

Australian Capital Territory

Planning (Clarification Changes) Minor Plan Amendment 2024

Notifiable instrument NI2024-186

made under the

Planning Act 2023, s 85 (Making minor plan amendments)

1 Name of instrument

This instrument is the *Planning (Clarification Changes) Minor Plan Amendment 2024**.

2 Commencement

This instrument commences on 19 April 2024.

3 Minor plan amendment

I am satisfied under the *Planning Act 2023*, section 85 (1) (a) that Minor Plan Amendment 2024-d is a minor plan amendment to the Territory Plan.

4 Dictionary

In this instrument:

Minor Plan Amendment 2024-d to the Territory Plan means the minor plan amendment in schedule 1.

Freya O'Brien
Delegate of the territory planning authority

12 April 2024

*Name amended under Legislation Act, s 60



ACT
Government

Environment, Planning
and Sustainable
Development

MINOR AMENDMENT TO THE TERRITORY PLAN 2024-d

**Clarification of assessment
requirements in district policies,
Residential Zones Policy, Subdivision
Policy and Dictionary clarifications**

This minor plan amendment was prepared
under part 5.3 of the *Planning Act 2023*

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1.0 INTRODUCTION

1.1 Outline of the process

Minor plan amendment 2024-d (MA2024-d) to the Territory Plan is minor plan amendment (MA) prepared under section 84 2) d) of the *Planning Act 2023* (the Planning Act).

Section 84 of the Planning Act outlines the different types of MAs, some which require limited consultation to be undertaken and some which require no consultation to be undertaken.

Under Section 85 of the Planning Act a MA can only be made where:

- any required limited consultation has taken place, and the authority is satisfied that the content of the MA meets the requirements of the Planning Act
- if the MA is not inconsistent with the planning strategy or any relevant district strategy
- any comments received during the consultation period and from the National Capital Authority have been considered.

This MA requires limited consultation to be undertaken and is being released for limited public consultation in accordance with the *Planning Act 2023*.

The MA is not inconsistent with the planning strategy or any relevant district strategy. Further details of the changes are contained in section 3 of this document.

The National Capital Authority has received a copy of this MA.

For more information on the content of the Territory Plan and minor plan amendment processes please refer to the Environment, Planning and Sustainable Development (EPSDD) website <https://www.planning.act.gov.au/>

1.2 Summary of the changes

MA2024-d makes the following changes:

- Amend all the district policies to clarify that where development is proposed on identified surface car park sites in the town and group centres, car parking allocation provides for the development and makes a substantial contribution to the long-term parking supply for the town or group centre.
- Amend Assessment Requirement 1 site coverage for single dwellings - to add a note to clarify that single dwelling includes all associated roofed Class 10 buildings.
- Amend Assessment Requirements 2 and 3 in the Residential Zones Policy to clarify that site coverage for multi-unit housing in the RZ1-RZ5 zones is calculated on the original block area where the block is to be subdivided under the Planning Act 2023.
- Amend the Redevelopment Control in Part 5 Assessment Requirements of the Residential Zones Policy to include a requirement to clarify that the maximum number of dwellings is 2 on a non-standard block in RZ1 where the crown lease explicitly permits 2 dwellings on a block.
- Amend Assessment Requirement 14 in the Subdivision Policy to clarify that dual occupancy housing on non-standard blocks in the RZ1 zone are permitted to be subdivided under the *Unit Titles Act 2001*.
- Amend definition of industrial trades in Part G Dictionary to include plant and equipment hire as an example use.
- Amend the definition of 'standard block' to revert to the previous definition in the Territory Plan 2008.

2.0 CONSULTATION WITH THE PUBLIC

2.1 Consultation period

Under section 84 (2) (c) of the *Planning Act 2023*, this minor amendment was subject to limited public consultation of at least 20 working days.

2.2 Comments from the public

Written comments were invited on MA2024-d from the public from 1 March 2024 until 4 April 2024.

3 submissions were received. The main comments and concerns raised during consultation relating to the changes proposed in the minor amendment were:

- Concerns that the issue regarding the revocation of unit titling resulting from the proposed changes to the definition of 'standard block' in the new Territory Plan were previously raised but not addressed when the interim Territory Plan took effect.
- Comment that the definition of a 'standard block' should be reverted to the definition under the TP2008 to avoid unjustified financial consequences.
- Comment that EPSDD disregarded ACAT advice that all affected blocks are considered to be 'standard blocks'.
- Comment that previous advice provided by EPSDD obtained under a Freedom of Information (FOI) request confirmed that the definition [in the Territory Plan 2008] would allow those blocks that were specifically allowed to have 2 dwellings to continue to be able to have 2 dwellings.
- Concern that the change to Assessment Requirement 1 of the Residential Zones Policy pertaining to site coverage for single dwellings to include all Class 10 Buildings will be in conflict with the definition of site coverage.
- Comment that it would be useful to clarify the setback requirements in the Technical Specifications that apply when a block has been subdivided.
- Observation that reference to Variation 387 in the description of the change to the definition of 'standard block' in section 3.4 of the minor amendment is incorrect.
- Comment that the Territory Plan is a dynamic document, and a solution would be to permit unit titling if the Territory Plan allowed it when the DA was lodged or substantially submitted.
- Concern that there was no justification for the change to the definition of 'standard block' in the new Territory Plan in a short period of time since being incorporated into the Territory Plan 2008.

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Further information on the submissions received and responses to the comments are contained in the report on consultation. Comments received have been considered in the preparation of the final version of MA2024-d.

The National Capital Authority have been advised of this minor amendment.

2.3 Changes made as a result of public consultation

Changes were made to the minor amendment following consultation. These were:

- Assessment Requirement 1 of the Residential Zones Policy is adjusted to refer to roofed Class 10 Buildings only.
- The proposed changes to Assessment Requirement 14 of the Subdivision Policy in the consultation version of MA2024-d were removed.
- Assessment Requirement 14 of the Subdivision Policy is amended to clarify that in RZI, subdivision under the *Unit Titles Act 2001* is permitted for multi-unit housing including dual occupancy housing on a non-standard block.
- The definition of 'standard block' in the Territory Plan 2023 was changed to revert to the previous definition in the Territory Plan 2008.
- A mandatory requirement was added to the Residential Zones Policy (that was previously a rule in the Territory Plan 2008) to limit the maximum number of dwellings to 2 on a non-standard block in RZI where the crown lease explicitly permits 2 dwellings on a block.

3.0 TERRITORY PLAN CHANGES

This section contains details of the changes made to the Territory Plan.

3.1 District Policies – car parking provision on car park sites identified for redevelopment in group and town centres

The criteria in the previous Territory Plan precinct codes relating to car parking provision on car park sites for redevelopment allowed for flexibility in parking provision. However the car parking replacement requirement in the interim Territory Plan is now mandated in the assessment requirements in the district policies and does not permit discretion for individual sites and locations.

Adaptability to accommodate project -specific needs is essential, particularly in areas adjacent to shopping centres or traffic hubs identified for change and identified on the Government's land release program. Flexibility will allow for justified adjustments in the number of public parking spaces on sites nominated for land release to be considered during the assessment process.

It was proposed to apply flexibility in the number of public car parking spaces provided on specific sites, to be assessed at the development application stage.

The change is not inconsistent with section 84 (2) (c) of the Planning Act 2023.

The amendment to change the provisions in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision. It reinstates the flexibility that was provided in the previous Territory Plan for determining car parking allocation where redevelopment was proposed on identified car park sites in the town and group centres. This will still ensure that sufficient replacement car parking is provided on a case-by-case basis for the particular location.

3.2 Part E1 – Residential Zones Policy – Assessment Requirement 1

The Residential Zones Policy Assessment Requirement 1 addresses site coverage requirements for single dwellings (including a secondary residences). The intention of this requirement is that site coverage includes all associated Class 10 buildings. It is proposed to add a note to Assessment Requirement 1 to clarify that single dwelling includes all associated roofed Class 10 buildings.

The change is not inconsistent with section 84 (2) (c) of the Planning Act 2023.

The amendment to change a provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision. It clarifies what contributes to determining site coverage calculations on residential blocks.

3.3 Part E1 Residential Zones Policy – Assessment Requirements 2 & 3

Site coverage provisions for residential zones were introduced into the Territory Plan in response to the Living Infrastructure Plan and are intended to limit impermeable surfaces and to increase soft landscaping and tree canopy cover on residential blocks.

Assessment Requirements 2 and 3 in the Residential Zones Policy contain the mandatory site coverage provisions for multi-unit housing on blocks in the RZ1-RZ5 zones, based on the size of the block (large, midsize or compact). These provisions need to be clarified to state that the site coverage calculations are based on the original block area where the block is proposed to be subdivided under the Planning Act 2023. This adjustment is necessary to make sure that the intent of the mandatory limits on site coverage on residential blocks are retained and that planting area and tree canopy cover are not diminished should subdivision of the original blocks be proposed.

The change is not inconsistent with section 84 (2) (c) of the Planning Act 2023.

The amendment to change a provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision. It maintains the intent of the restriction on site coverage on residential blocks to limit hard surfaces and have more area available for soft landscaping and tree canopy cover.

3.4 Part E1 Residential Zones Policy – Assessment Requirements – Redevelopment

In response to comments received on the consultation version of the minor amendment regarding the revocation of unit titling for dual occupancy development on non-standard blocks, the issue is being addressed by reverting to the Territory Plan 2008 requirements. This includes reverting to the definition of 'standard block' in the previous Territory Plan (see section 3.7 below).

A mandatory requirement has been added to the Residential Zones Policy (that was previously a rule in the Territory Plan 2008) under the Redevelopment Control to limit the maximum number of dwellings to 2 on a non-standard block in RZ1 where the crown lease explicitly permits 2 dwellings on a block.

This does not apply to blocks that are intended to be used only for supportive housing or to blocks for which the crown lease does not specify the number of dwellings permitted or permits a number of dwellings greater than 2.

The change is not inconsistent with section 84 (2) (c) of the Planning Act 2023.

The amendment to change a provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision. It

clarifies that where the lease explicitly permits 2 dwellings on a block in the RZI zone, that the number of dwellings is limited to 2.

3.5 Part F1 Subdivision Policy – Assessment Requirement 14

Assessment Requirement 14 is amended to clarify that subdivision of dual occupancy housing under the *Unit Titles Act 2001* is permitted on non-standard blocks. This is in line with the changes to the definition of ‘standard block’ to revert to the previous definition, which excludes blocks where the lease explicitly permits two dwellings on a block.

The change is not inconsistent with section 84 (2) (c) of the Planning Act 2023.

The amendment to change a provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision. It clarifies that unit titling of dual occupancy housing is permitted on blocks that are considered to be non-standard blocks, under the revised definition. Part G Dictionary – definition of industrial trades

3.6 Part G Dictionary – definition of *industrial trades*

‘Plant and equipment hire’ has been removed as a standalone definition in the interim Territory Plan. It is deemed to be a permitted use covered by the definition of ‘industrial trades’, however this is not clear in the definition. To clarify that this is the case, plant and equipment hire has been added to the list of example uses under the definition of ‘industrial trades’.

The change is not inconsistent with section 84 (2) (c) of the Planning Act 2023.

The amendment to change a provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision. It provides clarification on the types of uses that can be considered under the definition of *industrial trades*.

3.7 Part G Dictionary – definition of *standard block*

The definition of ‘standard block’ in the interim Territory Plan removed the exclusion for original leases that explicitly permitted two dwellings, so that the provisions pertaining to development could be applied consistently on all blocks, especially in the RZI suburban zones. This meant that blocks classified as ‘non-standard’ blocks in the Territory Plan 2008 are now captured by the new definition. A consequence of this change meant that dual occupancy and multi-unit development that had been approved under the previous Territory Plan (definition and controls) could no longer be unit titled.

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In response to comments received during consultation on this minor amendment, and further consideration of the matter, the definition of 'standard block' has been reverted to the definition of 'standard block' in the Territory Plan 2008.

The definition is amended to read:

Standard block means a block with one of the following characteristics:

- a) originally leased or used for the purpose of one or two dwellings except where the original lease explicitly permits two dwellings
- b) created by a consolidation of blocks, at least one of which is covered by a)

The change is not inconsistent with section 84 (2) (c) of the Planning Act 2023.

The amendment to change a provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision. By reverting to the previous definition, the development rights of lessees who bought and/or wish to redevelop their block based on the provisions in the Territory Plan 2008 is retained.

4.0 TERRITORY PLAN AMENDMENT INSTRUCTIONS

This section provides the legal instructions for how MA 2024-d proposes to amend the Territory Plan.

4.1 Part D – District Policies – Belconnen District Policy – Assessment Requirements 9 (Belconnen – Town Centre), 25 (Charnwood Group Centre), 33 (Holt – Kippax Group Centre), 39 b) (Kaleen) and 51 (Macquarie – Jamison Centre)

Substitute

9. Development of public car parking areas in the grey shaded areas on Figure 11 provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the town centre as endorsed by the Territory.

Substitute

25. Development of public car parking areas in Charnwood Place provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the group centre as endorsed by the Territory.

Substitute

33. On Sections 86, 88 and 89 (Hardwick Place), development of public car parking areas provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the group centre as endorsed by the Territory.

Substitute

39. b) Development of the public car parking areas provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the group centre as endorsed by the Territory

Substitute

51. On Section 50, development of the public car parking areas provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the group centre as endorsed by the Territory.

4.2 Part D – District Policies – Inner North and City District Policy - Assessment Requirement 19 (Dickson)

Substitute

- 19 Development of public car parking areas indicated by shaded areas on Figure 15 provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the group centre as endorsed by the Territory.

4.3 Part D – District Policies – Inner South District Policy– Assessment Requirements 12 (Forrest/Griffith – Manuka Group Centre) and 38 (Kingston – Group Centre)

Substitute

12. Development of public car parking areas in the Manuka group centre provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the group centre as endorsed by the Territory.

Substitute

38. Development of public car parking areas in the Kingston group centre provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the group centre as endorsed by the Territory.

4.4 Part D – District Policies – Weston Creek District Policy– Assessment Requirement 27 (Weston – Group Centre)

Substitute

27. Development of public car parking areas on Sections 84 and 88, as indicated Figure 5 provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the group centre as endorsed by the Territory.

4.5 Part D – District Policies – Woden District Policy– Assessment Requirements 18 (Mawson) and 30 (Phillip – Woden Town Centre)

Substitute

18. Development of public car parking areas identified in Figure 9 provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the group centre as endorsed by the Territory.

Substitute

30. Development of public car parking areas identified in Figure 14 provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for the town centre as endorsed by the Territory.

4.6 Part D – District Policies – Tuggeranong District Policy – Assessment Requirements 7 (Calwell – Group Centre), 10 (Chisholm), 14 (Greenway – Tuggeranong Town Centre), 30 & 31 a) (Kambah – Group Centre), 48 (Wanniassa – Erindale Group Centre) and 59 (Wanniassa – Group Centre)

Substitute

7. Development of public car parking areas provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for public use at all times for the group centre as endorsed by the Territory.

Substitute

10. In the commercial centre, development of public car parking areas provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for public use at all times for the group centre as endorsed by the Territory.

Substitute

14. Development of public car parking areas provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for public use at all times for the town centre as endorsed by the Territory.

Substitute

30. Development of public car parking areas identified as shaded areas in Figure 14 provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for public use at all times for the group centre as endorsed by the Territory.

Omit

31. a)

Substitute

48. Development of public car parking areas provides for car parking that is generated by the development and makes a substantial

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contribution to the long-term parking supply for public use at all times for the group centre as endorsed by the Territory.

Substitute

59. Development of public car parking areas provides for car parking that is generated by the development and makes a substantial contribution to the long-term parking supply for public use at all times for the group centre as endorsed by the Territory.

4.7 Part E – Zone Policies - Residential Zones Policy – Assessment Requirements 1, 2 and 3

Insert a note at the end of Assessment Requirement 1 that reads as follows:

Note: Single dwelling includes all associated roofed Class 10 buildings.

Substitute

2. Site coverage for multi-unit housing in RZ1 and RZ2 is a maximum of 45% of the original block area.

Substitute

3. Site coverage for multi-unit housing in RZ3, RZ4 and RZ5 is a maximum of 50% of the original block area.

4.8 Part E – Zone Policies - Residential Zones Policy – Section 5. Assessment Requirements – Redevelopment Control

Insert

23. This requirement applies to blocks other than standard blocks in RZ1 for which the crown lease explicitly permits 2 dwellings, but not to blocks that are intended to be used only for supportive housing. The maximum number of dwellings permitted on a block is 2.

Note: This does not apply to blocks for which the crown lease does not specify the number of dwellings permitted or permits a number of dwellings greater than 2.

4.9 Part F – Other Policies - Subdivision Policy – Assessment Requirement 14

Substitute

14. In RZ1, subdivision under the Unit Titles Act 2001 is permitted where one or more of the following applies:
- a) The development is only for dual occupancy housing on a standard block that meets one or more of the following:
 - i. On a block a minimum of 800m² and where one dwelling has a maximum dwelling size* of 120m²
 - ii. On a surrendered residential block.
 - b) The development is multi-unit housing (including dual occupancy housing) on a non-standard block.

4.10 Part G Dictionary – Table 1 land use definitions: *industrial trades*

Insert under Example Uses:

plant and equipment hire

4.11 Part G Dictionary – Table 2 terms and concept definitions: *standard block*

Substitute

Standard block means a block with one of the following characteristics:

- a) originally leased or used for the purpose of one or two dwellings except where the original lease explicitly permits two dwellings
- b) created by a consolidation of blocks, at least one of which is covered by a)

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