

Australian Capital Territory

Planning and Development (Plan Variation No 343) Notice 2015

Notifiable Instrument NI2015-642

made under the

Planning and Development Act 2007, section 76(3)

1 Name of instrument

This instrument is the *Planning and Development (Plan Variation No 343) Notice 2015**.

2 Plan Variation No 343

On 11 November 2015 the Minister for Planning approved a draft of the attached plan variation to the Territory Plan (*Annexure A*) under s76 (3).

Christopher Collier
Delegate of the Planning and Land Authority
12 November 2015

*Name amended under Legislation Act, s 60



ACT
Government

Environment and Planning

ANNEXURE A

Planning and Development Act 2007

Variation to the Territory Plan No 343

**Residential blocks surrendered under the
loose fill asbestos insulation eradication
scheme**

Final variation prepared under s76 of the
Planning and Development Act 2007

This page is intentionally blank.

Contents

- 1. **EXPLANATORY STATEMENT** 1
 - 1.1 Background..... 1
 - 1.2 Summary of the Proposal 1
 - 1.3 The National Capital Plan2
 - 1.4 Site Description.....2
 - 1.5 Current Territory Plan Provisions..... 3
 - 1.6 Changes to the Territory Plan3
 - 1.7 Consultation on the Draft Variation4
 - 1.8 Revisions to the Draft Variation Recommended to the Minister6

- 2. **VARIATION**..... 7
 - 2.1 Variation to the Territory Plan Map7

This page is intentionally blank.

1. EXPLANATORY STATEMENT

1.1 Background

The ACT Government is conducting a voluntary buyback of all known houses in the ACT affected by loose fill asbestos insulation so that they can be demolished.

This is being achieved through the Loose Fill Asbestos Insulation Eradication Scheme (the Scheme) under implementation by the Asbestos Response Taskforce (the Taskforce). The demolition program is overseen by regulatory authorities within Access Canberra including WorkSafe ACT and the Environment Protection Authority.

Once affected houses are surrendered, demolished and contaminated soil removed, blocks will be re-sold at market value to defray some of the overall cost of the Scheme.

Opportunities for unit-titling of dual occupancy properties in the RZ1 suburban zone are being introduced through this variation. Consistent with ACT Planning Strategy 2012 and Transport for Canberra, this is also anticipated to enhance the value of blocks surrendered under the Scheme to assist in managing the cost to the ACT community of the Scheme. However, even after the resale of blocks, the cost to the Territory is an estimated \$400 million.

Affected homeowners will have first right of refusal to repurchase their block back if desired. Stamp duty waivers and Land Rent provisions are available to support homeowners in mitigating increased costs of blocks.

The changes introduced into the Territory Plan through this variation are modest. The existing amenity of surrounding suburbs and streets will be maintained and supported through code requirements also contained in this variation.

1.2 Summary of the Proposal

Variation DV343 proposes unit-titling for dual occupancy development in order to enhance the value of certain blocks surrendered under the Scheme and is consistent with the ACT Planning Strategy 2012 and Transport for Canberra.

V343 applies to residential blocks surrendered under the Scheme (surrendered residential blocks) except surrendered residential blocks that are part of a registered heritage place or a provisionally registered heritage place under the Heritage Act 2004. It does not have broader application beyond those blocks surrendered under the Scheme.

Under this variation, redevelopment of the surrendered residential blocks would have the capacity to include unit-titling for dual occupancy in the RZ1 Suburban zone. V343 reduces the current block size requirement where a dual occupancy is permitted in the RZ1 Suburban zone from 800m² to 700m². It also applies building height limitations and a revised plot ratio to development for dual occupancies. This represents a modest increase in the development density potential of the surrendered blocks. Design criteria will require the blocks to be redeveloped in harmony with the surrounding residential amenity.

1.3 The National Capital Plan

The *Australian Capital Territory (Planning and Land Management) Act 1988* established the National Capital Authority (NCA) with two of its functions being to prepare and administer a National Capital Plan (NCP) and to keep the NCP under constant review and to propose amendments to it when necessary.

The NCP, which was published in the Commonwealth Gazette on 21 January 1990 is required to ensure that Canberra and the Territory are planned and developed in accordance with their national significance. The Planning and Land Management Act 1988 also required that the Territory Plan is not inconsistent with the NCP.

In accordance with section 10 of the *Australian Capital Territory (Planning and Land Management) Act 1988*, the National Capital Plan defines the planning principles and policies for Canberra and the Territory, for giving effect to the object of the NCP and sets out the general policies to be implemented throughout the Territory, including the range and nature of permitted land uses.

It also sets out the detailed conditions of planning, design and development for areas that have special significance to the National Capital known as designated areas and identifies special requirements for the development of some other areas.

1.4 Site Description

The variation applies to surrendered residential blocks that:

- are included in the Affected Residential Property Register (established proposed under clause 47N of the Dangerous Substances (Loose-fill Asbestos Eradication) Legislation Amendment Act 2015) that was enacted by the Legislative Assembly on 17 March 2015;
- are in the RZ1 suburban zone; and
- are 700m² or larger.

1.5 Current Territory Plan Provisions

The blocks subject to this draft variation are all currently included in the residential RZ1 suburban zone.

1.6 Changes to the Territory Plan

Detailed changes to the Territory Plan are noted in section 2 of this document. This variation amends the provisions of the Territory Plan applying to surrendered residential blocks. The changes only affect blocks in RZ1 suburban zone which are 700m² or larger. There are no changes to blocks currently zoned RZ2 suburban core or above, rural leases or heritage blocks/areas.

Key changes:

- Building two houses on the same block of land is known as dual occupancy. At the moment, this is permitted on any RZ1 block that is 800m² or larger. The Government is proposing to reduce this minimum size to 700m² for residential blocks surrendered under the scheme.
- Another change is to allow unit titling for dual occupancy for residential blocks surrendered under the scheme. At the moment, if two houses are built on the same block, they must be sold as a single item. This will remain the case for dual occupancy in the RZ1 zone, except for the surrendered residential blocks. For the surrendered blocks the change means two houses on the same block can be sold separately.
- The plot ratio has been revised to accommodate the reduction in block size and unit titling for dual occupancy development. The proposed plot ratio is consistent with plot ratios permitted in the RZ2 suburban core zone.
- Building heights for dual occupancy development on the affected blocks has been limited to single storey for any dual occupancy dwelling to which a 35% plot ratio will apply.
- A design criterion for the redevelopment of the residential blocks surrendered under the loose fill asbestos insulation eradication scheme has been included to maintain and support amenity of existing areas.

1.7 Consultation on the Draft Variation

Draft Variation No 343 (DV343) was released for public comment between Friday 10 April 2015 and Monday 25 May 2015. A consultation notice under section 63 of the *Planning and Development Act 2007* (P&D Act) was published on the ACT Legislation Register on 10 April 2015 and in *The Canberra Times* on Monday 13 April 2015.

A total of 124 written submissions were received, which included submissions from individuals, industry representatives and community groups.

The main issues raised by submitters included:

- More than 100 submissions objected to DV343 in full or in part. Those that objected in full raised concerns about:
 - the fairness of the planning process to the existing owners and neighbours (Govt revenue, disclosure of the location of the surrendered blocks and justification on planning grounds);
 - impacts on the residential amenity (character, traffic, noise, trees etc) of the RZ1 suburban zones; and
 - potential impacts on adjoining neighbours (overlooking, overshadowing etc).
- Of the individual submissions that objected to the draft variation in part, most generally suggested that:
 - the existing minimum block size is not reduced to 700m² (retain the 800m²); and/or
 - that the single storey height limit should apply to all dual occupancy redevelopment (i.e. No 2 storey elements).
- A small number of individual submissions suggested expanding the DV343 provisions in full or in part to all RZ1 suburban blocks (not just those subject to the eradication scheme).
- There were eight submissions lodged by the following community organisations:
 - Mr Fluffy homes full disclosure group
 - Griffith Narrabundah Community Association
 - Woden Valley Community Council
 - Inner South Canberra Community Council
 - Fluffy Owners and Residents Action Group
 - Turner Residents Association
 - Weston Creek Community Council
 - Yarralumla Residents Association.

- Six of the eight submissions from community organisations objected to DV343. Two objected to part of the draft variation. One suggested the provisions should not apply to blocks under 800m². The other suggested the existing sliding scale plot ratio should be retained and that single storey provisions should apply where 50% plot ratio applies.
- There was one submission from the Asbestos Response Taskforce Community Expert Reference Group.
- There were ten submissions from the following industry groups:
 - Sekisui House
 - Philip Leeson Architects
 - DNA architects
 - REIACT
 - Adam Hobill Designs
 - Morschel architects
 - Housing Industry Association
 - Nulookrenovations
 - Master Builders Association
 - 5AAP.
- The industry submissions generally supported DV343, however, most felt the provisions were too restrictive. There were suggestions to remove the single storey height limit and to apply a plot ratio of 50%. Some also suggested it should be applied to RZ1 suburban zoned blocks outside the eradication scheme.

The above issues were considered and are detailed in a report on consultation, which is available at www.act.gov.au/recommendedvariations. No changes were made as a result of consultation. However editorial changes were made for clarification purposes. The Minister will consider the outcomes of consultation prior to making a decision on this draft variation.

1.8 Revisions to the Draft Variation Recommended to the Minister

The following changes were made to the draft variation following public notification primarily for the purposes of clarification. These amendments are minor and do not alter the policy of the draft variation:

- Clarification that the definition of 'surrendered residential blocks' will be located in Part B of the definitions.
- Removal of the heading '9.4 subdivision of single dwellings blocks – RZ1' as it already applies to proposed R38A and should not be repeated.
- Renumbering of C49A to C56A
- Clarification that rule 16 applies to blocks that are 700m² and larger.
- Rewording of R7 and R16 to bring them in line with current Territory Plan drafting practices.

2. VARIATION

2.1 Variation to the Territory Plan Map

Variation to the *Territory Plan definitions*

1. Definitions - Part B

Insert

Surrendered residential block – means a block that has been surrendered under the Loose Fill Asbestos Insulation Eradication Scheme Buyback Program and included as a surrendered block on the Affected Residential Property Register. It does not mean a surrendered residential block that is part of a registered heritage place or a provisionally registered heritage place under the *Heritage Act 2004*.

Variation to the *residential zones development code*

2. 9.4 Subdivision of single dwelling blocks - RZ1

Insert

R38A This rule applies to <i>surrendered residential blocks</i> in RZ1. <i>Subdivision</i> under the <i>Unit Titles Act 2001</i> is permitted only for <i>dual occupancy</i> development.	This is a mandatory requirement. There is no applicable criterion.
---	--

Variation to the *multi unit housing development code*

3. 1.1 Dual occupancy housing – single dwelling blocks – RZ1

Substitute

1.1 Dual occupancy housing – single dwelling blocks – RZ1	
R1 In RZ1, the minimum area of <i>single dwelling blocks</i> for <i>dual occupancy housing</i> is as follows: a) For a <i>surrendered residential block</i> - 700m ² b) For all other blocks - 800m ² .	This is a mandatory requirement. There is no applicable criterion.

4. 3.2 Plot ratio – dual occupancy – single dwelling blocks

Substitute

Rules	Criteria
3.2 Plot ratio – dual occupancy – single dwelling blocks – RZ1 – except for surrendered residential blocks	
<p>R6</p> <p>This rule applies to single dwelling blocks in RZ1 unless the block is a <i>surrendered residential block</i>.</p> <p>The maximum <i>plot ratio</i> for <i>dual occupancy housing</i> is determined by the formula: $P = (140/B + 0.15) \times 100.$</p> <p>The maximum <i>plot ratio</i> for any additional new <i>dwelling</i> which is part of a <i>dual occupancy</i> and does not directly front a public road from which vehicular access is permitted is the lesser of:</p> <p>a) the <i>plot ratio</i> determined by the formula $P = (140/B + 0.15) \times 50$</p> <p>and</p> <p>b) 17.5%.</p> <p>For the purpose of calculating <i>plot ratio</i> for this rule, the <i>gross floor area</i> includes 18m² for each roofed car space provided to meet Territory requirements for resident car parking, but does not include <i>basement</i> car parking.</p> <p>For the formulae used in this rule: P is the maximum permissible <i>plot ratio</i> expressed as a percentage B is the <i>block area</i> in square metres.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

5. 3.3 Plot ratio – dual occupancy – single dwelling blocks

Substitute

Rules	Criteria
3.3 Plot ratio – dual occupancy – single dwelling blocks – RZ2 and surrendered residential blocks – RZ1	
<p>R7</p> <p>This rule applies to the following:</p> <p>a) <i>single dwelling blocks</i> in RZ2 b) blocks defined as a <i>surrendered residential block</i> in RZ1.</p> <p>The maximum <i>plot ratio</i> for <i>dual occupancy housing</i> is:</p> <p>i) where at least one dwelling does not directly front a public road from which vehicular access is permitted – 35% ii) in all other cases – 50%</p> <p>The maximum <i>plot ratio</i> for any additional new <i>dwelling</i> which is part of a <i>dual occupancy</i> and does not directly front a public road from which vehicular access is permitted is 17.5%.</p> <p>For the purpose of calculating <i>plot ratio</i> for this rule, the <i>gross floor area</i> includes 18m² for each roofed car space provided to meet Territory requirements for resident car parking, but does not include <i>basement</i> car parking.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

6. 3.12 Number of storeys – single dwelling blocks – RZ1

Substitute

Rules	Criteria
3.12 Number of storeys – single dwelling blocks – RZ1	
<p>R16</p> <p>In RZ1 on <i>single dwelling blocks</i> buildings comply with all of the following:</p> <p>a) The number of <i>storeys</i> does not exceed:</p> <p>i) 1 storey for dual occupancies on <i>surrendered residential blocks</i> 700m² and larger to which the 35% plot ratio applies to one storey ii) 2 storeys for all other single dwelling blocks.</p> <p>b) attics or basement car parking are not permitted where they are located directly above or below any 2 storey element of the dwelling.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Rules	Criteria
<p>Note: Where 50% plot ratio is permitted, two storey dwellings are also permitted. The single storey rule for dual occupancies applies to blocks where a dwelling does not directly front a public road from which vehicular access is permitted.</p>	

7. Element 5 Building design

Insert

Rules	Criteria
<p>5.9 Building design – dual occupancy on surrendered residential blocks in RZ1</p>	
<p>There is no applicable rule.</p>	<p>C56A</p> <p>This criterion applies to dual occupancy development on <i>surrendered residential blocks</i>.</p> <p>The design of buildings encourages high quality architectural standards that contribute to a visually harmonious streetscape character with variety and interest, whilst not detrimental to, or overtly detracting from the existing streetscape character.</p>

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 τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, čempel:
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE
131 450
Canberra and District - 24 hours a day, seven days a week