# Planning and Development (Technical Amendment—Single Dwelling Housing Development Code) Plan Variation 2009 (No 1)

Notifiable instrument NI2009-488

**Technical Amendment Number 2009-24** 

made under the

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

This plan variation commences on 2 October 2009.

Variation 2009-24 to the Territory Plan has been approved by the Planning and Land Authority.

Kelvin Walsh Delegate of the Planning and Land Authority

30 September 2009



Planning & Development Act 2007

# Technical Amendment to the Territory Plan Code Variation 2009-24

Amendments to the Single Dwelling Housing Development Code

October 2009



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#### 1. INTRODUCTION

#### **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.

Technical amendments to the Territory Plan are prepared in accordance with the Act.

A code variation is a technical amendment 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.

Following the release of the code variation under section 90 of the Act, submissions from the public are invited. At the conclusion of the limited consultation period, any representations are considered by the ACT Planning and Land Authority (the Authority). The Authority then determines a day when the code variation is to commence by way of a Commencement Notice.

#### 2. EXPLANATORY STATEMENT

#### Introduction

The technical amendment introduces a new Part C(4) – Single Dwelling Housing – Mid Sized Blocks (>250 – 500m²) in New Estates into the single dwelling housing development code. Part C(4) of the code provides additional controls to, or controls that are to be applied in lieu of those in Parts A and C(1) for single dwellings. Part B of the code also applies.

Part C(4) introduces provisions for front setbacks, side setbacks and rear setbacks of single dwelling housing on midsized blocks. It also guides the design and siting of courtyard walls and private open space on midsized blocks.

In addition to Part C(4), the technical amendment makes provision for residential blocks of any size where identified in a concept plan (precinct code) to comply, as necessary, with the relevant bushfire provisions of the Building Code of Australia.

Provision is also made for surveillance blocks where identified in a concept plan (precinct code) to ensure that there are habitable rooms with windows overlooking the rear lane. There are also a number of other related minor amendments to the single dwelling housing development code to ensure that it is updated to reflect the introduction of the new Part C(4).

#### **Proposed Changes and Reasons**

The residential and subdivision codes of the Territory Plan are currently under review. In the mean time there is a need to continue to assess and decide estate development plans for new estates.

Some 40% of residential blocks in new estates fall into the midsized block range (>250 – 500m²). This reflects a general shift towards smaller residential blocks in order to improve housing efficiency and to increase housing choice.

The existing Territory Plan provisions were designed to accommodate predominantly standard residential blocks greater than 500m<sup>2</sup>. In

March 2008, the compact block provisions were introduced to accommodate blocks 250m<sup>2</sup> or less. The proposed technical amendment deals with blocks greater than 250m<sup>2</sup> up to and including blocks of 500m<sup>2</sup>.

The intent of the technical amendments is to provide a greater opportunity for single dwellings on midsized blocks to be exempt from requiring development approval whilst still retaining residential amenity and increased housing choice.

The midsized block provisions contained in Part C(4) will be reviewed as part of the broader review of the residential and subdivision codes. This may result in changes to these provisions in the future.

The exhibited draft Technical Amendment for midsize blocks and other amendments to the Single Dwelling Housing Development Code attracted six submissions, including two late submissions which were granted extensions of time. The provisions were amended as a result of the submissions.

#### 3. TECHNICAL AMENDMENT

#### Variation to the Single Dwelling Housing Development Code

#### 1 Introduction Structure of codes

Add the following dot point after the dot point for **Part C(3)**:

• Part C(4) Single dwelling housing – Mid Sized Blocks (>250 – 500m²) in New Estates provide the controls for single dwelling housing on residential blocks with a site area of greater than 250m² up to and including 500m² in new estates.

## 2 Part B – Additional Items 2.7 Bushfire and 2.8 Blocks between 500m<sup>2</sup> and 550m<sup>2</sup>

*Insert the following additional Item 2.7 Rule 18A after Rule 18 item 2.6 Plot Ratio:* 

2.7 Bushfire		
R20A		
Where identified in a Precinct Code or Lease and Development Conditions as being within a bushfire prone area buildings are to be constructed in accordance with the relevant BCA bushfire provisions.	This is a mandatory requirement. There is no applicable criterion.	
2.8 Blocks between 500m <sup>2</sup> and 550m <sup>2</sup>		
R20B		
Where identified in a Precinct Code blocks from 500m² up to 550m² will be subject to Part C(4) Single Dwelling Housing – Midsized Blocks (>250 – 500m²) in New Estates. Rules and Criteria of Part C(1) still apply to these blocks where relevant.	This is a mandatory requirement. There is no applicable criterion.	

#### 3 Part C – Development Type Controls

Substitute the first two paragraphs of the preamble with the following wording:

This part of the Code provides the controls for single dwelling housing. It is divided into four subparts.

Part C(1) Single Dwelling Housing provide the controls for single dwelling housing in all residential zones, except where provided for by Parts C(2), C(3) or C(4). Part C(1) also applies to the commercial zones and the rural zone. As such, it is the default position for single dwelling housing.

*Insert the following additional sentence at the end of the preamble:* 

**Part C(4)** provide the controls for single dwelling housing on residential blocks with a site area of greater than 250m<sup>2</sup> up to and including 500m<sup>2</sup> in new estates.

#### 4 Part C(1) – Single Dwelling Housing

*Substitute the first sentence of the preamble with the following:* 

This part of the code applies to development applications for single dwelling housing in all residential zones, except where provided for by Parts C(2), C(3) or C(4).

#### 5 Part C(1) Additional Item 2.5 Surveillance Blocks

Insert the following additional Item 2.5 Rule 32B after rule 32A item 2.4 Allowable Encroachments.

2.5 Surveillance Block		
32B		
Where identified in a Precinct Code as being a surveillance block provide habitable room(s) above the garage with windows facing and overlooking the rear lane.	This is a mandatory requirement. There is no applicable criterion.	

#### Part C(3) Additional item 2.7 Surveillance Blocks

Insert the following additional Item 2.7 Rule 65A after Rule 65 item 2.6 Side Setbacks – Corner Blocks

2.7 Surveillance Block		
Where identified in a Precinct Code as being a surveillance block provide habitable room(s) above the garage with windows facing and overlooking the rear lane.	This is a mandatory requirement. There is no applicable criterion.	

#### Additional Part C(4) – Single Dwelling Housing – Midsized Blocks (>250 – 500m²) in New Estates

Insert the following new Part C(4) after Part C(3)

# Part C(4) - Single Dwelling Housing – Midsized Blocks (>250 – 500m²) in New Estates

This part of the Code applies to development applications for single dwelling housing on residential midsized blocks >250m² and up to and including 500m² in new estates.

This part of the code provides additional controls to, or controls that are to be applied in lieu of, those in Parts A and C(1) for single dwellings. Part B of the Code also applies.

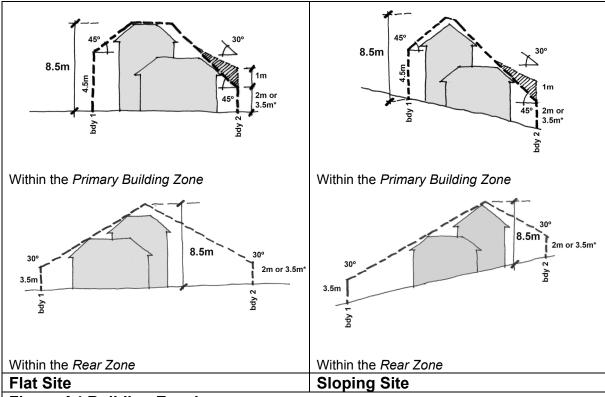
Residential midsized blocks aim to increase the range of housing alternatives in new estates to meet the diverse housing requirements of the Canberra community.

#### **Element 2: Building and Site Controls**

- Intent:
- a) To ensure buildings complement the built form, siting and scale of surrounding properties and are of an appropriate residential character
- b) To ensure buildings are designed and sited to:
  - i) Provide privacy between neighbours and between occupants and the public
  - ii) Provide adequate light and natural ventilation between dwellings
  - iii) Contribute to attractive streetscapes

Rules	Criteria		
2.1 Building Envelope (Replaces Part A R3, R6, R9 & R11)			
R81	C81		
Buildings are sited wholly within the building envelope (Refer Figure A4) defined by:  a) Boundaries that are the north facing boundary of an adjoining residential block:  i) within the <i>primary building zone (PBZ)</i> , planes projected at 45 degrees above horizontal from a height of 2.0m above natural ground level at the side boundary, up to a maximum building height of 8.5m above natural ground level, or where a wall is located on this boundary, planes projected at 30 degrees above the horizontal from a height of 3.0m above natural ground level of the boundary up to a maximum height of 8.5m above the natural ground level.  ii) within the <i>rear zone (RZ)</i> , planes projected at 30 degrees above horizontal	The built form does not adversely impact on the amenity of neighbouring properties by ensuring:  a) sufficient spatial separation between adjoining developments  b) the protection of a reasonable amount of privacy and solar access to adjacent dwellings and their associated private open space.		

Rules	Criteria
from a height of 2.0m above natural ground level at the side and rear boundary, up to a maximum of 8.5m above natural ground level.	
(b) for all other side and rear boundaries:	
i) within the primary building zone (PBZ), planes projected at 45 degrees above the horizontal from a height of 4.5m above natural ground level at the side boundary, up to a maximum building height of 8.5m above natural ground level	
ii) within the rear zone (RZ), planes projected at 30 degrees above the horizontal from a height of 3.5m above natural ground level at the side boundary, up to a maximum building height of 8.5m above natural ground level.	



#### Figure A4 Building Envelope

\*2 metres where the boundary is a north facing boundary of an adjoining residential block.

/// Hatched area indicates permissible encroachment under rule R81 a. i) for a garage, non-habitable room or habitable room with a cavity wall.

Rules	Criteria
2.2 Front setback (Replaces R30)	
R82	C82
Minimum front setbacks as specified in Table 1:	The front setback:
Articulation elements are permitted to encroach a maximum of 1m into the minimum front setback	a) reflects the existing or proposed streetscape character
provided they do not contribute to the calculation	b) provides for the most efficient use of the site
of Gross Floor Area (GFA)*.	c) will not significantly compromise the amenity of residents of the proposed building and residents of adjoining and adjacent dwellings
	d) is related to the height of the building and to the width of the street to ensure pedestrian scale at street level
	e) space is provided for street trees to grow to maturity
	f) parking and garages do not dominate the frontage of the development.

<sup>\*</sup> Articulation elements can include verandahs, porches, awnings, shade devices, pergolas and the like (a carport is not considered an articulation element)

**Table 1 – Front Boundary Setbacks** (Refer Figures C5 – C7)

	Front boundary including short front boundary of corner block	Long front boundary of a corner block	Rear lane front boundary of a rear loading block*
Lower Floor Level & Upper Floor Level (LFL & UFL)	4.0m	3.0m	0m
Garage / Carport	5.5m with a minimum of 1.5m behind the front building line	5.5m with a minimum of 1.5m behind the front building line	0m
Garage / Carport	5.5m where there is a courtyard wall in the front zone of the block	5.5m where there is a courtyard wall in the front zone of the block	0m

provided the rear lane width accommodates vehicular access and egress to and from the rear loading block and appropriate sightlines are achieved in accordance with A2890.1 The Australian Standard for Off-street Parking.

Rules	Criteria	
2.3 Side setback (Replaces R31)		
R83	C83	
Minimum option 1 side setbacks are as specified in Table 2 , or	Buildings and other structures are sited and reflect residential (suburban) scale, height and length to ensure:	
Where identified in a precinct code as having the option 2 side setbacks the minimum side	<ul> <li>i) sufficient spatial separation between adjoining developments</li> </ul>	
setbacks are prescribed in Table 3.	<ul><li>ii) the protection of a reasonable amount of privacy and solar access to the dwelling (or adjacent dwellings) and outdoor spaces (or adjacent outdoor spaces).</li></ul>	
	b) Setbacks are progressively increased as wall heights increase to reduce bulk and scale of the building.	

Table 2: Side Boundary Setbacks –Option 1 (Refer Figures C4 & C5)

	Side Boundary 1	Side Boundary 2*
LFL in the PBZ	1.5m	1.5m or 0m**
LFL in the RZ	3.0m	0.9m
UFL1 in the PBZ***	1.5m	3.0m
UFL 2 in PBZ****	6.0m	6.0m
UFL in the RZ	6.0m	6.0m

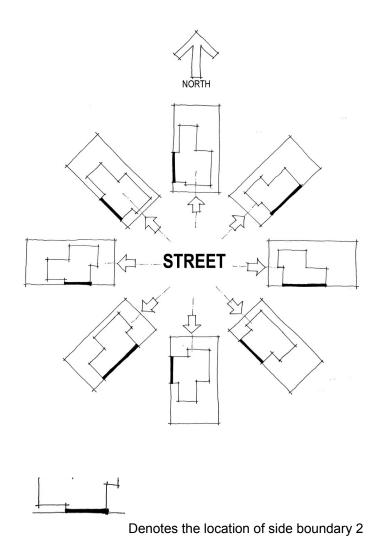
<sup>\*</sup> Boundary 2 location is as specified in Figure C4 or as otherwise stipulated in a precinct code.

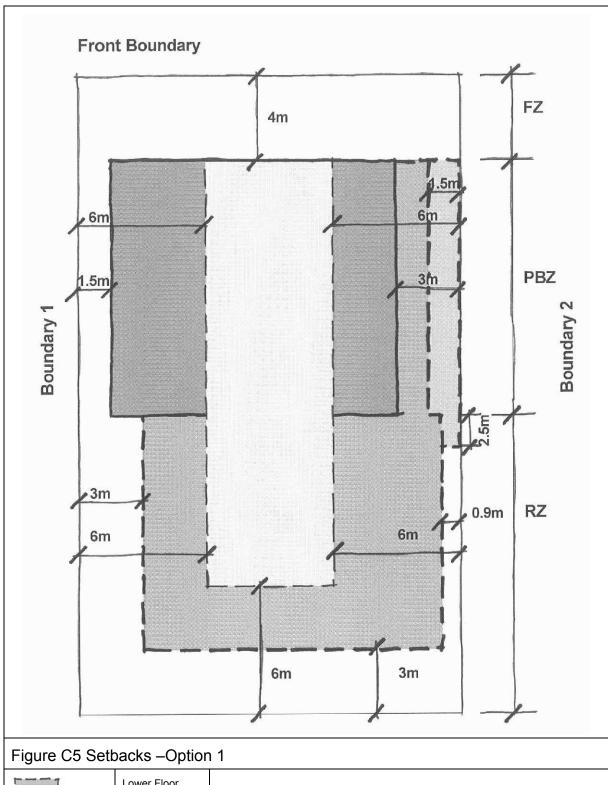
<sup>\*\*</sup> Provided the total length of the wall on the boundary does not exceed 13m (may extend up to 2.5m into the rear zone). Blank walls on boundaries may include walls to garages and non habitable rooms and cavity walls to habitable rooms.

<sup>\*\*\*</sup> Blank walls, walls with windows with sill heights ≥ 1.7m or with permanent fixed panes of obscure glass, or screen walls.

<sup>\*\*\*\*</sup> Walls with other windows, outer faces of unscreened decks, balconies and external stairs.

Figure C(4) Location of side boundary 2, relative to orientation





Lower Floor Level Setbacks	
Lower Floor Level Setback	Where the total length of the wall on the boundary does not exceed 13m (may extend up to 2.5m into the rear zone). Blank walls on boundaries may include walls to garages and non habitable rooms and cavity walls to habitable rooms.
Upper Floor Level Setback	Where design incorporates blank walls, walls with windows with sill heights ≥ 1.7m or with permanent fixed panes of obscure glass, or screen walls.
Upper Floor Level Setback	Where design incorporates other windows, outer faces of unscreened decks, balconies and external stairs.

RZ = Rear Zone	PBZ = Primary	FZ = Front Zone
	Building Zone	

Table 3 - Side Boundary Setbacks –Option 2 (blocks must be nominated in a precinct code) (Refer Figures C6 and C7)

	South^ Facing Boundary	North^^ Facing Boundary	East/ West^^^ Facing Boundary 1	East / West^^^ Facing Boundary 2*
LFL in the PBZ	1.5m 0m**	1.5m 4.0m+	1.5m	1.5m 0m**
LFL in the RZ	1.5m	1.5m 4.0m <b>+</b>	1.5m	1.5m
UFL 1 in PBZ***	1.5m	1.5m 4.0m <b>+</b>	1.5m	1.5m
UFL 1in RZ***	Not permitted	Not permitted	3.0m	3.0m
UFL 2 in the PBZ****	6.0m	6.0m	6.0m	6.0m
UFL 2 in the RZ****	Not permitted	Not permitted	6.0m	6.0m

South facing boundary means a boundary of a block where a line drawn perpendicular to the boundary outwards is orientated between south 30 degrees west and south 20 degrees east.

North facing boundary means a boundary of a block where a line drawn perpendicular to the boundary outwards is orientated between north 20 degrees west and north 30 degrees east.

<sup>•</sup> East/West boundary means a boundary of a block where a line drawn perpendicular to the boundary outwards is orientated either between east 20 degrees north and east 30 degrees south or between west 30 degrees north and west 20 degrees south.

<sup>\*</sup> Boundary 2 may be stipulated in a precinct code.

<sup>\*\*</sup> Provided the total length of the wall on the boundary does not exceed 13m (may extend up to 2.5m into the rear zone). Blank walls on boundaries may include walls to garages and non habitable rooms and cavity walls to habitable rooms.

<sup>\*\*\*</sup> Blank walls, walls with windows with sill heights ≥ 1.7m or with permanent fixed panes of obscure glass, or screen walls.

<sup>\*\*\*\*</sup> Walls with other windows, outer faces of unscreened decks, balconies and external stairs.

<sup>+</sup> The dwelling is required to be setback 4m from the north facing boundary for 50% or greater of the building length commencing from 4m or greater behind the front building line. The building length is measured 4m behind the front building line.

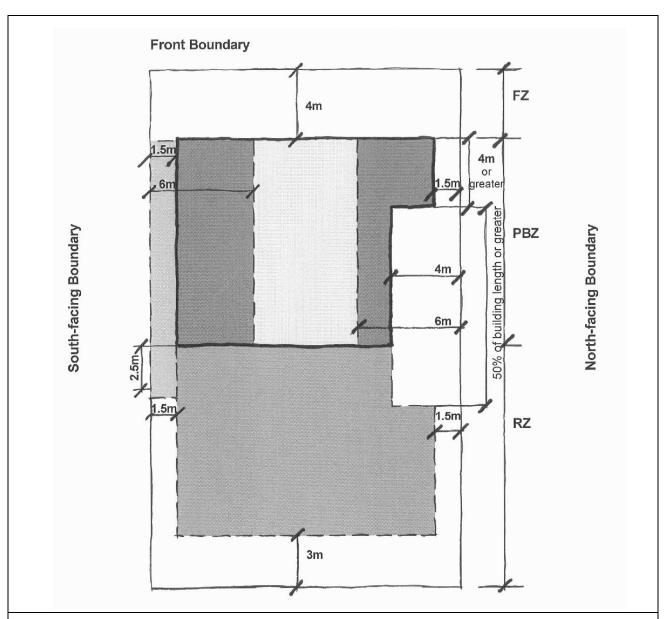


Figure C6 Setbacks - Option 2 - North and south facing side boundaries Lower Floor Level Setbacks Where the total length of the wall on the boundary does not exceed 13m Lower Floor Level (may extend up to 2.5m into the rear zone). Blank walls on boundaries may Setback include walls to garages and non habitable rooms and cavity walls to habitable rooms. Where design incorporates blank walls, walls with windows with sill heights Upper Floor Level ≥ 1.7m or with permanent fixed panes of obscure glass, or screen walls. Setback Where design incorporates other windows, outer faces of unscreened Upper Floor Level decks, balconies and external stairs. Setback **RZ** = Rear Zone **PBZ** = Primary Building FZ = Front Zone Zone

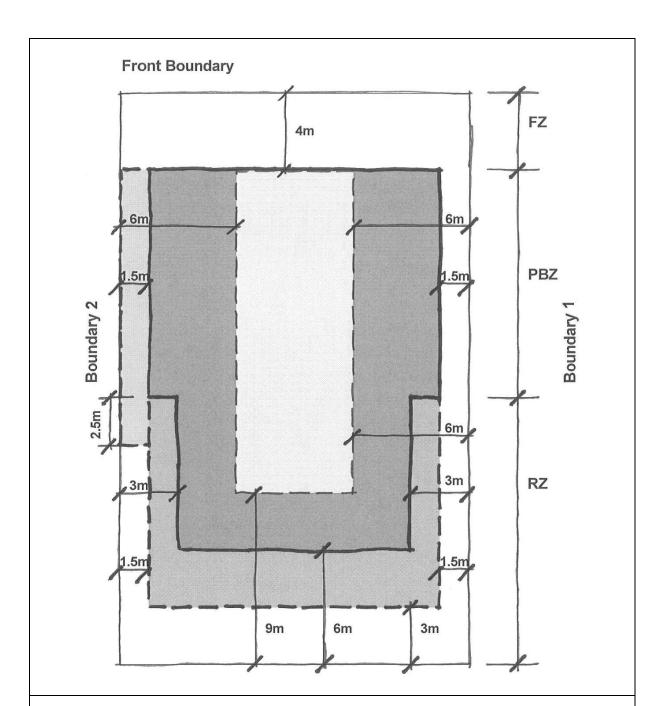


Figure C7 – Setbacks - Alternative Option - East and west facing side boundaries

Lower Floor Level Setbacks	
Lower Floor Level Setback	Where the total length of the wall on the boundary does not exceed 13m (may extend up to 2.5m into the rear zone). Blank walls on boundaries may include walls to garages and non habitable rooms and cavity walls to habitable rooms.
Upper Floor Level Setback	Where design incorporates blank walls, walls with windows with sill heights ≥ 1.7m or with permanent fixed panes of obscure glass, or screen walls.
Upper Floor Level Setback	Where design incorporates other windows, outer faces of unscreened decks, balconies and external stairs.

RZ = Rear Zone	PBZ = Primary Building Zone	FZ = Front Zone

Rules	Criteria
2.4 Rear setback (Replaces R32)	
R84 Rear setbacks are a minimum of:  a) 3m to the lower floor level b) 6m to the upper floor level, or Where identified in a precinct code as having the option 2 side setbacks, the minimum rear setbacks for blocks with east/ west facing side boundaries are:  a) 3m to the lower floor level b) 6m to the upper floor level* c) 9m to the upper floor level**.	C84  Buildings and other structures are sited and reflect residential (suburban) scale, height and length to ensure:  a) sufficient spatial separation between adjoining developments  b) the protection of a reasonable amount of privacy and solar access to the dwelling (or adjacent dwellings) and outdoor spaces (or adjacent outdoor spaces).

Blank walls, walls with windows with sill heights ≥ 1.7m or with permanent fixed panes of obscure glass, or screen walls

#### **Element 3: Built Form**

#### Intent:

- a) To ensure that the design of buildings are compatible with, and complement, the built form of surrounding properties
- b) To allow flexibility in design and use of materials and colours and encourage high quality architectural standards that contribute to visually harmonious and attractive streetscapes
- c) To ensure that rear and side fencing will assist in providing privacy to open space areas
- d) To ensure buildings are designed and sited to provide privacy between neighbours and between occupants and the public
- e) To provide adequate light and natural ventilation between dwellings
- f) To ensure that the design of buildings provides visual variety and interest within overall harmony with surrounding development

Rules	Criteria
3.1 Interface (Replaces R37)	
R85	C85
Courtyard walls forward of the building line have a minimum front setback of 1m provided:	a) Courtyard walls forward of the building line may be considered where the existing front
(i) the maximum height of the courtyard wall does not exceed 1.5m, and	building facade is maintained as the dominant built element in the streetscape.

<sup>\*\*</sup> Walls with other windows, outer faces of unscreened decks, balconies and external stairs.

Rules	Criteria
<ul> <li>(ii) the total length of the courtyard wall measured parallel to the front street boundary does not exceed 6.5m or 50% of the width of the block whichever is the greater, and</li> <li>(iii) the wall is finished and constructed to match or complement the dwelling, and</li> <li>(iv) the area between the wall and the front street boundary is planted with shrubs, and</li> <li>(v) the proposal demonstrates that the location of the courtyard wall does not obstruct sightlines for vehicles and pedestrians on public paths or roads in accordance with A2890.1 – The Australian Standard for Off-Street Parking.</li> </ul>	<ul> <li>b) The courtyard wall reads as a secondary built element of appropriate proportions and character with respect to: <ol> <li>i) height</li> <li>ii) relationship to verge footpath</li> <li>iii) total proportion relative to the building width</li> <li>iv) colour and design features</li> <li>v) transparency and articulation</li> <li>vi) protection of existing desirable landscape features</li> <li>vii) tree and shrub planting forward of the wall.</li> </ol> </li> <li>c) Courtyard walls do not obstruct sight lines for vehicles and pedestrians on public paths or driveways in accordance with AS2890.1-The Australian Standard for Off-Street Parking.</li> </ul>

#### **Element 5: Amenity**

#### Intent:

- a) Development is sited and designed to promote energy efficiency and maximise solar access to private open space and living areas of dwellings
- Dwellings are provided with private and useable private open space that is integrated with, and directly accessible from, the living areas of the dwelling

Rules	Criteria	
5.2 Private Open Space (Replaces Rule 47, 48, 49 and 50)		
R86	C86	
a) The development:	Private open space provided in the development:	
<ul> <li>i) provides a minimum of 60% of the area of the block, less 50m² as private open space; or</li> <li>ii) If the block is identified in a precinct code as an alternative side setback block, provides a minimum of 40% of the area of</li> </ul>	a) Has dimensions to suit the projected requirements of the dwelling's occupants and to accommodate both outdoor recreation needs as well as providing space for service functions such as clothes drying and domestic storage.	
the block,  b) At least one area of private open space on the block meets one of the following minimum dimension, area, location and	<ul> <li>b) Is capable of enabling an extension of the function of the dwelling for relaxation, dining, entertainment, recreation, and is directly accessible from the dwelling.</li> <li>c) Where forward of the front of the building</li> </ul>	
screening requirements:  i) 6m x 6m and 10% of the block area, screened from public view and behind the building line or enclosed by a courtyard	ensures the amenity of the private open space and the dwelling is protected whilst maintaining opportunities for passive	

Rules	Criteria	
wall forward of the building, or	surveillance.	
ii) If the block is identified in a precinct code as an alternative side setback, 6m x 4m and 20% of the block area, screened from public view and behind the building or enclosed by a courtyard wall and forward of the building	d) Takes account of outlook, natural features of the site and neighbouring buildings or open space and to provide for maximum year round use.	
c) The area of private open space provided under R86 (b) is:		
<ul> <li>i) For R86 (b) i) located to maintain a minimum three hours sunlight onto 50% of the ground area between the hours of 9:00am and 3:00pm on 21 June (winter solstice),</li> </ul>		
ii) For R86 (b) ii) located to maintain a minimum three hours sunlight onto 25% of the ground area between the hours of 9:00am and 3:00pm on 21 June (winter solstice),		
<ul><li>iii) at ground level and directly accessible from a main daytime living area of the dwelling.</li></ul>		
R87	C87	
A minimum of 50% of the private open space is to be retained as planting area.	Unpaved or unsealed areas are provided to facilitate on-site infiltration of stormwater run-off and provision of landscaping.	

#### **Table of Contents Single Dwelling Housing Development Code**

Update the Table of Contents to reflect the new Part C(4) and other changes

#### **Interpretation service**

ENGLISH If you need interpreting help, telephone:

إذا احتجت لمساعدة في الترجمة الشفوية ، إتمال برقم الهاتف:

CHINESE如果你需要传译员的帮助,请打电话:CROATIANAko trebate pomoć tumača telefonirajte:

GREEK Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN Se avete bisogno di un interprete, telefonate al numero:
MALTESE Jekk għandek bżonn I-għajnuna t'interpretu, ċempel:

اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید: PERSIAN

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SERBIAN Ако вам је потребна помоћ преводиоца телефонирајте:

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