

Australian Capital Territory

# **Planning and Development (Technical Amendment—Miscellaneous Amendment) Plan Variation 2015 (No 3)\***

**Notifiable Instrument NI2015—452**

**Technical Amendment No 2015—14**

made under the

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

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**This technical amendment commences on 28 August 2015.**

**Variation No 2015-14 to the Territory Plan has been approved by the planning and land authority.**

Jim Corrigan  
Delegate of the planning and land authority  
20 August 2015

\*Name amended under Legislation Act, s 60

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

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**ACT**

Government

Environment and Planning

Planning & Development Act 2007

# **Technical Amendment to the Territory Plan Variation 2015-14**

Miscellaneous amendments

August 2015

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# 1. INTRODUCTION

## 1.1 Purpose

This technical amendment proposes the following changes to the Territory Plan.

### *Commercial zones development code*

- Remove superfluous detail from criterion 1 (historical error – references unintentionally retained during a previous commercial code restructure)

### *Deakin precinct map and code*

- Remove Rule 12 and Criterion C12 to correctly reflect original intent of the provisions for the Deakin Office Site area.
- Amend the precinct code to rectify omissions of criterion numbers

### *Fyshwick precinct map and code*

- Adjust assessment track tables to address inadvertent contradiction between additional prohibited development and additional merit track development.

### *Gungahlin precinct map and code*

- Rectify incorrect reference to a rule number (R11 should be R13) in Rule R13

### *Kingston precinct map and code*

- Rectify incorrect reference to a figure (figure 5 should be figure 6) in Rule R45

## 1.2 National Capital Authority

The National Capital Authority has been advised of this technical amendment.

## 1.3 Process

This technical amendment has been prepared in accordance with section 87 of the *Planning and Development Act 2007* (the Act). The planning and land authority must notify the public of the commencement of this technical amendment.

## 1.4 Types of technical amendments under the Act

The following categories of technical amendments are provided under section 87 of the Act:

- (a) a variation (an **error variation**) that –
  - (i) would not adversely affect anyone's rights if approved; and
  - (ii) has as its only object the correction of a formal error in the plan

- (b) a variation (a **code variation**) 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
- (c) a variation in relation to a future urban area under section 95 (Technical amendments – future urban areas);
- (d) a variation in relation to an estate development plan under section 96 (Effect of approval of estate development plan);
- (e) a variation to change the boundary of a zone or overlay under section 96A (Rezoning – boundary changes);
- (f) a variation required to bring the territory plan into line with the national capital plan;
- (g) a variation to omit something that is obsolete or redundant in the territory plan;
- (h) a variation to clarify the language in the territory plan if it does not change the substance of the plan;
- (i) a variation to relocate a provision within the territory plan if the substance of the provision is not changed.

Following each item in Part 2 Explanation of this technical amendment is a statement of compliance against the specific criteria for the relevant category of technical amendment.

TA2015-14 has been prepared in accordance with section 87(a) of the Act.

## **2. EXPLANATION**

This part of the technical amendment document explains the changes to be made to the Territory Plan, the reasons for the change, and a statement of compliance against the relevant section of the Act.

### **2.1 Commercial zones development code**

Criterion C1 in Part A of the Commercial zones development code contains references to abbreviations “C3A, CZ5 DC” at the end of the provision. These are remnant abbreviations that were inadvertently carried over from a previous provision when the code was restructured. These are not applicable to the current criterion and have been removed.

### **2.2 Deakin precinct map and code**

#### **Deletion of Rule R12 and Criterion C12**

Criterion C11, Rule R12 and Criterion C12 in the Deakin precinct map and code were previously located in the CZ2 office areas outside centres precinct code prior to 2012 but were removed when all the suburb specific provisions were transferred into the suburb precinct codes (ref. technical amendment TA2012-06). Prior to this, these provisions were translated from the previous Territory Plan Part B2E: Corridors and office sites land use policies into the restructured Territory Plan in 2008.

There were a number of locations around Canberra which were identified as office sites outside centres, including in Deakin, Kingston and Bruce. There were general controls that applied to these areas, as well as area specific policies directing the land use, design and siting controls etc for the specific locations.

A general control permitted a maximum building height of 4 storeys except where area specific policies provided otherwise. Deakin had specific height controls for sections within the Deakin office site area that prescribed a maximum building height of 2 storeys for the area except for Deakin Section 68 where the maximum building height was 3 storeys and Section 35 Blocks 2 and 28 where the maximum building height was not to exceed 4 storeys.

When these provisions were translated from the previous Territory Plan into the new Territory Plan, there has been the unintentional result of including the maximum 4 storey building height in the Deakin office site area, whereas it is clearly evident that apart from Section 35 Blocks 2 and 28, there are no other blocks and sections within the Deakin office site area where the 4 storey height would apply. All other parcels of land in the Deakin office site area are subject to a maximum of 2 or 3 storeys.

Rule R12 and Criterion C12 are deleted from the Deakin precinct code to remove this unintentional legacy that has been transferred across in various renditions of the codes applying to the Deakin office site area. This will ensure that the Deakin office

site area provisions retain the integrity and policy neutrality that was intended for the area, and remove any confusion and contradiction in the interpretation of the provisions.

*Existing provisions*

**RC2 DEAKIN OFFICE SITE**

**Element 4: Buildings**

Rules	Criteria
<b>4.1 Number of storeys</b>	
<p>There is no applicable rule.</p>	<p>C11</p> <ul style="list-style-type: none"> <li>a) Building heights achieve all of the following:               <ul style="list-style-type: none"> <li>i) compatibility with the desired character</li> <li>ii) appropriate to the scale and function of the use</li> <li>iii) minimise detrimental impacts, including overshadowing and excessive scale</li> </ul> </li> <li>b) The maximum number of storeys is               <ul style="list-style-type: none"> <li>iv) section 68 – 3</li> <li>v) section 35 blocks 2 and 28 – 4</li> <li>vi) on all other sites – 2</li> </ul> </li> </ul>
<p>R12</p> <p>The maximum number of storey is 4.</p>	<p>C12</p> <p>The number of storeys comply with all of the following:</p> <ul style="list-style-type: none"> <li>i) compatibility with existing, or future desired character of, adjacent development</li> <li>ii) appropriate to the scale and function of the use</li> <li>iii) minimise detrimental impacts, including overshadowing and excessive scale</li> <li>iv) no higher than the established tree canopy along main avenues with primarily landscaped frontage</li> </ul>

**Rectification of criterion numbering**

The Deakin precinct code also contained some criterion number omissions, namely C14 and C16. This technical amendment corrects these omissions.



New provision

## RC2 DEAKIN OFFICE SITE

### Element 4: Buildings

Rules	Criteria
<b>4.1 Number of storeys</b>	
There is no applicable rule.	<p>C11</p> <ul style="list-style-type: none"><li>a) Building heights achieve all of the following:<ul style="list-style-type: none"><li>i) compatibility with the desired character</li><li>ii) appropriate to the scale and function of the use</li><li>iii) minimise detrimental impacts, including overshadowing and excessive scale</li></ul></li><li>b) The maximum number of storeys is<ul style="list-style-type: none"><li>i) section 68 – 3</li><li>ii) section 35 blocks 2 and 28 – 4</li><li>iii) on all other sites – 2</li></ul></li></ul>

### 2.3 Fyshwick precinct map and code

The Fyshwick precinct map and code identifies areas with additional prohibited development (PD1 and PD2 areas) and areas with additional merit track development (MT1-MT6).

In Table 1 – Additional prohibited development under PD1 the umbrella term of *NON-RETAIL COMMERCIAL USE* is prohibited. However in Table 2 – Additional merit track development, the MT2 and MT6 areas allow for *office*. Under the Definitions in the Territory Plan, *Office* is a permissible type of development which is located under the umbrella term of *NON-RETAIL COMMERCIAL USE*. The PD1 and MT2 and MT6 areas overlap in parts of the industrial IZ2 mixed use zone in Fyshwick. This situation has resulted in an anomaly whereby a use (*office*) is simultaneously prohibited and permitted.

To rectify this anomaly, all the prohibited uses under the umbrella term for *NON-RETAIL COMMERCIAL USE* except for *office* are expressly listed in Table 1.

## **2.4 Gungahlin precinct map and code**

Under Element 6: Parking and site access, Item 6.1 Sites for public car parking: Rule 13 part b) iii) incorrectly refers to 'R11 b) i) in the text. This should refer to R13 b) i). This error is rectified in this TA.

## **2.5 Kingston precinct map and code**

Rule 45 in the Kingston precinct code refers to specific requirements for Kerridge Street. The rule incorrectly refers to figure 5. This is rectified to refer to figure 6 which specifically identifies the areas in and around Kerridge Street that the rule refers to.

### 3. TECHNICAL AMENDMENT

This section of the technical amendment document provides the actual instructions for implementing the changes to the Territory Plan.

#### 3.1 Commercial zones development code

**1. Part A – General controls; Element 1 Lease and development conditions; Item 1.1 Approved lease and development conditions; Criterion C1**

*Remove*

C3A, CZ5 DC

#### 3.2 Deakin precinct map and code

**2. RC2 – Deakin Office Site; Element 4: Buildings; Item 4.1 Number of storeys; Criterion C11 and Rule R12 and Criterion C12**

*Delete*

Rule R12 and Criterion C12

**3. RC3 – Mixed Use Commercial Area; Element 5: Use; Item 5.1 Restaurant; business agency and shop – associated criterion**

*Add to cell containing criterion text for this item:*

C14

**1. RC3 – Mixed Use Commercial Area; Element 5: Use; Item 5.2 Office – associated criterion**

*Add to cell containing criterion text for this item:*

C16

### 3.3 Fyshwick precinct map and code

#### 2. Assessment Tracks

*Substitute*

**Table 1 – Additional prohibited development**

Additional prohibited development		
Suburb precinct map label	Zone	Development
PD1	IZ2	<i>bulk landscape supplies</i> <i>bulky goods retailing</i> <i>business agency</i> <i>club</i> <i>financial establishment</i> <i>funeral parlour</i> <i>general industry</i> <i>industrial trades</i> <i>liquid fuel depot</i> <b>MAJOR UTILITY INSTALLATION</b> <i>public agency</i> <i>recycling facility</i> <i>scientific research establishment</i> <i>service station</i> <i>store</i> <i>vehicle sales</i> <i>veterinary hospital</i> <i>waste transfer facility</i>
PD2	CZ2	<i>drink establishment</i> <i>indoor entertainment facility</i> <i>tourist facility</i> <i>tourist resort</i>

### 3.4 Gungahlin precinct map and code

#### 3. General development controls; Element 6: Parking and site access; Item 6.1 Sites for public car parking; Rule R13

In paragraph b) iii)

*Substitute*

- iii) ensure the number of car parking spaces identified in R13 b) i) remains available for public access

### 3.5 Kingston precinct map and code

<b>4. RC4 – Kingston Foreshore; Element 8: Buildings; Item 8.4 Kerridge Street; Rule R45</b>
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*Substitute the first paragraph with*

This rule applies to each area A shown in figure 6.

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