

# **Planning and Development (Technical Amendment—Changes to commercial and industrial codes, PRZ2 restricted access recreation zone and other codes) Plan Variation 2010**

**Notifiable instrument NI2010–697  
Technical Amendment No. 2010–33**

made under the

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

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This technical amendment commences on 22 December 2010.

Technical amendment number 2010–33 to the Territory Plan has been approved by the Planning and Land Authority.

Consultation on items in this technical amendment was undertaken as a part of TA2010–31 and met the requirement for limited consultation in accordance with section 90 of the Act.

Neil Savery  
Delegate of Planning and Land Authority

16 December 2010



Planning & Development Act 2007

# **Technical Amendment to the Territory Plan Variation 2010-33**

Changes to Commercial and Industrial Codes,  
PRZ2 Restricted Access Recreation Zone,  
and other codes

December 2010



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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 Development Act 2007* (the Act) 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 Act. This technical amendment has been prepared in accordance with the following two sections of the Act:

A code variation (section 87(b) of the Act) 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.

A variation under section 87(g) of the Act is a technical amendment that clarifies the language in the territory plan, provided it does not change the substance of the plan.

Following the release of technical amendment 2010-31 under section 90 of the Act, submissions from the public were invited. At the conclusion of the limited consultation period, the representations were considered by the ACT Planning and Land Authority (the Authority).

The Authority made the following decisions after consideration of comments:

- proceed with changes, excluding the proposed Kingston foreshore height provisions and changes to the Casey and Crace concept plans, as technical amendment number 2010–33 (including a minor change as a result of public comments)
- recognise the consultation undertaken as a part of TA2010–31 as satisfying the requirements for limited consultation under section 90 of the Act.

The final variation (TA2010–33) commenced on Wednesday 22 December 2010 after consideration of issues raised by comments received during consultation.

## 2. EXPLANATORY STATEMENT

### 2.1 Changes and Reasons

#### **A PRZ2 restricted access recreation development table and parks and recreation zone development code – clarification of assessment of certain uses (items 9,10, 12)**

It is necessary to clarify the circumstances in which certain uses, namely, club, educational establishment, guest house, hotel and motel may be assessed in the PRZ2 restricted access recreation zone. These uses are currently listed as prohibited in the development table, however there is a provision in the parks and recreation zone development code that permits these uses provided they are ancillary to the predominant recreation use of the land. The development tables are amended to remove these uses from the prohibited list and add them to the merit assessable list.

A rule and criterion have also been introduced into Part A(2) of the development code for the PRZ2 zone where a maximum of 15% of any discrete PRZ2 zone may be used for these purposes in line with the restrictions in Part A(1) of the code for the PRZ1 urban open space zone.

In response to issues raised during consultation, the rule has been modified to make it clear that the provision applies to listed uses but would not prevent such additional uses provided they are ancillary to a predominant recreational use on the same parcel of land.

#### **B Parks and recreation development code – changes to criterion C2 for PRZ1 urban open space to achieve consistency with new PRZ2 provision (item 11)**

This criterion has been amended to ensure consistency in format with the new PRZ2 provision relating to restrictions on use for certain uses.

#### **C Commercial zones development codes and industrial zones development code – introduction of criterion for loading and unloading of service vehicles (items 1-8)**

The commercial development codes and industrial zone development code contain rules relating to the movement of service vehicles and restricts where, and how, the loading and unloading of goods can take place. The mandatory provisions require adequate manoeuvring space for vehicles to enter and leave the site in a forward direction. The Department of Territory and Municipal Services (TaMS) has advised that it is prepared to approve instances where service vehicles reverse into a site for loading or unloading purposes and drive out in a forward direction (and vice versa) provided that this can be achieved safely. However TaMS is unable to give approval in such instances due to the

mandatory rule. An associated criterion will be added to the codes to allow for greater flexibility provided that TaMS is satisfied with the arrangements.

#### **D Parking and vehicular access general code – changes to parking provision for cinemas in city centre (item 13)**

Recent changes to this code amended the parking rates for cinemas and theatres in the city centre from 1 space for 12 seats (as per March 2008 Territory Plan) to 1 space for 3 seats. However, further investigation has identified that the parking rates required for theatres and cinemas should be separated in the city centre due to differences in observed occupancy rates. The Canberra Theatre often has activities during normal business hours as well as in the evenings and on weekends, whereas most cinemas have low occupancy rates during normal busy periods. As a result the parking rate for cinemas in the city centre will be changed back to the March 2008 provision of 1 space for every 12 seats, and the rate for theatre parking will remain unchanged at 1 space for every 3 seats to accommodate the different occupancy rates.

## **2.2 Statement of compliance with the Planning and Development Act**

### **2.2.1 PRZ2 Restricted access recreation zone table and parks and recreation zone development code section 87(g) of Act**

This technical amendment was made as a clarification of language variation to the Territory Plan and was made under section 87(g) of the Act.

Statement of compliance with section 87(g) of Planning and Development Act is met

*87(g) a variation to clarify the language in the territory plan if it does not change the substance of the plan*

The language in the plan is being clarified regarding uses currently considered ancillary uses. This involves changes to the PRZ2 restricted access recreation development table and the parks and recreation zone development code provisions to limit the area of the zone to be used for a club, educational establishment, guest house, hotel and motel. These changes are to make these provisions similar to those used in the PRZ1 zone.

### **2.2.2 Loading and unloading of service vehicles - Commercial zones and industrial zones development codes section 87(b) of Act**

Statement of compliance with section 87(b) of Planning and Development Act

*s87(b)(i) would only change a code*

Would only change the commercial zone development codes (being the city centres zone development code, town centres zone development code, group

centres zone development code, local centres development code, CZ2 office areas outside centres development code, CZ5 mixed use zone development code and CZ6 leisure and accommodation zone development code) and the industrial zone development code.

*s87(b)(ii) is consistent with the policy purpose and policy framework of the code*

The purposes of the commercial codes and the industrial codes are generally to:

- City centres development code – to maintain and promote the City centre as the main commercial centre of Canberra
- Town centres development code – to provide the main focus for shopping, community, business and recreation at the town centres.
- Group centres development code – provide for a range of shopping, community, business and recreation facilities predominantly serving the surrounding or nearby suburbs.
- Local centres development code – to encourage shops and active frontages and provide for the convenience retailing and other services for local residents
- CZ2 – Office areas outside centres development Code – to concentrate employment in activity nodes well serviced by public transport and support complimentary services
- CZ5 – Mixed use zone – encourages higher density residential in location close to transport, services and facilities with limited commercial activities.
- CZ6 – Leisure and accommodation zone – to provide for development of entertainment, accommodation and leisure facilities for residents and visitors to the ACT.
- Industrial zones development code – IZ1 zone supports the diversification and expansion of the ACT's industrial base and employment growth. – IZ2 zone supports the diversification and expansion of the industrial base whilst providing for a range of small-scale services that support industrial activities.

On the basis of an assessment of the zone objectives, contained in the codes or relevant development tables the changes are consistent with the policy purpose and policy framework of the code.

*s87(b)(iii) is not an error variation*

The changes do not constitute a formal error.

### **2.2.3 Parking and vehicular access general code section 87(b) of Act**

#### Statement of compliance with section 87(b) of Planning and Development Act

*s87(b)(i) would only change a code*

Only changes the parking and vehicular access general code

*s87(b)(ii) is consistent with the policy purpose and policy framework of the code*

The main objectives of the City centres development code are to:

- a) *Maintain and promote the City Centre as the main commercial centre of Canberra and the region*
- b) *Provide a centre for Canberra that is vibrant, interesting and lively*
- c) *Provide a focus for cultural and community facilities and a range of entertainment and tourist activities*
- d) *Provide opportunities for business investment and employment and accommodate central administrative functions serving the ACT community*
- e) *Encourage a mix of land uses, including residential uses, which contribute to a diverse and active character*
- f) *Maintain and enhance a high standard of urban design and ensure that buildings in the City Centre retain a high level of design consistency and compatibility of colour and external materials*
- g) *Maintain and enhance environmental amenity*

Consideration of the change to the parking rate is within the policy purpose and policy framework based on the consideration of the objectives for the city centre.

The purpose of the code is to: *'ensure that development achieves the relevant objectives of the Territory Plan and will be used by the Authority in the assessment of development applications involving development, redevelopment and lease variations. The code specifies vehicular access and parking requirements for development'*.

The proposed change to reduce the parking rates for cinema in the city centre from 1 space per 3 seats to 1 space per 12 seats has been based on observed occupancy rates and times of usage being mainly outside normal business hours.

*s87(b)(iii) is not an error variation*

The changes do not constitute a formal error.

## **2.2.4 Compliance with section 89 of Act**

*s89(1)(a) the planning and land authority is satisfied that a plan variation would, if made, be a technical amendment*

See compliance with section 87(b) above.

*s89(1)(b) any limited consultation needed for the variation has taken place*

Limited consultation took place and items contained in this technical amendment were notified as a part of TA2010-31 for 15 working days from 15 October 2010 to 8 November 2010. This was in accordance with section 90 of the Act and was advertised in a daily newspaper on 16 October 2010. The National Capital Authority was also notified in accordance with section 90 of the Act.



### 3. TECHNICAL AMENDMENT

#### Variation to city centre development code

<b>1. Part B General Development Controls, Element 4: Parking and Site Access</b>
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a) *Omit item 4.5 Circulation and substitute with*

**4.5 Service Access and Delivery**

b) *Insert criterion C76*

Provision is made for associated loading and unloading of goods which complies with all of the following:

- a) demonstrates adequate justification for the proposed arrangements when not entering and exiting in a forward direction
- b) does not unreasonably compromise the safety of pedestrian and traffic movement and operation of any adjoining facilities such as road, cycleway or pedestrian pathway, and on-street and off-street parking
- c) provides adequate space for the manoeuvring of vehicles
- d) is endorsed by the Department of Territory and Municipal Services.

#### Variation to town centres development code

<b>2. Part B General Development Controls, Element 4: Parking and Site Access</b>
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a) *Omit item 4.5 Circulation and substitute with*

**4.5 Service Access and Delivery**

b) *Insert criterion C76*

Provision is made for associated loading and unloading of goods which complies with all of the following:

- a) demonstrates adequate justification for the proposed arrangements when not entering and exiting in a forward direction
- b) does not unreasonably compromise the safety of pedestrian and traffic movement and operation of any adjoining facilities such as road, cycleway or pedestrian pathway, and on-street and off-street parking
- c) provides adequate space for the manoeuvring of vehicles
- d) is endorsed by the Department of Territory and Municipal Services.

## Variation to group centres development code

### **3. Part B General Development Controls, Element 4: Parking and Site Access**

a) *Omit item 4.5 Circulation and substitute with*

#### **4.5 Service Access and Delivery**

b) *Insert criterion C50*

Provision is made for associated loading and unloading of goods which complies with all of the following:

- a) demonstrates adequate justification for the proposed arrangements when not entering and exiting in a forward direction
- b) does not unreasonably compromise the safety of pedestrian and traffic movement and operation of any adjoining facilities such as road, cycleway or pedestrian pathway, and on-street and off-street parking
- c) provides adequate space for the manoeuvring of vehicles
- d) is endorsed by the Department of Territory and Municipal Services.

## Variation to local centres development code

### **4. Part B General Development Controls, Element 4: Parking and Site Access**

a) *Omit item 4.5 Circulation and substitute with*

#### **4.5 Service Access and Delivery**

b) *Insert criterion C26*

Provision is made for associated loading and unloading of goods which complies with all of the following:

- a) demonstrates adequate justification for the proposed arrangements when not entering and exiting in a forward direction
- b) does not unreasonably compromise the safety of pedestrian and traffic movement and operation of any adjoining facilities such as road, cycleway or pedestrian pathway, and on-street and off-street parking
- c) provides adequate space for the manoeuvring of vehicles
- d) is endorsed by the Department of Territory and Municipal Services.

## Variation to CZ2 office areas outside centres development code

### 5. Part B General Development Controls, Element 4: Parking and Site Access

a) *Omit item 4.5 Circulation and substitute with*

#### 4.5 Service Access and Delivery

b) *Insert criterion C20*

Provision is made for associated loading and unloading of goods which complies with all of the following:

- a) demonstrates adequate justification for the proposed arrangements when not entering and exiting in a forward direction
- b) does not unreasonably compromise the safety of pedestrian and traffic movement and operation of any adjoining facilities such as road, cycleway or pedestrian pathway, and on-street and off-street parking
- c) provides adequate space for the manoeuvring of vehicles
- d) is endorsed by the Department of Territory and Municipal Services.

## Variation to CZ5 mixed use zone development code

### 6. Part A General Development Controls, Element 4: Parking and Site Access

a) *Omit item 4.5 Circulation and substitute with*

#### 4.5 Service Access and Delivery

b) *Insert criterion C20*

Provision is made for associated loading and unloading of goods which complies with all of the following:

- a) demonstrates adequate justification for the proposed arrangements when not entering and exiting in a forward direction
- b) does not unreasonably compromise the safety of pedestrian and traffic movement and operation of any adjoining facilities such as road, cycleway or pedestrian pathway, and on-street and off-street parking
- c) provides adequate space for the manoeuvring of vehicles
- d) is endorsed by the Department of Territory and Municipal Services.

## Variation to CZ6 leisure and accommodation zone development code

### 7. Part B General Development Controls, Element 4: Parking and Site Access

a) *Omit item 4.5 Circulation and substitute with*

#### **4.5 Service Access and Delivery**

b) *Insert criterion C22*

Provision is made for associated loading and unloading of goods which complies with all of the following:

- a) demonstrates adequate justification for the proposed arrangements when not entering and exiting in a forward direction
- b) does not unreasonably compromise the safety of pedestrian and traffic movement and operation of any adjoining facilities such as road, cycleway or pedestrian pathway, and on-street and off-street parking
- c) provides adequate space for the manoeuvring of vehicles
- d) is endorsed by the Department of Territory and Municipal Services.

## Variation to industrial zones development code

### 8. Part B – General Development Controls, Element 4: Parking and Site Access

a) *Omit item 4.2 Circulation and substitute with*

#### **4.2 Service Access and Delivery**

b) *Insert criterion C30*

Provision is made for associated loading and unloading of goods which complies with all of the following:

- a) demonstrates adequate justification for the proposed arrangements when not entering and exiting in a forward direction
- b) does not unreasonably compromise the safety of pedestrian and traffic movement and operation of any adjoining facilities such as road, cycleway or pedestrian pathway, and on-street and off-street parking
- c) provides adequate space for the manoeuvring of vehicles
- d) is endorsed by the Department of Territory and Municipal Services.

## Variation to PRZ2 restricted access recreation development table

### 9. PROHIBITED

*Omit*

Club, Educational establishment, COMMERCIAL ACCOMMODATION USE

### 10. MINIMUM ASSESSMENT TRACK MERIT

*Insert*

Club, Educational establishment, Guest house, Hotel, Motel

## Variation to parks and recreation zone development code

### 11. Part A – Zone Specific Controls, Part A(1) – PRZ1 – Urban Open Space Zone, Element 1: Restrictions on Use, criterion C2

*Substitute with*

Development for these purposes in the PRZ1 urban open space zone meets all of the following:

- a) Does not unreasonably restrict access to recreation space
- b) Is of an appropriate scale and compatible with its open space setting.

### 12. Part A – Zone Specific Controls, Part A(2) – PRZ2 – Restricted Access Recreation Zone, Element 1: Restrictions on Use

*Insert*

<p>R7A</p> <p>Development for these purposes meets one of the following:</p> <ol style="list-style-type: none"><li>a) Is ancillary to the use of the land for recreation purposes</li><li>b) The proportion of the land area of any discrete PRZ2 restricted access recreation zone (i.e. not separated by another zone) used for these purposes and associated car parking and other site facilities is a maximum of 15%.</li></ol>	<p>C7A</p> <p>Development for these purposes in the PRZ2 restricted access recreation zone meets all of the following:</p> <ol style="list-style-type: none"><li>a) Does not unreasonably restrict the availability of land in the zone for recreation purposes</li><li>b) Is of an appropriate scale and compatible with the recreational purposes of the zone.</li></ol>
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## Variation to parking and vehicular access general code

**13. Part 3 Parking and vehicular access, 3.2 Commercial zones (excepting CZ5 mixed use zone and CZ6 leisure and accommodation zone), 3.2.5 Schedules of parking provisions rates for commercial zones, Schedule 2 – Parking provision rates for commercial zones**

*Substitute for Indoor entertainment facility as underlined:*

<i>Development</i>	<i>City centre</i>	<i>Town centres</i>	<i>Group centres</i>	<i>Local centres</i>	<i>CZ2 zones outside centres and Northbourne Avenue precinct</i>
Indoor entertainment facility					
<u>Cinema</u>	<u>1 space/12 seats</u>	1 space/4 seats	1 space/4 seats		N/A
<u>Commercial theatre</u>	<u>1 space/3 seats</u>				

## Interpretation service

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
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