

Australian Capital Territory

Planning and Development (Draft Variation No 296) Notice 2008

Amendments to Water Use and Catchment General Code

Notifiable instrument NI2008—321

made under the

***Planning and Development Act 2007*, section 63 (Public consultation - notification) and section 64 (Public consultation – notice of interim effect etc)**

Draft variation No. 296 to the Territory Plan has been prepared by the ACT Planning and Land Authority in accordance with section 63 of the *Planning and Development Act 2007* (the Act).

The draft variation proposes to make changes to the Water Use and Catchment General Code to enable the implementation of a range of stormwater harvesting and reticulation projects under the auspices of the National Water Initiative.

A copy of the draft variation is attached for information.

The documents relating to this draft plan variation may be obtained from:

- the Authority's website at:
http://www.actpla.act.gov.au/topics/your_say ; or
- the Authority's Customer Service Centre, Ground Floor, South Building, Dame Pattie Menzies House, 16 Challis Street, Dickson (opposite the Motor Registry) 8:30am to 4:30pm weekdays.

Note that access to the Internet is available free of charge at all ACT Public Libraries during library opening hours.

Written comments from the public are invited on the draft plan variation by **COB Thursday 11 September 2008**. Comments should include reference to this draft variation, a return postal address, and be addressed to:

The Manager, Development Policy Section
ACT Planning and Land Authority

Comments may be submitted in one of the following ways:

- Hand deliver to:
The Authority's Customer Service Centre, 16 Challis Street, Dickson

- Post to: GPO Box 1908
CANBERRA ACT 2601
- Email: terrplan@act.gov.au

Section 72 does not apply in relation to the draft plan variation and therefore it does not have interim effect.

Copies of all written comments received from the public will be made available for public inspection at the Authority's Customer Service Centre, Dickson, during normal office hours for a period of not less than 15 working days after the closing date listed above.

Jacqui Lavis
Delegate of the ACT Planning and Land Authority

28 July 2008



Planning & Development Act 2007

**Draft
Variation to the
Territory Plan
No. 296**

**Amendments to Water Use and
Catchment General Code**

July 2008

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1. INTRODUCTION

1.1 Summary of the Proposal

The draft Variation proposes to amend the Water Use and Catchment General Code at section 1.8 of Volume 2 of the Territory Plan. The Water Use and Catchment General Code identifies the purposes for which water may be used in different parts of the ACT. The purpose of the changes is to enable the implementation of a range of stormwater harvesting and reticulation projects under the auspices of the National Water Initiative. These approaches to water management were not envisaged when the water use policies in the Territory Plan were originally formulated.

1.2 Outline of the process

The Commonwealth's *Australian Capital Territory (Planning and Land Management) Act 1988* allows for the Legislative Assembly to make laws to establish a Territory Planning Authority and for that Authority to prepare and administer a Territory Plan. The *Planning and Development Act 2007* (the P&D Act) establishes the ACT Planning and Land Authority as the Authority which prepares and administers the Territory Plan, including continually reviewing and proposing amendments as necessary.

The Territory Plan (the Plan) is comprised of the written statement and a map. The written statement contains a number of parts, namely Governance; Strategic Direction; Zones; Precinct Codes; General Codes; Overlays; Definitions; Structure Plans, Concept Plans and Development Codes for Future Urban Areas.

The Territory Plan Map graphically represents the applicable land use zones (under the categories of Residential, Commercial, Industrial, Community Facility, Urban Parks and Recreation, Transport and Services and Non Urban), precincts and overlays. The zone, precinct and overlay requirements are detailed in the written volumes of the Territory Plan.

Draft variations to the Territory Plan are prepared in accordance with the P&D Act. Following the release of the draft plan variation under section 63 of the Act, submissions from the public are invited. At the conclusion of the consultation period the ACT Planning and Land Authority (the Authority or ACTPLA) submits a report on consultation and a recommended final plan variation to the Minister for Planning for approval. The Minister has the discretion to determine if referral to the Legislative Assembly Standing Committee on Planning and Environment is warranted prior to approval, depending on the nature and significance of the proposal. If the draft variation is referred to the Committee by the Minister or otherwise, the Minister must consider the findings of the Committee before deciding whether to approve the draft plan variation. If the Minister approves the plan variation, the variation and associated documents will be tabled in the Legislative

Assembly. Unless disallowed by the Legislative Assembly within five sitting days, the plan variation commences on a day nominated by the Minister.

1.3 This document

This document contains the background information in relation to the proposed variation. It comprises the following parts:

- **Part 1 - This Introduction.**
- **Part 2 - An Explanatory Statement**, which gives reasons for the proposed variation and describes its effect.
- **Part 3 - The Draft Plan Variation**, which details the precise changes to the Territory Plan that are proposed.

1.4 Public Consultation

Comments from the public are invited on the draft variation. Subject to consideration of responses received, the Authority proposes to submit this draft variation to the Minister for Planning in accordance with the P&D Act.

The documents relating to this draft plan variation may be obtained from:

- the Authority's website at:
http://www.actpla.act.gov.au/topics/your_say ; or
- the Authority's Customer Service Centre, Ground Floor, South Building, Dame Pattie Menzies House, 16 Challis Street, Dickson (opposite the Motor Registry) 8:30am to 4:30pm weekdays.

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2. EXPLANATORY STATEMENT

2.1 Background

The ACT Government in 2007 received a \$10 million grant from the National Water Commission to develop water harvesting and reticulation projects, with the ACT Government providing funding in excess of this amount. The Territory and Commonwealth Government jointly announced the overall objective of achieving a 3 GL/annum potable water saving target by 2015.

The Department of Territory and Municipal Services (TaMS) as Project Manager and Infrastructure Planning (IP) section of ACT Planning & Land Authority (ACTPLA) are working to implement this program.

The Commonwealth Scientific and Industrial Research Organisation (CSIRO), in its draft of the Canberra Integrated Waterways Feasibility Study – Stage 1 identified the most cost effective options to develop a non-potable water supply as:

- Harvesting and reticulation of stormwater as a non potable water supply.
- Pumping of some harvested water into underground aquifers during wet periods (where technically feasible) and extraction from those aquifers during dry periods. The process is called Aquifer Storage Transfer Recovery or Aquifer Storage Recovery, or generically Managed Aquifer Recharge (MAR).

To enable these outcomes to be achieved it is proposed to amend the Territory Plan to ensure that the Water Use and Catchment General Code will accommodate these activities.

This draft Variation proposes to amend the Territory Plan Volume 2 Section 1.8, Water Use and Catchment General Code. The Code identifies the purposes for which water may be used in different parts of the ACT. These new water saving initiatives were not fully envisaged in the current Plan.

The main purposes of this draft Variation is to update the Code policies and sections on Protection of Water Quality, and Protection of Ground Water Yield.

2.2 Site Description

The draft Variation is applicable to all water catchments within the ACT.

2.3 Current Territory Plan Provisions

The Water Use and Catchment General Code currently does not allow for injecting water into underground aquifers to use as underground storage as part of the Integrated Waterways Project to reduce the demand on potable water.

2.4 Proposed Changes

Proposed changes to the Territory Plan Volume 2 – Section 1.8 – Water Use and Catchment General Code

- In Schedules 2, 4 and 6 at Parts A, B and C of the Code respectively, make additional provision for “Discharge – stormwater”.
- In Protection of Water Quality at Elements 2, 7 and 12 of Parts A, B and C of the Code respectively, add a new subclause to clarify that stormwater may be permitted into groundwater.
- In Protection of Groundwater Yield at Elements 5, 10 and 15 of Parts A, B and C of the Code respectively, add a new subclause to clarify that where water is collected and recharged into the groundwater a proportion of the amount recharged into an aquifer may be abstracted from that aquifer.

2.5 Reasons for the Proposed Variation

The reasons for the proposed Variation are as follows:

- The Territory and National Government jointly announced the overall objective of achieving a 3 GL/annum potable water saving target by 2015.
- The Commonwealth Scientific and Industrial Research Organisation (CSIRO), in its draft of the Canberra Integrated Waterways Feasibility Study – Stage 1 identified the most cost effective options to develop a non-potable water supply as:
 - Harvesting and reticulation of stormwater as a non potable water supply.
 - Pumping of some harvested water into underground aquifers during wet periods (where technically feasible) and extraction from those aquifers during dry periods. The process is called Aquifer Storage Transfer Recovery or Aquifer Storage Recovery, or generically Managed Aquifer Recharge (MAR).
- The opportunities for use of second class water for irrigation purposes within the urban area have been broadened. This change serves to further accommodate the growing importance of water reuse to reduce the demand on the potable water supply.
- In the Territory Plan Water Use and Catchment General Code Schedules 2, 4 and 6, some of the catchments listed under “Water Use and Environmental Values” do not include discharge of stormwater. However stormwater naturally discharges into these catchments. This draft Variation therefore seeks to incorporate discharge of stormwater into these catchments.
- Since the inception of the original Territory Plan in 1993 there has been a general recognition of the effects of climate change, a shortage of water available to cities and a consequential need to develop water saving alternatives. The use of MAR has developed in other jurisdictions (mainly South Australia with CSIRO) over the past decade to the extent that these advances are now proven technology. The Territory Plan does not currently recognise MAR. The Variation would accommodate this situation.

2.6 Planning Context

2.6.1 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 Plan 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 *Australian Capital Territory (Planning and Land Management) Act 1988* also required that a Territory Plan be prepared by a Territory Planning Authority responsible to the ACT Legislative Assembly and that the Territory is planned and developed in a manner not inconsistent with the NCP.

2.6.2 Territory Plan

The subject draft Variation clarifies and provides for the enablement of water saving initiatives for the Territory under Section 1.8 in the Territory Plan Volume 2 - Water Use and Catchment General Code.

2.6.3 Planning Strategy for the ACT

Spatial Plan

The Spatial Plan outlines the strategic direction for growth to achieve social, environmental and economic sustainability for Canberra. The proposal responds to the objective in the plan regarding maintaining water quality and availability. Water use will be managed wisely and within the environmental capabilities of the region.

2.7 Interim Effect

The draft variation does not have interim effect and therefore section 65 of the Planning and Development Act 2007 does not apply.

The current Territory Plan will continue to apply while the variation remains in draft form.

2.8 Consultation with Government Agencies

2.8.1 National Capital Authority

In preparing this draft plan variation the Planning and Land Authority is required under section 61(b)(ii) of the *Planning and Development Act 2007* to consult with the National Capital Authority in relation to the proposed draft plan variation.

The National Capital Authority advised that it has no comments to make on the proposed Draft Variation to the Territory Plan No.296, and do not object to the draft variation proceeding.

Response

Noted.

2.8.2 Conservator of Flora and Fauna

In preparing this draft plan variation the Planning and Land Authority is required under section 61(b)(iii) of the *Planning and Development Act 2007* to consult with the Conservator of Flora and Fauna in relation to the proposed draft plan variation.

The Conservator made the following comments:

“In accordance with Section 61(b) of the Planning and Development Act 2007, I advise that I have examined the revised Draft Variation to the Territory Plan No. 296 – Amendments to Water Use and Catchment General Code, and the Environment Protection Authority’s comments, and agree to the amendments to the draft variation as proposed by the Environment Protection Authority.”

Response:

Noted.

2.8.3 Environment Protection Authority

In preparing this draft plan variation the Planning and Land Authority is required under section 61(b)(iv) of the *Planning and Development Act 2007* to consult with the Environment Protection Authority in relation to the proposed draft plan variation.

The Environment Protection Authority provided the following comments:

“In accordance with Section 61(b) of the Planning and Development Act 2007, I advise that I have examined the revised Draft Variation to the Territory Plan No. 296 – Amendments to Water Use and Catchment General Code and provide the following comments:

In order to facilitate the harvesting and reticulation of stormwater as a non potable water supply, including the use of aquifers, the addition of ‘discharge – stormwater’ to the tables is supported. However, the addition of the clauses in the sections on Protection of Water Quality and Protection of Ground Water Yield (Elements 2, 7, 10, 12 & 15) are not supported as these are regulatory arrangements under the Water Resources Act 2007 and Environment Protection Act 1987 and should not be included in the Territory Plan. The current code does not preclude the discharge of stormwater to groundwater.

To allow more innovative use of treated waste water, and further reduction in the use of potable water, it is recommended that ‘discharge - waste water’ be added to all catchments in Schedule 2 and Schedule 6. It is recognised that it may not be possible at this time to include ‘discharge – waste water’ for all catchments as this may make the Territory Plan inconsistent with the National Capital Plan but the

National Capital Authority should be approached to sponsor a variation to the National Capital Plan.

To ensure protection of water quality it is recommended that Element 2 h) and Element 12 h) be amended to read “Discharge of wastewater shall not be permitted unless it is treated to an appropriate standard that will not cause adverse impacts to human health or the environmental values”.

Response

Support is acknowledged.

Wording in Elements 2, 7, 10, 12 & 15 amendments are as previously proposed by EPA.

The current code sets out what can be done, and as it is silent with respect to discharge into groundwater the proposed variation clarifies the activity.

EPA support for a general approval for ‘discharge – wastewater’ is noted. A change for a future variation could be investigated in collaboration with the National Capital Authority.

At this time it is not proposed to discharge wastewater into underground aquifers as it may require more analysis of possible impacts. A change for a future variation could be investigated with wording similar to EPA proposal.

2.8.4 Heritage Council

In preparing this draft plan variation the Planning and Land Authority is required under section 61(b)(v) of the *Planning and Development Act 2007* to consult with the Heritage Council in relation to the proposed draft plan variation.

The Heritage Council provided the following comments:

“The Variation does not “raise any heritage concerns, and consequently the Heritage Council has no further comment.”

Response

Noted.

3. DRAFT VARIATION

3.1 Variation to the Territory Plan Volume 2

The Territory Plan Volume 2, Section 1.8 Water Use and Catchment General Code is varied as follows:

- 1 At **Part A Conservation Catchments, Part A(2) Policies Element 1 Water Use and Environment Values, Schedule 2: Conservation Catchment Policies**, add “Discharge – stormwater” to the **Water Uses and Environment Values** categories where not included as shown underlined below:

| Schedule 2: Conservation Catchment Policies | | |
|---|--|--|
| Catchment | Description | Water Uses and Environment Values* |
| Murrumbidgee | Angle Crossing to Molonglo River | DOM/1, IRRIG, STOCK, REC/1, REC/2, VIEW, AQUA/1, AQUA/2, Discharge – stormwater |
| | Molonglo River to ACT Border | STOCK, REC/1, REC/2, VIEW, AQUA/1, AQUA/2, Discharge – wastewater, <u>Discharge – stormwater</u> |
| Paddys | Head to Cotter River | VIEW, REC/1, STOCK, DOM/1, AQUA/2, <u>Discharge – stormwater</u> |
| Gudgenby and Naas | Head to Murrumbidgee** | DOM/1, STOCK, VIEW, AQUA/1, AQUA/2, <u>Discharge – stormwater</u> |
| Cotter | Cotter Dam to Murrumbidgee | VIEW, AQUA/2, REC/1, REC/2, Hydro-electric power generation, <u>Discharge – stormwater</u> |
| <u>Tarpaulin</u> | <u>Head to Murrumbidgee</u> | <u>DOM/1, IRRIG, STOCK, REC/1, REC/2, VIEW, AQUA/1, AQUA/2, Discharge – wastewater, Discharge – stormwater</u> |
| Molonglo | ACT–NSW Border to Queanbeyan River | STOCK, IRRIG, VIEW, AQUA/2, <u>Discharge – stormwater</u> |
| | Queanbeyan River to Fyshwick | STOCK, IRRIG, VIEW, AQUA/2, Discharge – wastewater and stormwater, REC/2 |
| | Fyshwick to Dairy Flat Road | STOCK, IRRIG, VIEW, AQUA/2, Discharge – stormwater, REC/2, waterskiing |
| | Dairy Flat Road to Lake Burley Griffin | STOCK, IRRIG, VIEW, AQUA/2, AQUA/5, Discharge – stormwater, REC/2 |
| | Lake Burley Griffin – East Basin | REC/2, VIEW, AQUA/1, FISH, Discharge – stormwater |
| | Lake Burley Griffin – Central Basin | REC/2, VIEW, FISH, Discharge – stormwater |
| | Lake Burley Griffin – West Basin to Tarcoola Reach | REC/1, REC/2, VIEW, FISH, Discharge – stormwater |
| | Yarramundi Reach | REC/2, VIEW, AQUA/1, FISH, Discharge – stormwater |
| | Scrivener Dam to LMWQCC*** | STOCK, VIEW, AQUA/2, Discharge – stormwater, REC/2 |
| | LMWQCC*** to Murrumbidgee River | VIEW, AQUA/2, Discharge – wastewater, REC/2, <u>Discharge – stormwater</u> |

| | | |
|---|-------------------------------------|---|
| Queanbeyan | ACT Border to Molonglo River | STOCK, IRRIG, VIEW, AQUA/2, Discharge – stormwater, REC/2 |
| Jerrabomberra | Canberra Ave to Lake Burley Griffin | VIEW, AQUA/5, Discharge – stormwater |
| <p>* Fishing permitted in all waters ** Potential future Tennent Reservoir water supply scheme in this section *** Lower Molonglo Water Quality Control Centre Water use designations are set down in the National Capital Plan.</p> | | |

2 At Part A Conservation Catchments, Part A(2) Policies Element 2 Protection of Water Quality, after subclause h) add a new subclause i) as shown below:

- i) Discharge of stormwater may be permitted into groundwater upon authorisation by the Environment Protection Authority.

3 At Part A Conservation Catchments, Part A(2) Policies Element 5 Protection of Groundwater Yield, after subclause a) add a new subclause b) as shown below:

- b) Where water is collected and a volume is recharged into an aquifer by a person(s) or entity, there is potential for that person(s) or entity to abstract a proportion of that water from the same aquifer, upon authorisation from the Environment Protection Authority.

- 4 At **Part B Water Supply Catchments, Part B(2) Policies Element 6 Water Use and Environment Values, Schedule 4: Water Supply Catchment Policies**, add “Discharge – stormwater” to the **Water Use and Environment Value** categories as shown underlined below :

| Schedule 4: Water Supply Catchment Policies | | |
|--|--|---|
| Catchment | Description | Water Uses and Environment Values |
| Cotter | Headwaters to Corin Reservoir | VIEW, AQUA/1, <u>Discharge – stormwater</u> |
| | Corin Reservoir | DOM/1, VIEW, AQUA/6, <u>Discharge – stormwater</u> |
| | Corin Dam to Bendora Dam (incl. Reservoir) | DOM/1, VIEW, AQUA/1, AQUA/6, Hydro-electric power generation, <u>Discharge – stormwater</u> |
| | Bendora Dam to Cotter Reservoir | DOM/1, VIEW, AQUA/1, Hydro-electric power generation, <u>Discharge – stormwater</u> |
| | Cotter Reservoir | DOM/1, VIEW, AQUA/6, <u>Discharge – stormwater</u> |

- 5 At **Part B Water Supply Catchments, Part B(2) Policies Element 7 Protection of Water Quality**, after subclause g) add a new subclause h) as shown below:

- h) Discharge of stormwater may be permitted into groundwater upon authorisation by the Environment Protection Authority.

- 6 At **Part B Water Supply Catchments, Part B(2) Policies Element 10 Protection of Groundwater Yield**, after subclause a) add a new subclause b) as shown below:

- b) Where water is collected and a volume is recharged into an aquifer by a person(s) or entity, there is potential for that person(s) or entity to abstract a proportion of that water from the same aquifer, upon authorisation from the Environment Protection Authority.

- 7 At Section 1.8 Part C Drainage and Open space Catchments, C(2) Policies Element 11 Water Use and Environment Values, Schedule 6: Drainage and Open Space Catchment Policies, add “Discharge – stormwater” to the **Water Use and Environment Value** categories where not included (shown underlined below):

| Schedule 6: Drainage and Open Space Catchment Policies | | |
|---|--|--|
| Catchment | Description | Water Uses and Environment Values* |
| Tuggeranong | Head to Lake Tuggeranong | Discharge – stormwater, IRRIG, VIEW, AQUA/2, AQUA/3 |
| | South arm of Lake | Discharge – stormwater, VIEW, REC/2, IRRIG, AQUA/3 |
| | Kambah Wetland | Discharge – stormwater, VIEW, IRRIG, AQUA/3 |
| | North arm of Lake | Discharge – stormwater, VIEW, REC/2, IRRIG, AQUA/5 |
| | Main basin of Lake | Discharge – stormwater, VIEW, REC/1, REC/2, IRRIG, AQUA/3 |
| | Lake Tuggeranong Dam to Murrumbidgee River | Discharge – stormwater, VIEW, AQUA/4 |
| Lower Stranger Pond | Head to Murrumbidgee River | Discharge – stormwater, VIEW, IRRIG, AQUA/3, AQUA/4 |
| Point Hut Pond | Head to Murrumbidgee River | Discharge – stormwater, VIEW, REC/2, IRRIG, AQUA/3, AQUA/4 |
| Gooromon Ponds | NSW Border to Ginninderra Creek | <u>Discharge – stormwater</u> , STOCK, VIEW, AQUA/4, |
| Woolshed | Head to Molonglo River | <u>Discharge – stormwater</u> , STOCK, AQUA/2, |
| Jerrabomberra | ACT Border to Canberra Ave | STOCK, IRRIG, Discharge – wastewater and stormwater, AQUA/4 |
| Sullivans | Head to Lake Burley Griffin | <u>Discharge – stormwater</u> , STOCK, IRRIG, VIEW, AQUA/4, |
| Yarralumla | Head to Molonglo River | Discharge – stormwater |
| Weston | Head to Molonglo River | Discharge – stormwater |
| Ginninderra | Headwaters to Lake Ginninderra | Discharge – stormwater, AQUA/2, AQUA/3, AQUA/4, VIEW, REC/2, IRRIG |
| | Lake Ginninderra – Upstream of Ginninderra Drive | Discharge – stormwater, IRRIG, AQUA/3, VIEW |
| | Lake Ginninderra – Eastern arm | Discharge – stormwater, AQUA/3, VIEW, REC/1, REC/2, IRRIG |
| | Lake Ginninderra – South basin | Discharge – stormwater, AQUA/3, VIEW, REC/2, IRRIG |
| | Lake Ginninderra – Main basin | Discharge – stormwater, AQUA/3, VIEW, REC/1, REC/2, IRRIG |
| | Dam to ACT border | Discharge – stormwater, AQUA/3, AQUA/4, VIEW, IRRIG |
| Halls | Headwaters to Ginninderra Creek | Discharge – stormwater, AQUA/3, AQUA/4, VIEW |
| * Fishing permitted in all waters | | |

8 At Section 1.8 Part C Drainage and Open Space Catchments, C(2) Policies Element 12 Protection of Water Quality, after subclause h) add a new subclause i) as shown below:

- i) Discharge of stormwater may be permitted into groundwater upon authorisation by the Environment Protection Authority.

9 At Section 1.8 Part C Drainage and Open Space Catchments, C(2) Policies Element 15 Protection of Groundwater Yield, after subclause a) add a new subclause b) as shown below:

- b) Where water is collected and a volume is recharged into an aquifer by a person(s) or entity, there is potential for that person(s) or entity to abstract a proportion of that water from the same aquifer, upon authorisation from the Environment Protection Authority.

Interpretation service

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TRANSLATING AND INTERPRETING SERVICE

131 450

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