

Australian Capital Territory

Planning and Development (Technical Plan Variation—Error Variation) Notice 2008 (No 3)

Notifiable instrument NI2008—590

Technical Variation No 2008-12

made under the

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

This instrument (and the plan variation in it) commences on the day after it is notified.

Variation No 2008–12 to the Territory Plan has been approved by the Planning and Land Authority

The variation specifies miscellaneous corrections to the Territory Plan as detailed in Annexure A.

Jacqui Lavis
Delegate of the Planning and Land Authority

16 December 2008



Planning & Development Act 2007

**Technical Amendment
to the Territory Plan**

No. 2008-12

Miscellaneous Error Variation No. 3

December 2008

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1. INTRODUCTION

1.1 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 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. Part 5.4 section 87 of the Act allows for technical amendments to be made to the Territory Plan in a number of circumstances.

This technical amendment is an error variation and is subject to approval of the ACT Planning and Land Authority (the Authority) under section 87a of the Act. Error variations are not subject to the limited consultation requirements under section 90 of the Act. The Authority needs to be satisfied that the error variation would be a technical amendment and fix a date when the plan variation is to commence. On approval, the variation will commence in accordance with the commencement notice in the Legislation Register and will be notified in a daily news paper. The Territory Plan will be updated to reflect the changes that are approved in the error variation.

2. EXPLANATORY STATEMENT

2.1 Background

Under section 87(a) of the Act, an error variation is defined as a 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.

A formal error is defined as:

- a) a clerical error; or
- b) an error arising from an accidental slip or omission; or
- c) a defect of form.

2.3 Proposed Changes and Reasons

A. Definition of 'animal husbandry' – *Definitions, Part A*

The definition of animal husbandry was not translated from the former Territory Plan. This was an accidental omission. The previous definition is now inserted.

B. Definition of 'service station' – *Definitions, Part A*

The current definition contains an internal contradiction as it does not require the fuelling of motor vehicles but requires the sale by retail of petrol, oil and other petroleum products. The definition is also unnecessarily prescriptive as it requires

a service station to sell petroleum-based products and does not permit alternate sources of fuel. This is a defect in form. The variation will allow for service stations that do not necessarily sell petroleum-based products.

C. Industrial Code translation

The wording of Rule R11 and Criterion C11 have not been accurately translated into the new Territory Plan from the previous performance control relating to building scale. It is proposed to correct the rule and criterion to reflect the provision in Clause 3.7, Industrial Land Use Policy in the former Territory Plan

D. Corrections to various clerical errors

Three minor clerical errors will be amended:

- *Residential Zones, RZ5 High Density Residential Zone, Development Table* – move note from ‘special dwelling’ to ‘single dwelling’, as per other zones;
- *Multi-Unit Code Development Code, R63* – delete reference to C62, which does not exist, include references to R64 and R68/C68; and
- *Non-Urban Zones Development Code, C2* – correct cross-reference to “C1” instead of “C1.1.1”.

E. Correction of an accidental omission

Following the consultation process for Code Variation V2008-10 a change was recommended to include the words ‘on a *standard block*’ to R2 in the Single Dwelling Housing Development Code and R5 in the Multi-unit Housing Development Code. As part of the final document the change was made to R2 but was omitted from R5. It is proposed to amend R5 in the Multi-unit code to include the recommended wording.

F. Order and numbering of provisions

This amendment will remove the maps from the ‘governance’ section and place them at the front of the Territory Plan, making them easier for users to find and access. The provisions for structure plans, concept plans and development codes will also be renumbered so that they follow sequentially from the rest of the Territory Plan (i.e. “1 Structure Plans” will become “11 Structure Plans”, etc) to improve useability.

3. ERROR VARIATION

Variation to Residential Zones Development Tables

1 RZ5 – High Density Residential Zone Development Table, Assessable Development, Minimum Assessment Track Merit

Insert after ‘Single dwelling housing’:

(where not exempt development or code track assessable)

Omit after ‘Special dwelling’:

(where not exempt development or code track assessable)

Variation to Multi-Unit Housing Development Code

2 Multi-unit Housing Development Code, Part A(1), R5

Substitute for ‘Attics’:

On a *standard block* attics

3 Multi-unit Housing Development Code, Part C, R63

Substitute for d):

d) it is a courtyard wall that meets the requirements of R62, R63/C63, R64/C64 and R68/C68.

Variation to Industrial Zones Development Code

4 Industrial Zones Development Code, Part B, R11

Insert after ‘12 metres above’:

natural

5 Industrial Zones Development Code, Part B, C11

Substitute the wording in Criterion C11 with:

Development is of an appropriate scale compatible with an industrial area.

Variation to Non-Urban Zones Development Code

6 Non-Urban Zones Development Code, Part A(1), C2

Substitute for 'criteria C.1.1.1':

C1

Variation to Definitions

7 Part A – Definitions of Development

Insert after 'Animal care facility' and before 'Apartment' in the 'Development' column:

Animal husbandry means any form of animal production that either takes place within the confines of a building or buildings where livestock are reared in confined areas excluding any husbandry carried out mainly for the personal enjoyment of, or consumption by, the owner(s) or occupiers(s) of the land.

Insert after 'Animal care facility' and before 'Apartment' in the 'Some Common Terminology' column:

Feedlots
Fish farming
Poultry establishments
Shedded wool production

8 Part A – Definitions of Development

Substitute the definition of 'service station' with the following:

Service station means the use of land for the fuelling and/or servicing of motor vehicles, whether or not the land is also used for any one or more of the following purposes:

- a) the sale by retail of spare parts and accessories for motor vehicles;
- b) washing and greasing of motor vehicles;
- c) installation of accessories;
- d) the retail sale of other goods, within an *ancillary* retail area not greater than 150m² in area;
- e) providing toilet facilities, amenities and service for motorists;
- f) repairing of motor vehicles (other than body building, panel beating or spray painting); and
- g) the hiring of trailers.

Variation to website layout

9 Order and numbering of provisions

Re-order and number the provisions of the Territory Plan as follows:

Maps

- 1 Governance
- 2 Strategic Direction
- 3 Residential Zones
- 4 Commercial Zones
- 5 Industrial Zones
- 6 Community Facility Zones
- 7 Parks and Recreation Zones
- 8 Transport and Services Zones
- 9 Non-Urban Zones
- 10 Precinct Codes
- 11 General Codes
- 12 Overlays
- 13 Definitions
- 14 Structure Plans
- 15 Concept Plans – Precinct Codes for Section 93 of the Planning and Development Act 2007
- 16 Development Codes

Endnotes

Interpretation service

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, čempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE

131 450

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