

Planning and Development (Technical Amendment—Single Dwelling Housing Development Code) Plan Variation 2018

Notifiable Instrument NI2018—293

Technical Amendment No 2018-12

made under the

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

1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—Single Dwelling Housing Development Code) Plan Variation 2018*.

2 Commencement

This instrument commences on the day after its notification day.

3 Technical amendment

I am satisfied under section 89 (1) (a) of the *Planning and Development Act 2007* (the *Act*) that the Single Dwelling Housing Development Code plan variation is a technical amendment to the Territory Plan.

4 Meaning of *Single Dwelling Housing Development Code plan variation*

For this instrument:

Single Dwelling Housing Development Code plan variation means the technical amendment to the Territory Plan, variation 2018-12, in the schedule.

Note: No consultation was required in relation to the Single Dwelling Housing Development Code plan variation under section 87 of the Act.

Fleur Flanery
Delegate of the planning and land authority
31 May 2018



ACT
Government

Environment, Planning and
Sustainable Development

Planning & Development Act 2007

Technical Amendment to the Territory Plan

2018-12

Reinstatement of Rule R17 back into Single
Dwelling Housing Development Code

June 2018

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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

- Reinstates Rule R17 back into the Single Dwelling Housing Development Code which was inadvertently removed when Variation 352 commenced.

1.2 Public consultation

Under section 87 of the *Planning and Development Act 2007* (the Act) this type of technical amendment is not subject to public consultation.

1.3 National Capital Authority

The National Capital Authority does not need to be advised of this technical amendment as per section 1.2 above.

1.4 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.

TA2018-12 has been prepared in accordance with section 87(1)(a) of the Act.

2. EXPLANATORY STATEMENT

2.1 Background

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.

2.2 Variation to the Single Dwelling Housing Development Code

Variation 352 made various changes to the Territory Plan including changes to the Single Dwelling Housing Development Code Rule R16, which clarified allowable encroachments for unroofed pergolas. However, in the title box in Parts 2 and 3 of the Variation relating to R16, there was an inadvertent typographical error that also referred to Rule R17 as follows:

8. Element 1: Building and site controls, Item 1.14 Allowable encroachments – setbacks; Rules R16 and R17

As a result, according to these instructions, when Variation 352 commenced, both rules R16 and R17 (and the corresponding Criterion C17) were removed and only the new rule R16 was substituted.

This technical amendment resolves this error by reinstating Rule 17 (and the corresponding Criterion C17) back into the Single Dwelling Housing Development Code as the instructions should not have included removal of this rule and criterion. Rule 17 (and the corresponding C17) refer to allowable encroachments into front setbacks for certain building elements.

Compliance with the *Planning and Development Act 2007*

Section	Statement
s87(1)(a) (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;	Compliant. This amendment is to correct a formal error in the Single Dwelling Housing Development Code as a result of the Commencement of Variation 352 where Rule R17 (and the corresponding Criterion C17) were inadvertently removed due to a typographical error in the explanation in the Variation.

3. TECHNICAL AMENDMENT

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

3.1 Variation to the Single Dwelling Housing Development Code

1. Single Dwelling Housing Development Code, Rule R17 and Criterion C17

Insert

Rules	Criteria
R17 Encroachments into the front setback are permitted for one or more of the following building elements: a) an eave or roof overhang with a horizontal width of not more than 600mm b) fascias, gutters, downpipes, light fittings, sun blinds c) landings, steps or ramps, none of which are more than 1m above finished ground level.	C17 Buildings and other structures achieve all of the following: a) consistency with the <i>desired character</i> b) reasonable levels of privacy on adjoining <i>residential blocks</i> for <i>dwellings</i> and their associated <i>private open space</i> c) reasonable solar access to <i>dwellings</i> on adjoining <i>residential blocks</i> and their associated <i>private open space</i> .

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