

Australian Capital Territory

# **Planning and Development (Technical Plan Variation—Residential Zones Code) Notice 2009\***

**Notifiable instrument NI2009–38  
Technical Variation No 2008-11**

made under the

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

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

Variation No 2008–11 to the Territory Plan has been approved by the Planning and Land Authority

The variation specifies amendments to the Single Dwelling Housing Development Code, Multi-Unit Housing Development Code and other development codes as detailed in Annexure A.

Neil Savery  
Planning and Land Authority

29 January 2009

\*Name amended under Legislation Act, s 60



Planning & Development Act 2007

**Technical Amendment  
to the Territory Plan  
Variation  
V2008-11**

Amendments to the  
Single Dwelling Housing Development Code,  
Multi-Unit Housing Development Code and  
other development codes

February 2009

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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

- would only change a code; and
- is consistent with the policy purpose and policy framework of the code; and
- 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

## Proposed Changes and Reasons

- A. Clarify various meanings in the *Single Dwelling Housing Development Code*** – several rules and criteria have been reworded to better clarify their meanings:
- Specify that Part A of the code does not apply to compact blocks in New Residential Estates (**item 1 of the attached technical amendment**);
  - Specify that required driveway grades are measured from the kerb (**item 5; also item 29a for the *Multi-unit Housing Development Code***);
  - Improve the wording of the requirements to match footpath materials on driveway verges (**items 6 and 6a; also items 30 and 30a for the *Multi-unit Housing Development Code***);
  - Replace references to “development” with references to “dwellings” (**item 7**);
  - Specify that attics or basements are not permitted in addition to 2 storeys in RZ1 (as currently worded, it suggests that attics or basements are not permitted at any time) (**item 8**);
  - Clarify headings relating to height requirements (**item 9**);
  - Reword the requirements for bins storage and clothes drying areas to remove ambiguity (**items 10 and 11**).
- B. Remove the requirement for utilities endorsement for most single dwelling development in the *Single Dwelling Housing Development Code* (items 2 to 3)** – this will simplify processes for single dwelling development, particularly in relation to demolition.

- C. Specify allowable encroachments in the *Single Dwelling Housing Development Code* (item 4)** – this will clarify the allowable encroachments in single dwelling development.
- D. Clarify consistency with National Capital Plan (items 12, 16 and 37 to 52)** – reword *Multi-Unit Housing Development Code* at Part A, Element 1, R1 and Part B, Element 2, C30 and various other codes regarding consistency with requirements under the National Capital Plan. This variation clarifies that where any provision in the Territory Plan is not consistent with the National Capital Plan, including the requirements of Development Control Plans, that provision has no effect.
- E. Amend heading references to “height” in the *Multi-Unit Housing Development Code* (items 13, 17, 21, 23, 25, 26)** – the amendment clarifies that the requirements relate to the number of storeys permitted and not specifically to the actual height.
- F. Include references to plot ratio notes in rules and criteria within the *Multi-Unit Housing Development Code* (items 14, 15, 18, 19, 22, 24 and 27)** – this amendment will make it easier to identify the notes associated with plot ratio requirements.
- G. Update reference to “standard block” in relation to vehicle access in RZ2 and clarify where block width is measured from in R17 of the *Multi-Unit Housing Development Code* (item 20)** – this amendment brings the wording into line with other recent technical amendments (refer V2008-10) and clarifies where the 30m width is measured from.
- H. Clarify when Part C (1) does not apply in the *Multi-Unit Housing Development Code* (item 28)** – Whilst Parts C(3) to (5) of the code clearly state in their introductions that those controls apply instead of the default position for multi-unit housing as outlined in Part C(1), as currently worded the introduction to Part C may imply that those controls apply in addition to the controls of Part C(1) rather than instead of them. This amendment will remove any ambiguity.
- I. Correct cross-references in R63 of the *Multi-Unit Housing Development Code* (item 29)** – this amendment corrects a typographical error.
- J. Clarify references to “buildings on community land” in the *Community Facility Zone Development Code* (items 31 to 34)** – reword the reference to “community facilities buildings” to avoid confusion.
- K. Clarify the application of the *Subdivision Development Code* (items 35 to 36)** – Currently the code only specifically applies to residential Future Urban Areas subject to an Estate Development Plan. Consistent with the previous subdivision guidelines, this amendment will clarify that the code applies to the design and subdivision of any residential area subject to an Estate Development Plan.
- L. Update references to waste management guidelines (items 53 to 65)** – update current references in several codes to Territory and Municipal Services’ 1999 waste management guidelines to the current version of those guidelines.

### 3. TECHNICAL AMENDMENT

#### Variation to the Single Dwelling Housing Development Code

##### 1 Part A – Zone Specific Controls

*Insert after 'Parts B and C of the Code also apply':*

Part A does not apply to Compact Blocks in New Estates (refer Part C (3)).

##### 2 Part B, Element 2.1, R15 and C15

*Omit R15.*

*Omit C15.*

##### 3 Part B, Element 7.2, R28 and C28

*Substitute R28 with the following:*

There is no applicable rule.

*Substitute C28 with the following:*

C28

Where a development encroaches into a registered easement the application will be referred to the relevant utility provider in accordance with the requirements of the *Planning and Development Act 2007*.

##### 4 Part C(1), Element 2.4, new rule and criteria

*Insert new element heading, rule and criteria:*

2.4 Allowable encroachments	
<p>R32A</p> <p>a) The following building elements may extend within the minimum setbacks:</p> <ul style="list-style-type: none"><li>i) Fascias, gutters, downpipes</li><li>ii) Eaves</li><li>iii) Window shades and screens</li></ul> <p>b) The following building elements may extend within the minimum side or rear setback and/or beyond the building envelope:</p> <ul style="list-style-type: none"><li>i) Structures and building elements that, if they were a stand alone development, are considered exempt under the <i>Planning and Development Act 2007</i>.</li></ul>	<p>C32A</p> <p>Buildings and other structures are sited and reflect residential (suburban) scale, height and length to ensure:</p> <ul style="list-style-type: none"><li>a) sufficient spatial separation between adjoining developments</li><li>b) the protection of a reasonable amount of privacy and solar access to the dwelling (or adjacent dwellings) and outdoor spaces (or adjacent outdoor spaces).</li></ul>

##### 5 Part C(1), R40 (d)

*Insert after 'less than 17%' and before 'downhill':*

as measured from the kerb

*Insert after 'less than 12%':*

as measured from the kerb

**6 Part C, R40**

*Insert R40 i):*

- i) where there is a public footpath across the driveway verge crossing, the footpath is continuous (i.e. the footpath is to have precedence). If the existing footpath is replaced, it is to be constructed at the same level in the same material and colour as the original.

**7 Part C, R41**

*Omit.*

**8 Part C, C44**

*Omit (d) and (f).*

*Substitute the word 'development' for 'dwelling' in (b) and (e).*

**9 Part C(3), R60**

*Insert after 'not permitted':*

where they are located directly above or below any 2 storey element of the dwelling.

**10 Part C(3), Element 2.2**

*Substitute for the current heading:*

**Height – Other Zones**

**11 Part C(3), R79**

*Substitute:*

A storage space for mobile garbage and recycling bins is to be provided, to allow bins to be screened from public view.

**12 Part C(3), R80**

*Substitute:*

External clothes drying facilities are to be provided. These facilities are to be screened from public view.

## **Variation to the Multi-Unit Housing Development Code**

**13 Part A(1), Element 1, R1 and R2**

*Insert new note at the end of R1:*

Note 5: This rule does not apply where Special Requirements under the National Capital Plan (including any relevant Development Control Plan) permit buildings that would otherwise exceed height provisions of this code.

*Insert new note at the end of R2:*

Note: This rule does not apply where Special Requirements under the National Capital Plan (including any relevant Development Control Plan) permit buildings that would otherwise exceed height provisions of this code.

**14 Part A(1), Element 2.1**

*Substitute for the current heading:*

**Height (number of storeys)**

**15 Part A(1), R8**

*Insert after 'R8':*

\*

**16 Part A(1), R9**

*Insert after 'R9':*

\*

**17 Part A(1), Figure A1**

*Insert before 'Note' under Figure A1:*

\*

**18 Part A(2), Element 1, R10**

*Insert new note under the rule:*

Note: This rule does not apply where Special Requirements under the National Capital Plan (including any relevant Development Control Plan) permit buildings that would otherwise exceed height provisions of this code.

**19 Part A(2), Element 2.1**

*Substitute for the current heading:*

**Height (number of storeys)**

**20 Part A(2), R15**

*Insert after 'R15':*

\*

**21 Part A(2), R16**

*Insert after 'R16':*

\*

**22 Part A(2), Figure A1**

*Insert before 'Note' under Figure A2:*

\*



- 23 Part A(2), R17**  
*Insert after “standard block”:*  
(or blocks resulting from the consolidation of these blocks)  
*Insert after “30 m wide”:*  
as measured at the street frontage.
- 24 Part A(3), Element 2.1**  
*Substitute for the current heading:*  
**Height (number of storeys)**
- 25 Part A(3), R20**  
*Insert after ‘R20’:*  
\*
- 26 Part A(3), Figure A1**  
*Insert before ‘Note’ under Figure A3:*  
\*
- 27 Part A(4), Element 2.2**  
*Substitute for the current heading:*  
**Height (number of storeys)**
- 28 Part A(4), R24**  
*Insert after ‘R24’:*  
\*
- 29 Part A(4), bottom of Rules and Criteria table**  
*Insert before ‘Note’ under the rules and criteria table:*  
\*
- 30 Part B, Element 2.6**  
*Substitute for the current heading:*  
**Height (number of storeys)**
- 31 Part B, C34**  
*Insert after ‘C34’:*  
\*\*

**32 Part B, Element 2, bottom of the Rules and Criteria table**

*Substitute the note under the rules/criteria table:*

\*\* Note: The gross floor area of the development used in the calculation of the plot ratio shall be taken to be the gross floor area of the buildings plus 18m<sup>2</sup> for each roofed open car space or car port provided to meet Territory requirements for resident car parking (not including basement car parking) and the area of any balcony that is roofed and substantially enclosed by solid walls.

**33 Part C – Development Type Controls**

*In the introductory statement, second paragraph, omit ‘As such, it is the default position for multi unit housing’, and substitute:*

Part C(1) is therefore the default position for multi unit housing. Part C(2) provides additional controls in some areas, however Parts C(3) to C(5) provide controls that apply instead of Part C(1) in some areas. Parts A and B of the Code also apply.

*Insert after ‘Part C(3)...and the Gunghalin District.’*

These controls apply instead of Part C(1).

*Insert after ‘Part C(4)...as it applies to Kingston and Griffith.’*

These controls apply instead of Part C(1).

*Insert after ‘Part C(5)...multi-unit housing in the Commercial Zones.’*

These controls apply instead of Part C(1).

**34 Part C(1), R63 (d)**

*Substitute:*

d) it is a courtyard that meets the requirements of R64/C64, C65 and R66/C66.

**35 Part C(1), R72 (d)**

*Insert after ‘less than 17%’ and before ‘downhill’:*

as measured from the kerb

*Insert after ‘less than 12%’:*

as measured from the kerb

**36 Part C(1), R72**

*Insert R72 i):*

i) where there is a public footpath across the driveway verge crossing, the footpath is continuous (i.e. the footpath is to have precedence). If the existing footpath is replaced, it is to be constructed at the same level in the same material and colour as the original.

**37 Part C(1), R73**

*Omit*

## Variation to the Community Facility Zone Development Code

### 38 Part A, Element 2, R10

*Substitute* ‘community facilities buildings’ with the following:

buildings on community facility land

### 39 Part A, Element 2, C10

*Substitute:*

The height of buildings on community facility land minimises their impact on items such as solar access, privacy and residential amenity on adjacent residential sites.

### 40 Part A, Element 2, R11

*Substitute* ‘community facility buildings’ with the following:

buildings on community facility land

### 41 Part A, Element 2, C11

*Substitute:*

The setback of buildings on community facility land minimises their impact on items such as solar access, privacy and residential amenity on adjacent residential sites.

## Variation to the Future Urban Areas Residential Subdivision Development Code

### 42 Name of code

*Omit* “Future Urban Areas” from the title page and all footers, so that the name of the code is as follows:

Residential Subdivision Development Code

### 43 Part B

*Under* “Application of this code”, omit the first sentence and substitute:

This code applies to the design and subdivision of residential areas that are subject to an Estate Development Plan (EDP).

## Variation to Various Codes - National Capital Plan

44	Single Dwelling Housing Development Code, Part B, C16
45	Multi-Unit Housing Development Code, Part B, C30
46	City Centre Precinct Code, Part B, C62
47	Town Centre Precinct Code, Part B, C64
48	Group Centres Precinct Code, Part B, C37
49	Local Centres Precinct Code, Part A, C13
50	CZ2 Office Areas Outside Centres Precinct Code, Part A, C8
51	CZ5 Mixed use Zone Development Code, Part A, C8
52	CZ6 Leisure and Accommodation Zone Development Code, Part A, C10
53	Industrial Zones Development Code, Part B, C13
54	Community Facility Zone Development Code, Part A, C12
55	Parks and Recreation Zone Development Code, Part B, C15
56	Transport and Services Zone Development Code, Part B, C10
57	Non-urban Zones Development Code, Part B, C21
58	Northboune Avenue Precinct Code, Part B, C29
59	Rural Villages Precinct Code, Part D, C50

*Substitute the rule above for:*

Where a development is subject to Special Requirements under the National Capital Plan, or any relevant Development Control Plan prepared under the National Capital Plan, the development is not inconsistent with the Special Requirements or Development Control Plan. Where any provision of this code is inconsistent with Special Requirements under the National Capital Plan, or any relevant Development Control Plan prepared under the National Capital Plan, that provision has no effect.

## Variation to Various Codes – Waste Management

60	City Centre Precinct Code, Element 7.1 R99 and C99
61	Town Centre Precinct Code, Element 7.1, R99 and C99
62	Group Centres Precinct Code, Element 7.1, R71 and C71
63	Local Centres Precinct Code, Element 7.1, R48 and C48
64	CZ2 Office Areas Outside Centres Precinct Code, Element 7.1, R43 and C43
65	CZ5 Mixed use Zone Development Code, Element 7.1, R43 and C43
66	CZ6 Leisure and Accommodation Zone Development Code, Element 7.1, R45 and C45
67	Industrial Zones Development Code, Element 7.1, R50 and C50
68	Community Facility Zone Development Code, Element 7.1, R39 and C39
69	Parks and Recreation Zone Development Code, Element 7.1, R43 and C43
70	Transport and Services Zone Development Code, Element 7.1, R33 and C33
71	Non-urban Zones Development Code, Element 7.1, R40 and C40
72	Northboune Avenue Precinct Code, Element 7.1, R73 and C73

*Substitute 'Development Control Code for Best Practice Waste Management in the ACT 1999' for:*

the current version of the *Development Control Code for Best Practice Waste Management in the ACT*

## Interpretation service

ENGLISH	If you need interpreting help, telephone:
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ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
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