Single Dwelling Housing Development Code* in respect to the wording at Part A(1), R1 and at Part B, Element 1, R14 and from *Residential Zones – Multi-unit Dwelling Housing Development Code* in the wording at Part A(1), R1 and at Part B, Element 1, R28.

In addition, the subdivision of blocks in residential areas is proposed to include the details from V260 which commenced May 2007 and removed the A10 overlay from some blocks. This provided an allowance for blocks that had a development approved subsequent to V200 and prior to the commencement of V260 to still be able to be subdivided.

B. 50% plot ratio in RZ2 - new wording in *Residential Zones - Single Dwelling Housing Development Code* at Part A(2), Element 2.

The 50% plot ratio limit in the Suburban Core Zone for redevelopment on standard blocks will be reinserted into the current Territory Plan.

C. Compliance with lease and development conditions - Reword *Residential Zones - Single Dwelling Housing Development Code* at Part B, Element 1, R17 and *Residential Zones – Multi-unit Dwelling Housing Development Code* at Part B, Element 1, R31 and insert in *CZ5 Mixed Use Zone Development Code* at Part A, Element 1, R2A

Clarification of this rule will assist in determining whether a development complies with the required lease and development conditions for the Estate Development Plan and therefore be considered to be exempt from development approval. A criterion is also being added to enable a development that does not comply with this rule to be considered under the merit track. This change is proposed to be added to the Mixed Use Code to enable the residential component to be consistent with the Single and Multi-unit Codes.

D. Compliance with Precinct Codes - new wording to *Residential Zones - Single Dwelling Housing Development Code* and *Residential Zones – Multi-unit Dwelling Housing Development Code* to create Criterion 18 at Part B, Element 1, and Criterion 32 at Part B, Element 1 respectively.

As there is currently no applicable criterion, wording is to be added to clarify that a development needs to comply with the criteria in the relevant Precinct Code where it does not meet the rules.

E. Waste Management referral - reword *Residential Zones - Single Dwelling Housing Development Code* at Part B, Element 7, R26 and C26, as well as deleting Part B, Element 7, R27 and C27. Reword *Residential Zones – Multi-unit Dwelling Housing Development Code*, Part B, Element 7, R50 & C50.

To reduce the amount of documentation that is required to be submitted for development applications, changes are proposed to the code. This will require a

waste management endorsement from Territory and Municipal Services only when a development will generate more than 5 cubic metres of waste. The clearance for site servicing will not be required at all for single dwelling applications.

F. Private Open Space requirements – reword *Residential Zones - Single Dwelling Housing Development Code* at Part C, Element 5 R49, *Residential Zones – Multi-unit Dwelling Housing Development Code* at Part A(1), Element 1, R2 and at Part A(2), Element 1 R10 and at Part C, Element 5 R88, R89 & R90, *Residential Zones – Multi-unit Dwelling Housing Development Code*

To clarify the area of private open space that is required to comply with R49 of the *Single Dwelling Housing Development Code* and R90 of the *Multi-unit Dwelling Housing Development Code* a minimum dimension will be added to these rules. In addition the requirement for private open space in multi-unit development to have ground floor access to the dwelling has been removed and has been included in the Zone Specific Controls.

In addition the wording of R88 of the *Multi-unit Dwelling Housing Development Code* is proposed to be changed to clarify the total and average private open space required.

G. RZ2 Restrictions on Use – reword *Residential Zones – Multi-unit Dwelling Housing Development Code* at Part A(2), Element 1 R10.

Proposed rewording will clarify that R10 refers to the width of the street frontage rather than the width of the block.

H. WSUD requirements – reword *Residential Zones - Single Dwelling Housing Development Code* at Part C(1), Element 6 R51.

The current wording for Element 6 is being interpreted that it applies to all single dwelling development. R51 needs to include additional wording to clarify that it applies only to new dwellings (both in established and greenfield areas) as well as extensions and alterations that increase the floor area by more than 50%.

I. Width of garage – reword *Residential Zones - Single Dwelling Housing Development Code* at Part C(1), Element 4 R44.

While the intent of R44 is to restrict the width of a garage, the 6m external width of the garage has been raised as being too restrictive for standard double garages. This technical amendment proposes to add a maximum garage opening width.

J. Car parking location – reword *Residential Zones – Multi-unit Dwelling Housing Development Code* at Part C(1), Element 4 R80 & R81.

The proposed changes will bring the requirements for the location of car parking spaces closer to what was included in the previous Territory Plan.

K. Inner North provisions for RZ4 - reword *Residential Zones – Multi-unit Dwelling Housing Development Code* at Part A(4), Element 2 R21.

The rule as currently written does not include a southern limit so could be interpreted to mean all RZ4 zones in South Canberra. A southern limit is proposed to clarify this issue.

- L. Height of buildings in RZ5 zone in Kingston & Griffith** - reword *Residential Zones – Multi-unit Dwelling Housing Development Code* at Part A(4), Element 2 R26 and insert new R26A.

The changes are proposed to provide a clearer distinction between the rule and the criteria.

- M. Referral to utilities (particularly stormwater)** - reword *Residential Zones - Single Dwelling Housing Development Code* at Part B, Element 7, R28 and *Residential Zones – Multi-unit Dwelling Housing Development Code* at Part B, Element 7, R52 & C52

To reduce the amount of documentation that is required to be submitted for single dwelling applications, changes are proposed to the code. A Statement of Compliance for stormwater will only be required where there is an easement on the block.

- N. Provisions for consolidated blocks in RZ2** – reword *Residential Zones – Multi-unit Dwelling Housing Development Code* at Part A(2), Element 1 R10 and R12.

Proposed rewording will clarify that R10 and R12 applies to standard blocks as well as the consolidation of standard blocks.

- O. Associated changes** – changes will be made to the subtitles and page numbers contained in the contents pages for the *Single Dwelling Housing Development Code* and the *Multi-unit Dwelling Housing Development Code* to reflect the changes outlined above.

3. TECHNICAL AMENDMENT

Variation to the Territory Plan Single Dwelling Housing Development Code

Amend the Territory Plan at Part 3.2, Residential Zones - Single Dwelling Housing Development Code as follows:

- 1) At Part A(1) – RZ1 – Suburban Zone - substitute the existing section 1.1 titled ‘Subdivision of Blocks’ with the following:

Rules	Criteria
1.1 Subdivision or Consolidation of Blocks (Including Unit Title Subdivision)	
<p>R1</p> <p>Consolidation of a lease of a standard block with another block (including another standard block) may only be permitted where the land is not registered on the Heritage Register and where the development is for supportive housing (see also <i>Residential Zones – Multi-unit Dwelling Housing Development Code</i>, Part D – Element 1.6)</p> <p>Subdivision of a lease of a standard block (or a block resulting from the consolidation of these blocks) to provide for more than one dwelling may only be permitted where:</p> <p>a) For land registered on the Heritage Register - all dwellings were lawfully constructed, approved or had been the subject of a development application for the construction of the dwellings that had been lodged by 1 September 2002 and subsequently approved; or</p> <p>b) For land not registered on the Heritage Register - all dwellings were lawfully constructed, approved or had been the subject of a formally commenced High Quality Sustainable Design process (Planning and Land Management; June 2001) by 17 June 2003 and for which a development application for the construction of the dwellings had been lodged by 1 September 2003 and subsequently approved.</p> <p>Note 1: Notwithstanding the provisions of this rule, subdivision (including unit title subdivision) of a standard</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

<p>block may be permitted where the development is located on land that was subject to the A10 Residential Core Area Specific Policy under the Territory Plan at the time the development was approved.</p> <p>Note 2: Subdivision or consolidation of land subject to the Heritage Act 2004 may only be permitted where not specifically prohibited by a guideline, order or agreement made under that Act.</p> <p>Note 3: Nothing in this rule prevents the subdivision or consolidation of blocks that are not standard blocks.</p> <p>Note 4: See also Rule R14.</p>	
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2) At Part A(2) – RZ2 – Suburban Core Zone – in Element 2 after Figure A2 insert the following:

Rules	Criteria
2.3 Plot Ratio on Standard Blocks	
<p>R6A</p> <p>Maximum site density on a standard block does not exceed a plot ratio of 50%.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

3) At Part B – General Development Controls - substitute the existing section 1.1 titled ‘Subdivision of Existing Residential Lease (except RZ1 Zone)’ with the following:

Rules	Criteria
1.1 Subdivision of Existing Residential Leases	
<p>R14</p> <p>a) Subdivision of existing residential leases is only permitted where the subdivision is part of an integrated housing development and it is demonstrated that any building on a consequent lease is or can be designed in accordance with the relevant sections of this code.</p> <p>b) Subdivision of a lease under the <i>Unit Titles Act 2001</i> may only be permitted where the lease expressly provides for the number of units or dwellings provided for in the proposed subdivision.</p> <p>Note 1: In this rule subdivision does not include a minor boundary adjustment that does not provide for the creation of an additional residential lease.</p> <p>Note 2: See also Rule R1 in relation to subdivision of a standard block in the RZ1 Zone.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

- 4) At Part B – General Development Controls - substitute the existing section 2.3 titled ‘Estate Development Plans approved or lodged up to 31 March 2008’ with the following:

Rules	Criteria
2.3 Development proposals where there are pre-existing approved Lease and Development Conditions	
<p>R17</p> <p>The development proposal complies with any relevant pre-existing approved Lease and Development Conditions and any required developer's consent has been provided. To the extent of any inconsistency, the requirements of the Lease and Development Conditions will take precedence over any Rules in the Single Dwelling Housing Development Code as listed below.</p> <ul style="list-style-type: none"> • Plot Ratio • Building Envelope • Building Height • Front Street Setback • Side Setback • Rear Setback • Materials and Finish • Interface • Vehicle Access • Parking • Solar Access • Private Open Space • Water Sensitive Urban Design 	<p>C17</p> <p>The development meets the intent of the Lease and Development Conditions.</p>

- 5) At Part B – General Development Controls - substitute the existing section 2.4 titled ‘Estate Development Plans lodged from 31 March 2008’ with the following:

Rules	Criteria
2.4 Development proposals where the Estate Development Plan is subject to a Precinct Code	
<p>R18</p> <p>The development proposal complies with all relevant rules in the relevant Precinct Code (if any).</p>	<p>C18</p> <p>The development meets all relevant criteria in the relevant Precinct Code (if any).</p>

- 6) At Part B – General Development Controls - substitute the existing section 7.1 titled ‘Waste Management’ with the following:

Rules	Criteria
7.1 Waste Management	
<p>R26</p> <p>Where the development will generate a total of 5 cubic metres or greater of demolition and/or construction waste, the application is accompanied by a Statement of Compliance from the Department of Territory and Municipal Services stating that the waste facilities and management associated with the development are in accordance with the <i>Development Control Code for Best Practice Waste Management in the ACT 1999</i>.</p>	<p>C26</p> <p>Development is in accordance with the <i>Development Control Code for Best Practice Water Management in the ACT 1999</i>. If the development will generate a total of 5 cubic metres or greater of demolition and/or construction waste and a Statement of Compliance is not provided, the application will be referred to the Department of Territory and Municipal Services in accordance with the requirements of the <i>Planning and Development Act 2007</i> for assessment against the above code.</p>

- 7) At Part B – General Development Controls – omit the existing section 7.2 titled ‘Servicing and Site Management’.

- 8) At Part B – General Development Controls - substitute the existing section 7.3 titled ‘Utilities’ with the following:

Rules	Criteria
7.3 Utilities	
<p>R28</p> <p>A Statement of Compliance from each relevant utility provider (for water, sewerage, electricity, stormwater and gas) is provided, which confirms that the location and nature of earthworks, utility connections, proposed buildings, pavements and landscape features comply with utility standards, access provisions and asset clearance zones.</p> <p>Note 1: If there is no stormwater easement or Territory owned stormwater pipes located within the property boundary, a "Statement of Compliance" for stormwater from TAMS (Asset Acceptance) is not required to be obtained</p> <p>Note 2: Where there is conflict between planning and utility requirements, the utility requirements take precedence over other codified or merit provisions</p>	<p>C28</p> <p>If a Statement of Compliance is not provided the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p>

- 9) At Part C(1) – Single Dwelling Housing – substitute R44 and C44 in the existing section 4.2 titled ‘Parking’ with the following:

Rules	Criteria
4.2 Parking	
<p>R44</p> <p>The maximum total width of garage door openings and external width of carports is 6m, or 50% of the frontage of the dwelling, whichever is less.</p>	<p>C44</p> <p>Parking complies with the requirements of the Parking and Vehicular Access General Code and ensures:</p> <ul style="list-style-type: none"> a) the amenity of neighbouring residential areas and streetscapes is not unacceptably affected by the provision of parking and access b) no traffic hazards are created by the provision of access and parking facilities for a development c) the safety of all users, especially pedestrians and cyclists, is considered d) the creation of community surveillance of car parking areas by people using neighbouring areas

	<ul style="list-style-type: none"> e) parking generated by a development does not unacceptably affect the safe and efficient functioning of traffic and access to neighbouring areas f) adequate supply of parking for the level of demand generated by the development g) safe and efficient access for all users, with the needs of residents and visitors being catered for by the on-site provision of adequate parking.
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10) At Part C(1) – Single Dwelling Housing – substitute R49 and C49 in the existing section 5.2 titled ‘Private Open Space’ with the following:

Rules	Criteria
5.2 Private Open Space	
<p>R49</p> <p>An area of private open space with a minimum dimension of at least 6 metres is:</p> <ul style="list-style-type: none"> a) screened from public view b) not forward of the building line except where permitted by, and illustrated in, an approved estate development plan c) located <ul style="list-style-type: none"> (i) not to the south, south-east or south-west of the dwelling, or (ii) to maintain a minimum three hours sunlight onto 50% of the ground between the hours of 9:00am and 3:00pm on 21 June (winter solstice) d) at ground level and directly accessible from a main daytime living area of the dwelling 	<p>C49</p> <ul style="list-style-type: none"> a) Private open space is capable of enabling an extension of the function of the dwelling for relaxation, dining, entertainment, recreation, and it is directly accessible from the dwelling. b) Private open space forward of the front building line ensures the amenity of the private open space and the dwelling is protected whilst maintaining opportunities for passive surveillance. c) Private open space is to take account of outlook, natural features of the site and neighbouring buildings or open space and to provide for maximum year round use.

11) At Part C(1) – Single Dwelling Housing - substitute the existing section 6.1 titled ‘Water Sensitive Urban Design’ with the following:

Rules	Criteria
6.1 Water Sensitive Urban Design	
<p>R51</p> <p>a) For all new dwellings (including in established areas), as well as extensions and alterations that increase the gross floor area by more than 50%, evidence is provided that shows the development achieves a minimum 40% reduction in mains water consumption compared to an equivalent development constructed in 2003, using the ACTPLA on-line assessment tool or the NSW BASIX tool. The 40% target is met without any reliance on landscaping measures to reduce consumption</p> <p>OR</p> <p>b) Rule 52 or Rule 53 applies.</p>	<p>This rule, or Rule 52 or Rule 53, are mandatory requirements. There is no applicable criterion.</p>
<p>R52</p> <p>If Rule 51 or Rule 53 is not met for all new dwellings (including in established areas), as well as extensions and alterations that increase the gross floor area by more than 50%, then water storage of the following capacity are provided on-site for each dwelling:</p> <p>a) <300m² block</p> <p>i) No minimum water storage requirement</p> <p>ii) minimum ★★★ rated plumbing fixtures</p> <p>b) small block: 300 – 499m²</p> <p>i) minimum storage: 2000 litres</p> <p>ii) 50% or 75m² of roof area, whichever is the lesser, is connected to the tank and the tank is connected to at least the toilet, laundry cold water and all external taps</p> <p>c) medium block: 500-800m²</p> <p>i) minimum storage: 4000 litres</p>	<p>This rule, or Rule 51 or Rule 53, are mandatory requirements. There is no applicable criterion.</p>

<p>ii) 50% or 100m² of roof area, whichever is the lesser, is connected to the tank and the tank is connected to at least the toilet, laundry cold water and all external taps</p> <p>d) large block: >800m²</p> <p>i) minimum storage: 10,000 litres</p> <p>ii) 50% or 125m² of roof area, whichever is the lesser, is connected to the tank and the tank is connected to at least the toilet, laundry cold water and all external taps</p>	
<p>R53</p> <p>If Rule 51 or Rule 52 is not met for all new dwellings (including in established areas), as well as extensions and alterations that increase the floor area by more than 50%, a greywater system captures all bathroom and laundry greywater and treats it to Class A standard. The treated greywater is connected to all laundry cold water, toilet flushing and all external taps.</p>	<p>This rule, or Rule 51 or Rule 52, are mandatory requirements. There is no applicable criterion.</p>

Variation to the Territory Plan Multi-unit Dwelling Housing Development Code

Amend the Territory Plan at Part 3.3, Residential Zones – Multi-unit Dwelling Housing Development Code as follows:

- 1) At Part A(1) – RZ1 – Suburban Zone - substitute the existing section 1.1 titled ‘Subdivision of Blocks’ with the following:

Rules	Criteria
1.1 Subdivision or Consolidation of Blocks (Including Unit Title Subdivision)	
<p>R1</p> <p>Consolidation of a lease of a standard block with another block (including another standard block) may only be permitted where the land is not registered on the Heritage Register and where the development is for supportive housing (see also Part D – Element 1.6).</p> <p>Subdivision of a lease of a standard block (or a block resulting from the consolidation of these blocks) to provide for more than one dwelling may only be permitted where:</p> <ol style="list-style-type: none"> a) For land registered on the Heritage Register - all dwellings were lawfully constructed, approved or had been the subject of a development application for the construction of the dwellings that had been lodged by 1 September 2002 and subsequently approved; or b) For land not registered on the Heritage Register - all dwellings were lawfully constructed, approved or had been the subject of a formally commenced High Quality Sustainable Design process (ACT Planning and Land Management; June 2001) by 17 June 2003 and for which a development application for the construction of the dwellings had been lodged by 1 September 2003 and subsequently approved. <p>Note 1: Notwithstanding the provisions of this rule, subdivision (including unit title subdivision) of a standard block may be permitted where the development is located on land that was subject to the A10 Residential Core Area Specific Policy under the Territory Plan at the time the development was approved.</p> <p>Note 2: Subdivision or consolidation of land subject to</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

the Heritage Act 2004 may only be permitted where not specifically prohibited by a guideline, order or agreement made under that Act

Note 3: Nothing in this rule prevents the subdivision or consolidation of blocks that are not standard blocks.

Note 4: See also Rule R28.

- 2) At Part A(1) – RZ1 – Suburban Zone - substitute the existing section 1.2 titled ‘Number of Dwellings per Block’ with the following:

Rules	Criteria
1.2 Additional Dwellings on a Standard Block	
R2	
a) On a standard block, the maximum number of dwellings permitted is two, unless the development is for the purpose of supportive housing.	This is a mandatory requirement. There is no applicable criterion.
b) No new apartments are permitted on a standard block.	

- 3) At Part A(2) – RZ2 – Suburban Core Zone - substitute the existing section 1.1 that is untitled with the following:

Rules	Criteria
1.1 Additional Dwellings on a Standard Block	
R10	
a) On a standard block (or a block resulting from the consolidation of these blocks), the maximum number of dwellings permitted is three, unless the block boundary fronting a street from which vehicular access is permitted is greater than 20m wide.	This is a mandatory requirement. There is no applicable criterion.
b) No new apartments are permitted on a standard block.	

- 4) At Part A(2) – RZ2 – Suburban Core Zone - substitute the existing section 1.1 that is untitled with the following:

Rules	Criteria
1.3 Site Area Requirements for Multi-unit Housing (other than dual occupancy housing)	
R12 a) On a standard block (or a block resulting from the consolidation of these blocks), the minimum site area for triple occupancy and other multi-unit housing is 1400m ² .	This is a mandatory requirement. There is no applicable criterion.

- 5) At Part A(4) – RZ4 – Medium Density Residential Zone – substitute R21 in the existing section 2.1 that is titled ‘Restrictions on Use – Staging of Development – Inner North Canberra’ with the following:

Rules	Criteria
2.1 Restrictions on Use – Staging of Development – Inner North Canberra	
R21 Development of land in the RZ4 zones of O’Connor, Dickson and Lyneham, north of Macarthur Avenue and Wakefield Avenue, is restricted in height to 2 storeys and a maximum plot ratio of 65%, until 23.5 hectares of residential blocks in the RZ4 zones of O’Connor, Turner and Braddon north of Cooyong Street and Donaldson Streets has been developed for multi-unit housing.	This is a mandatory requirement. There is no applicable criterion.

- 6) At Part A(5) – RZ5 – High Density Residential Zone – substitute R26 and C27 and insert R26A and C26A at the existing section 2.1 that is titled ‘Height’ for the following:

Rules	Criteria
2.1 Height	
R26 Buildings do not exceed RL 609.3 AHD in Kingston Section 25 Block 12 and Section 26 Block 47	This is a mandatory requirement. There is no applicable criterion.
R26A Kingston/Griffith: Buildings do not exceed 3 storeys.	C26A Kingston/Griffith: Buildings are predominantly three storeys,

	with a maximum height of four storeys only where it is not the dominant feature of a street frontage.
There is no applicable rule.	<p>C27</p> <p>Buildings are, on:</p> <p>a) Belconnen Section 66, Section 67, Block 3, part Block 2, and Section 88, part Block 1, predominantly three storeys, with a maximum of five storeys on parts of the Sections.</p> <p>b) Belconnen Section 55 Blocks 39-49, predominantly three storeys; however, taller buildings may be allowed where it is demonstrated that they will not create undesirable environmental conditions and will be of high architectural quality.</p>

- 7) At Part B – General Development Controls - substitute the existing section 1.1 titled ‘Subdivision of Existing Residential Lease (except RZ1 Zone)’ with the following:

Rules	Criteria
1.1 Subdivision or Consolidation of Existing Residential Leases	
<p>R28</p> <p>a) Subdivision or consolidation of existing residential leases is only permitted where the subdivision or consolidation is part of an integrated housing development and it is demonstrated that any building on a consequent lease is or can be designed in accordance with the relevant sections of this code.</p> <p>b) Subdivision of a lease under the <i>Unit Titles Act 2001</i> may only be permitted where the lease expressly provides for the number of units or dwellings provided for in the proposed subdivision.</p> <p>Note 1: In this rule subdivision does not include a minor boundary adjustment that does not provide for the creation of an additional residential lease.</p> <p>Note 2: See also Rule R1 in relation to subdivision of a standard block in the RZ1 Zone.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

- 8) At Part B – General Development Controls - substitute the existing section 2.3 titled ‘Estate Development Plans approved prior to 31 March 2008’ with the following:

Rules	Criteria
2.3 Development proposals where there are pre-existing approved Lease and Development Conditions	
<p>R31</p> <p>The development proposal complies with any relevant pre-existing approved Lease and Development Conditions and any required developer's consent has been provided. To the extent of any inconsistency, the requirements of the Lease and Development Conditions will take precedence over any Rules in the Multi Unit Housing Development Code as listed below.</p> <ul style="list-style-type: none"> • Plot Ratio • Building Envelope • Building Height • Site Area Requirements • Parking • Water Sensitive Urban Design • Front Street Setback • Side Setback • Rear Setback • Building Design • Materials and Finish • Interface • Vehicle Access • Solar Access • Private Open Space • Landscaping 	<p>C31</p> <p>The development meets the intent of the Lease and Development Conditions.</p>

- 9) At Part B – General Development Controls - substitute the existing Table 2.4 titled ‘Estate Development Plans approved post 31 March 2008’ with the following:

Rules	Criteria
2.4 Development proposals where the Estate Development Plan is subject to a Precinct Code	
<p>R32</p> <p>The development proposal complies with all relevant rules in the relevant Precinct Code (if any).</p>	<p>C32</p> <p>The development meets all relevant criteria in the relevant Precinct Code (if any).</p>

- 10) At Part B – General Development Controls - substitute the existing section 7.1 titled ‘Waste Management’ with the following:

Rules	Criteria
7.1 Waste Management	
<p>R50</p> <p>Where the development will generate a total of 5 cubic metres or greater of demolition and/or construction waste, the application is accompanied by a Statement of Compliance from the Department of Territory and Municipal Services stating that the waste facilities and management associated with the development are in accordance with the <i>Development Control Code for Best Practice Waste Management in the ACT 1999</i>.</p>	<p>C50</p> <p>Development is in accordance with the <i>Development Control Code for Best Practice Water Management in the ACT 1999</i>. If the development will generate a total of 5 cubic metres or greater of demolition and/or construction waste and a Statement of Compliance is not provided, the application will be referred to the Department of Territory and Municipal Services in accordance with the requirements of the <i>Planning and Development Act 2007</i> for assessment against the above code.</p>

11) At Part B – General Development Controls - substitute the existing section 7.3 titled ‘Utilities’ with the following:

Rules	Criteria
7.3 Utilities	
<p>R52</p> <p>A Statement of Compliance from each relevant utility provider (for water, sewerage, electricity, stormwater and gas) is provided, which confirms that the location and nature of earthworks, utility connections, proposed buildings, pavements and landscape features comply with utility standards, access provisions and asset clearance zones.</p> <p>Note 1: If there is no stormwater easement or Territory owned stormwater pipes located within the property boundary, a "Statement of Compliance" for stormwater from TAMS (Asset Acceptance) is not required to be obtained</p> <p>Note 2: Where there is conflict between planning and utility requirements, the utility requirements take precedence over other codified or merit provisions</p>	<p>C52</p> <p>If a Statement of Compliance is not provided the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p>

12) At Part C(1) – Multi Unit Housing – at the existing section 4.2 that is titled ‘Parking’ delete the following:

<p>R80</p> <p>Car-parking spaces and areas are set back a minimum distance of:</p> <p>a) 1.5 m from any external block boundary</p> <p>b) 1.5 m from a dwelling with which it is not associated.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
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13) At Part C(1) – Multi Unit Housing – substitute R81 and C81 in the existing section 4.2 that is titled ‘Parking’ with the following:

Rules	Criteria
4.2 Parking	
<p>R81</p> <p>a) Car-parking spaces and areas are set back a minimum distance of:</p> <ul style="list-style-type: none"> (i) 1.5 m from any external block boundary (ii) 1.5 m from a window to a habitable room of a dwelling with which it is not associated. <p>b) Car-parking spaces:</p> <ul style="list-style-type: none"> i) can be in tandem where they belong to the same dwelling, except for visitor parking where required ii) do not encroach any property boundaries. <p>c) One space is capable of being roofed and be behind the front zone.</p> <p>d) Minimum dimensions of on-site car parking spaces are:</p> <ul style="list-style-type: none"> i) 6.0 x 3.0 m single roofed space ii) 6.0 x 5.5 m double roofed space iii) 5.5 x 3.0 m unroofed space (unless for multiple spaces side by side, in which case, minimum 5.5 x 2.6 m per unroofed space is required) iv) 6.7 x 2.3 m parallel parking spaces v) 2.1 m minimum height to any overhead structure <p>e) Sightlines for off-street car-parking facilities are designed in accordance with the relevant requirements in AS2890.1 <i>The Australian Standard for Off Street Parking</i></p>	<p>C81</p> <p>Car parking complies with the requirements of the Parking and Vehicular Access General Code and ensures:</p> <ul style="list-style-type: none"> a) the amenity of neighbouring residential areas and streetscapes is not unacceptably affected by the provision of parking and access b) no traffic hazards are created by the provision of access and parking facilities for a development c) the safety of all users, especially pedestrians and cyclists, is considered d) the creation of community surveillance of car parking areas by people using neighbouring areas e) parking generated by a development does not unacceptably affect the safe and efficient functioning of traffic and access to neighbouring areas f) adequate supply of parking for the level of demand generated by the development g) safe and efficient access for all users, with the needs of residents and visitors being catered for by the on-site provision of adequate parking.

14) At Part C(1) – Multi Unit Housing – substitute R88, C88, R89, C89, R90 and C90 in the existing section 5.3 titled ‘Private Open Space’ with the following:

Rules	Criteria
5.3 Private Open Space	
<p>R88</p> <p>The average area of private open space per dwelling is not less than 60% of the average area of the block per dwelling less 50m², as demonstrated in the equation below</p> $\text{Average POS} = \left(\left(\frac{\text{Block Size}}{\text{n}^\circ \text{ of Dwellings}} \right) \times 0.6 \right) - 50 \text{ m}^2$ <p>The total required area of private open space is the average area of private open space per dwelling multiplied by the proposed number of dwellings on the block.</p>	<p>C88</p> <p>Private open space is of dimensions to suit the projected requirements of the dwelling’s occupants and to accommodate both outdoor recreation needs as well as providing space for service functions such as clothes drying and domestic storage.</p>
<p>R89</p> <p>Except as provided for in Rule 92, at least one area of private open space is provided per dwelling to meet the following minimum area and dimension requirements:</p> <ul style="list-style-type: none"> a) 10% of the area of the block b) 6m x 6m 	<p>C89</p> <p>Private open space is of dimensions to suit the projected requirements of the dwelling’s occupants and to accommodate both outdoor recreation needs as well as providing space for service functions such as clothes drying and domestic storage.</p>
<p>R90</p> <p>Except as provided for in Rule 92, an area of private open space with a minimum dimension of at least 6 metres is:</p> <ul style="list-style-type: none"> a) screened from public view b) not forward of the building line except where permitted by, and illustrated in, an approved estate development plan c) located <ul style="list-style-type: none"> (i) not to the south, south-east or south-west of the dwelling, or (ii) to maintain a minimum three hours sunlight onto 50% of the ground between the hours of 9:00am and 3:00pm on 21 June (winter solstice) d) at ground level with direct ground level access from a main daytime living area of the dwelling. 	<p>C90</p> <ul style="list-style-type: none"> a) Private open space is capable of enabling an extension of the function of the dwelling for relaxation, dining, entertainment and recreation b) Private open space forward of the front building line ensures the amenity of the private open space and the dwelling is protected whilst maintaining opportunities for passive surveillance. c) Private open space is to take account of outlook, natural features of the site and neighbouring buildings or open space and to provide for maximum year round use.

Variation to the Territory Plan CZ5 Mixed Use Zone Development Code

Amend the Territory Plan at Part 4.7, CZ5 Mixed Use Zone Development Code as follows:

- 1) At Part A – General Development Controls – after Rule 2 under the section 1.2 titled ‘Residential Use’ insert the following:

Rules	Criteria
<p>R3A</p> <p>The development proposal complies with any relevant pre-existing approved Lease and Development Conditions and any required developer's consent has been provided. To the extent of any inconsistency, the requirements of the Lease and Development Conditions will take precedence over any Rules in the Multi Unit Housing Development Code as listed below.</p> <ul style="list-style-type: none"> • Plot Ratio • Building Envelope • Building Height • Site Area Requirements • Parking • Water Sensitive Urban Design • Front Street Setback • Side Setback • Rear Setback • Building Design • Materials and Finish • Interface • Vehicle Access • Solar Access • Private Open Space • Landscaping 	<p>C3A</p> <p>The development meets the intent of the Lease and Development Conditions.</p>

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