

Australian Capital Territory

Planning and Development (Plan Variation No 304) Notice 2015

Notifiable Instrument NI2015-99

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 304) Notice 2015**.

2 Plan Variation No 304

On Friday 27 February 2015, the Minister for Planning approved a draft of the attached plan variation to the Territory Plan (*Annexure A*) under s76 (3).

Jim Corrigan
Delegate of the Planning and Land Authority
10 March 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 304

Commercial Zones

Introduction of floor area provisions for shops in local centres
and mixed use zones

Revision of CZ4 local centres zone objectives

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1. EXPLANATORY STATEMENT

1.1 Background

On 31 March 2008 a restructured Territory Plan came into effect as part of the reform of the ACT planning system. In response to a commitment by the ACT government at the time, the Territory Plan was reformatted, but no significant policy changes were made.

In 2009 the planning authority commenced a general review of the policy content of the Territory Plan. The first step was a review of the community facility zone which culminated in the commencement of variation 302 in December 2011. This was followed by a review of provisions surrounding residential development, lease variations and estate development under draft variation 306 (DV306).

Variation to the Territory Plan number 304 (DV304) forms part of the review of the Territory Plan. It focuses on policies applying to commercial zones.

On 22 January 2010 the then Chief Minister released the ACT Supermarket Competition Policy Implementation Plan. This plan incorporates the ACT Government's response to the 15 recommendations of the Review of ACT Supermarket Competition Policy conducted by Mr John Martin, former Australian Competition and Consumer Commissioner. The Martin Review found that while there was reasonable supermarket competition in the ACT retail grocery market, there were benefits in providing competition and potentially supporting an alternative source of wholesale grocery supply.

While the plan's focus is chiefly on the release of land for supermarket development, it also refers to possible changes to the Territory Plan (page 7):

The Planning and Land Authority is considering amendments to the Territory Plan to facilitate expansion of supermarkets in local centres to a level that is consistent with the role of those centres in the metropolitan retail structure and that takes account of factors such as scale and bulk of the Centre, supporting a good local amenity, access, traffic and car parking.

The Planning and Land Authority is monitoring Territory Plan policies to ensure that the full range of Government objectives are met in relation to accessibility, equity, public amenity and utilisation of existing infrastructure in local centres.

These investigations have informed this variation.

1.2 Summary of the proposal

The variation represents a balance between competing objectives – to reduce barriers to competition, while at the same time addressing the needs of less mobile groups by allowing larger shops and supermarkets in local centres that can provide a wider range of goods.

It introduces a gross floor area (GFA) limit of 1000m² in the CZ4 local centres and a limit of 1500m² in the CZ5 mixed use zone. The proposed floor area limits allow

some capacity for centres to expand in line with the changing needs of their catchment without undermining the trade at nearby centres.

The variation introduces a minor change to the CZ4 local centres objectives to improve access, particularly for people with mobility issues.

1.3 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 (the Plan) and to keep the NCP under constant review and to propose amendments to it when necessary.

The Plan, which was published in the Commonwealth Gazette on 21 January 1990, is required to ensure Canberra and the Territory are planned and developed in accordance with their national significance. The *Australian Capital Territory (Planning and Land Management) Act 1988* also requires the Territory Plan is not inconsistent with the Plan. The area covered by this variation is within urban areas identified in the Plan.

1.4 Changes to the Territory Plan

The changes to the Territory Plan are detailed below.

In **Part D – Additional controls for local centres** insert item 15.6:

Rules	Criteria
15.6 Shops – floor area	
R51A The maximum <i>gross floor area</i> for a <i>shop</i> is 1000m ² .	C51A An existing <i>shop</i> that exceeds a <i>gross floor area</i> of 1000m ² may be redeveloped up to its existing <i>gross floor area</i> where the shop complies with one of the following: <ul style="list-style-type: none"> a) was lawfully constructed on or before [commencement date] b) was subject to development approval issued on or before [commencement date] c) was the subject of a development application lodged on or before [commencement date] that was subsequently approved.

In the new **Part E – Additional controls for CZ5**, insert the following:

Rules	Criteria
17.1 Shops – floor area	
R54A The maximum <i>gross floor area</i> for a <i>shop</i> is 1500m ² .	This is a mandatory requirement. There is no applicable criterion.

The current Commercial Zones Development Code contains the following provision:

Rules	Criteria
15.1 Consideration of impacts	
There is no applicable rule.	C47 A proposal to carry out development in a local centre must have regard to any significant adverse economic impact on other commercially viable local centres.

This provision has been deleted because the proposed limit on the floor area of shops in local centres, and the new criterion, makes this redundant.

CZ4 Local Centres Zone Development Table

Objective a) is revised to include reference to people with mobility issues. This objective would act in concert with the current Access and Mobility General Code which specifically applies to supermarkets:

- a) Provide for convenience retailing and other accessible, convenient shopping and community and business services to meet the daily needs of local residents, particularly those with mobility issues.

1.5 Consultation on the Draft Variation

Draft variation 304 was released for public comment between 22 March 2013 and 6 May 2013. A consultation notice under section 63 of the *Planning and Development Act 2007* (P&D Act) was notified in the ACT Legislation Register on 22 March 2013 and in *The Canberra Times* on Saturday 23 March 2013. Full details of consultation activities are contained in the Report on Consultation for DV304.

A total of 14 written submissions were received from individuals and supermarket operators as a result of the consultation process. Eight (8) submissions indicated general support for the proposed introduction of limits on gross floor area for shops in local centres.

Main issues raised in the submissions related to:

- justification for the proposed changes
- floor area provisions
- economic impacts
- adjustment of commercial zones boundaries

The above issues were considered and are detailed in a report on consultation, which is available at www.act.gov.au/recommendedvariations.

1.6 Revisions to the Draft Variation

Following public consultation on DV304, the changes listed below have been made:

- Reduction of the gross floor area limit for shops in local centres from 1500m² to 1000m²
- Deletion of the term 'net selling area'
- Removal of the provisions for realignment of commercial zones boundaries in the Holt, Macquarie, Mawson and Wanniasa group centres

Following a direction by the Minister for Planning, the changes listed below have been made:

- Inclusion of a new criterion to the rule regarding the gross floor area limit for shops in local centres

- Removal of the proposed increases in gross floor area limits for shops in group and town centres.

2. VARIATION

The Territory Plan is varied in all of the following ways:

Variation to the CZ4 Local Centres Zone Development Table

1 CZ4 objectives

Substitute objective a) with

- a) Provide for convenience retailing and other accessible, convenient shopping and community and business services to meet the daily needs of local residents, particularly those with mobility issues.

Variation to the Commercial Zones Development Code

2 Commercial Zones Development Code, Part D – Additional controls for local centres, Element 15.1 Consideration of impacts

Omit

3 Commercial Zones Development Code, Part D – Additional controls for local centres

Insert

Rules	Criteria
15.6 Shops – floor area	
<p>R51A</p> <p>The maximum <i>gross floor area</i> for a <i>shop</i> is 1000m².</p>	<p>C51A</p> <p>An existing <i>shop</i> that exceeds a <i>gross floor area</i> of 1000m² may be redeveloped up to its existing <i>gross floor area</i> where the shop complies with one of the following:</p> <ul style="list-style-type: none"> a) was lawfully constructed on or before [commencement date] b) was subject to development approval issued on or before [commencement date] c) was the subject of a development application lodged on or before [commencement date] that was subsequently approved.

4 Commercial Zones Development Code

Insert

Part E – Additional controls for CZ5

This part applies to CZ5 mixed use

Rules	Criteria
17.1 Shops – floor area	
<p>R54A</p> <p>The maximum <i>gross floor area</i> for a <i>shop</i> is 1500m².</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

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