

Planning and Development (Plan Variation No 373) Approval 2020

Notifiable instrument NI2020-335

made under the

Planning and Development Act 2007, s 76 (Minister's powers in relation to draft plan variations)

1 Name of instrument

This instrument is the *Planning and Development (Plan Variation No 373) Approval 2020*.

2 Approval of draft plan variation

(1) I approve under section 76 (2) (a) of the *Planning and Development Act 2007* the draft plan variation No 373 to the Territory Plan.

(2) In this section:

draft plan variation No 373 to the Territory Plan means the draft plan variation in the schedule.

Mick Gentleman MLA
Minister for Planning and Land Management
17 June 2020

Schedule

(See section 2(2))



ACT
Government

Environment, Planning and
Sustainable Development

Planning and Development Act 2007

Variation to the Territory Plan 373

Removal of mandatory gas provision
from the Estate Development Code

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

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1. EXPLANATORY STATEMENT

1.1 Background

The Estate Development Code in the Territory Plan applies to all development proposals in the ACT for the subdivision of land requiring the preparation of an estate development plan. The code provides additional planning, design and environmental controls, including a mandatory rule (R43) requiring utility services, including water, sewer, stormwater, electricity, gas and telecommunications to be provided to each block.

The ACT is the only jurisdiction in Australia that has a mandatory requirement for gas infrastructure to be provided in new estates and subdivisions.

Variation 356, which commenced in November 2018, supported a pilot project of 350 dwellings in Stage 1 of the Ginninderry Estate in West Belconnen to trial electric-only utility service provision in the residential area. This was achieved by amending the West Belconnen Concept Plan to make the provision of reticulated gas optional, rather than a mandatory requirement. The pilot was subsequently expanded to include Stage 2 of Ginninderry Estate via Variation 362 (V362). V362 took effect in June 2019.

The ACT Climate Change Strategy 2019-2025 (the strategy) sets out the actions required to reduce emissions and to build resilience to climate change impacts. (www.environment.act.gov.au/cc/act-climate-change-strategy)

The strategy sets out the next key challenges from 2020, once the ACT is powered by 100% renewable electricity. This will involve reducing emissions from transport, gas and waste.

Variation 373 implements an action in the strategy under the goal of reducing emissions from gas by amending planning regulations to remove the mandating of reticulated gas in new suburbs by 2020.

This is achieved by amending Rule R43 of the Estate Development Code to remove the requirement for the mandatory supply of gas reticulation to blocks in new subdivisions. The change to the code supports the ACT Climate Change Strategy by extending the optional provision of gas reticulation to all new subdivisions in the ACT.

The mandatory utility service requirements for water, sewer, stormwater, electricity, and telecommunications to each block will be retained.

1.2 Summary of the Proposal

The variation removes the mandatory requirement for gas connection to blocks in new suburbs from the Estate Development Code in the Territory Plan. The provision of gas will be optional rather than mandated.

The ACT Climate Change Strategy 2019-2025 outlines the next stage of the ACT Government's climate change response and identifies actions to meet its emissions reduction target of net zero emissions by 2045 and prepare for climate change. This strategy places a strong focus on reducing emissions from transport and gas - the two largest sources of emissions from 2020 once emissions from electricity are zero.

One of the key priorities of the strategy is in the area of energy, buildings and urban development - to encourage a shift from gas to electricity by removing the mandated requirement for gas infrastructure in new suburbs, supporting gas to electric appliance upgrades and transitioning to all-electric new builds.

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 NCP 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.

1.4 Current Territory Plan Provisions

The current rule in the Estate Development Code in the Territory Plan is:

| 6.2 Utility Services | |
|--|---|
| <p>R43 Utility services, including water, sewer, stormwater, electricity, gas and telecommunications are provided to each block.</p> <p>Note: A condition of development approval may be imposed to ensure compliance with this rule.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> |

1.5 Changes to the Territory Plan

Detailed changes to the Territory Plan are noted in section 2 of this document.

1.6 Consultation on the Draft Variation

The draft variation was released for public comment between 17 January 2020 and 6 March 2020. A consultation notice under section 63 of the *Planning and Development Act 2007* (P&D Act) was published on the ACT Legislation Register on 17 January 2020.

Consultation resulted in nine written submissions being received.

The main comments were:

| Issue | Number of submissions |
|---|-----------------------|
| The draft variation is supported | 7 |
| Changes do not go far enough – should also prohibit the installation of new gas infrastructure (in new suburbs, new developments, new houses) | 5 |
| Substitutes to sustain the gas network cannot perpetuate emissions | 1 |
| The ACT Government should increase programs, public education, and support for community to switch from gas to electric appliances | 1 |
| The ACT Government's 2045 timeline requires more detail for homeowners and developers | 1 |

| | |
|--|---|
| ACT Government policy and programs must clearly guide both corporate action and community transition | 1 |
| Natural gas can be replaced by biogas, which is renewable, reliable and a local source of energy. | 1 |

The comments on the draft variation were noted and responses are detailed in a report on consultation which is available at www.act.gov.au/recommendedvariations. Minor changes were made to the revised rule to clarify that the provision of gas is optional. The Minister responsible for planning considered the outcomes of consultation prior to approval of this variation.

2. VARIATION

2.1 Variation to the Territory Plan

The Territory Plan is varied in the following way:

Variation to the Estate Development Code

| |
|--|
| 1. Element 6: Services and Infrastructure; Item 6.2 Utility Services; Rule 43 |
|--|

Substitute

| 6.2 Utility Services | |
|---|---|
| <p>R43 Utility services, including water, sewer, stormwater, electricity and telecommunications are provided to each block.</p> <p>Note 1: A condition of development approval may be imposed to ensure compliance with this rule.</p> <p>Note 2: The provision of other utility services including the provision of gas is optional.</p> | <p>This is a mandatory requirement. There is no applicable criterion.</p> |

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| | |
|------------|---|
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