

Australian Capital Territory

# Planning and Development (Technical Amendment—Various) Plan Variation 2016 (No 2)

Notifiable Instrument NI2016—597

Technical amendment No 2016-14

made under the

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

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## 1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—Various) Plan Variation 2016 (No 2)*.

## 2 Technical amendments

I am satisfied under section 89 (1) (a) of the *Planning and Development Act 2007* that the various plan variations within schedule 1 are technical amendments to the Territory Plan.

## 3 Commencement

This instrument commences the day after notification.

Brett Phillips  
Delegate of the planning and land authority  
26 October 2016



**ACT**  
Government  
Environment and Planning

Planning & Development Act 2007

# **Technical Amendment to the Territory Plan Variation 2016-14**

Various minor miscellaneous and code  
amendments

October 2016

Commencement version

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# 1. INTRODUCTION

## 1.1 Purpose

**This technical amendment makes the following changes to the Territory Plan:**

### *Single dwelling housing development code*

- Remove incorrect reference to ACT Heritage Council in note for Rule R47

### *Commercial zones development code*

- Remove 'multi-unit housing' from Table 1 – Development codes applicable to development in commercial zones

### *Coombs precinct map and code*

- Remove Rule R4 from precinct code

### *West Belconnen Concept Plan*

- Change incorrect reference to Figure 1 in Rule R44 to Figure 2

## 1.2 Public consultation

Under section 87 of the *Planning and Development Act 2007* (the Act) this type of technical amendment requires limited public consultation. The public was notified through an online public notice. At the conclusion of the limited consultation period, any representations were considered by the planning and land authority (the Authority) within the Environment and Planning Directorate. The Authority then determines a day when the technical amendment is to commence by way of a commencement notice.

## 1.3 National Capital Authority

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

## 1.4 Process

This technical amendment has been prepared in accordance with section 87 of the Act. Comments received from the public and the National Capital Authority are to be taken into account before the Authority "made" the technical amendment under section 89 of the Act. The Authority must now notify the public of its decision.

No changes were made to the technical amendment following public consultation.

## 1.5 Types of technical amendments under the Act

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

- (1) Each of the following territory plan variations is a **technical amendment** for which no consultation is needed before it is made under section 89:
  - (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 to change the boundary of a zone or overlay under section 90A (Rezoning – boundary changes);
  - (c) a variation, other than one to which subsection (2) (d) applies, in relation to an estate development plan under section 96 (Effect of approval of estate development plan);
  - (d) a variation required to bring the territory plan into line with the national capital plan;
  - (e) a variation to omit something that is obsolete or redundant in the territory plan.
  
- (2) Each of the following territory plan variations is a **technical amendment** for which only limited public consultation is needed under section 90:
  - (a) 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;
  - (b) a variation to change the boundary of a zone under section 90B (Rezoning – development encroaching on adjoining territory land);
  - (c) a variation in relation to a future urban area under section 90C (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) if it incorporates an ongoing provision that was not included in the plan under section 94 (3) (g);
  - (e) a variation to clarify the language in the territory plan if it does not change the substance of the plan;
  - (f) 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.

TA2016-14 has been prepared in accordance with sections 87(1) (a) and (2) (a) of the Act.

## 2. EXPLANATION

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

### 2.1 Single dwelling housing development code

R47 in the single dwelling housing development code refers to Environment Protection Authority requirements regarding erosion and sediment control. However, the note at the end of the rule incorrectly refers to the Heritage Council. This error has been rectified by removing the incorrect text referring to the Heritage Council from the note.

#### Statement of compliance with the *Planning and Development Act 2007*

Section	Statement
s87(1)(a) (a) a variation (an <b>error variation</b> ) 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	Compliant. This amendment removes the incorrect text referring to the Heritage Council from the note at the end of R47.

### 2.2 Commercial zones development code

Table 1 in the commercial zones development code lists the development codes application to development in commercial zones. The table contains reference to 'multi-unit housing' and 'RESIDENTIAL USE'. RESIDENTIAL USE is an umbrella term that includes multi-unit housing, therefore it is not necessary to list multi-unit housing separately. The reference to applicable codes applying to multi-unit housing is also incorrect in the table as it omits to include the residential codes. The multi-unit housing row has been removed from the table as it is covered by RESIDENTIAL USE, and which also correctly includes reference to the residential codes as development codes applicable to development in commercial zones.

#### Statement of compliance with the *Planning and Development Act 2007*

Section	Statement
s87(1)(a) (a) a variation (an <b>error variation</b> ) 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;	Compliant. This amendment rectifies an error in Table 1 of the commercial zones development code.



## 2.3 Coombs precinct map and code

Rule 4 of the Coombs precinct code requires minimum average densities for blocks in the residential RZ5 high density zone. The rule specifies one dwelling for each 200m<sup>2</sup> of site area, and is a mandatory rule with no associated criterion.

However, Rule 49 of the Coombs and Wright Concept Plan (where the provision originated), applies to precincts within certain zones. Rule 49 states that:

*In RZ4 and RZ5 zones in precincts B, E, G, I, M, N, P, Q and T, the minimum average residential density for these zones in each precinct is one dwelling for each 200m<sup>2</sup> of site area (rounded to the nearest whole number).*

During the estate development plan (EDP) assessment process, the minimum dwelling requirement for the identified precincts as required by the Concept Plan is assessed and captured by applying a minimum and maximum dwelling number to individual blocks. These figures are approved as part of the EDP and then included in the lease.

Rule R4 has been removed from the Coombs precinct code as it was intended as a control to be applied to precincts at the EDP stage and not to blocks at the individual DA stage. The concept plan still applies to all blocks subject to a future urban area (FUA) overlay. The FUA overlay can only be uplifted and the zoning confirmed once the EDP has been approved.

### Statement of compliance with the *Planning and Development Act 2007*

Section	Statement
s87(2)(a) a variation (a code variation) that – (i) would only change a code (ii) is consistent with the policy purpose and policy framework of the code; and (iii) is not an error variation.	Compliant. This amendment removes R4 from the Coombs precinct code as Rule 49 in the concept plan still applies to all RZ4 and RZ5 zones in FUA areas in Coombs.

## 2.4 West Belconnen concept plan

Rule R44 in the West Belconnen concept plan refers to Figure 1 regarding the Little Eagle Clearance Zone. This is incorrect as the correct figure is Figure 2. This error has been rectified in this technical amendment.

### Statement of compliance with the *Planning and Development Act 2007*

Section	Statement
s87(1)(a) (a) a variation (an <b><i>error variation</i></b> ) 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	Compliant. This amendment fixes an error in R44 regarding referencing the correct figure for the Little Eagle Clearance Zone.

### 3. TECHNICAL AMENDMENT

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

#### 3.1 Single dwelling housing development code

**1. Element 6: Services; Item 6.4 Erosion and Sediment Control; Rule R47**

*Omit from the Note*

‘to the Heritage Council’

#### 3.2 Commercial zones development code

**2. Table 1 – Development codes applicable to development in commercial zones**

*Omit*

‘multi-unit housing’

#### 3.3 Coombs precinct map and code

**3. RC2 – RZ5 residential area; Element 4: Residential density; Item 4.1 Residential density**

*Omit*

Rule R4

#### 3.4 West Belconnen concept plan

**4. Part B – Subdivision; 23. Little Eagle Clearance Zone, Rule R44**

*Substitute*

‘No development including infrastructure and construction related activities will be permitted within 200m of the Little Eagle nesting tree and foraging area indicated in **Figure 2.**’

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