

Australian Capital Territory

Planning and Development (Technical Amendment - Miscellaneous Amendments) Plan Variation 2011 (No 2)*

Notifiable Instrument NI2011- 667

Technical Amendment No 2011-40

made under the

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

This plan variation commences on the day after it is notified.

Variation No 2011-40 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 Attachment A.

Ben Ponton
Delegate of the Planning and land Authority

2 November 2011

*Name amended under Legislation Act, s 60



ACT
Government

Environment and
Sustainable Development

Planning and
Land Authority

Planning & Development Act 2007

Technical Amendment to the Territory Plan Variation 2011-40

Miscellaneous correction

November 2011

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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. This technical amendment has been prepared in accordance with the following sections of the Act:

A variation under section 87(a) is a technical amendment 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.

This technical amendment has been approved by the ACT Planning and Land Authority.

2 EXPLANATORY STATEMENT

Proposed Changes and Reasons

A Correction of rules and criteria numbering that were incorrectly inserted into the CFZ community facility zone development code (item 1)

Variation 302 introduced an amended community facility zone development code to the Territory Plan. The numbering of the rules and criteria were incorrect. Therefore it is proposed to correct this by re-numbering the rules and criteria accordingly.

Section of Act	Statement of compliance with Act
s87(a) a variation that -	
(i) would not adversely affect anyone's rights if approved; and	This amendment will not adversely affect anyone's rights.
(ii) has as its only object the correction of a formal error in the plan	This amendment seeks to correct the CFZ community facility zone development code rule and criteria numbering.

3. TECHNICAL AMENDMENT

Variation to Community Facility Zone Development Code

1. Community facility zone development code

Substitute rule and criteria numbering as underlined below:

Community Facility Zone Development Code

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Introduction

Name

The name of this code is **Community Facility Zone Development Code**.

Application

This code applies to all *development* in the community facility zone.

National Capital Plan

Where a *development* is subject to special requirements under the National Capital Plan, or any relevant development control plan prepared under the National Capital Plan, the *development* cannot be inconsistent with the special requirements or development control plan. Where any provision of this code is inconsistent with special requirements under the National Capital Plan, or any relevant development control plan prepared under the National Capital Plan, that provision has no effect.

Purpose

This code provides additional planning, design and environmental controls to support the objectives of the community facility zone.

It will be used by the *Authority* to assess *development applications*. It also offers guidance to intending applicants in designing *development proposals* and preparing *development applications*.

Structure

This code has a number of elements. Each element has one or more rules, each having an associated criterion (unless the rule is mandatory). Rules provide quantitative, or definitive, controls, while criteria are chiefly qualitative in nature.

In some instances rules are mandatory and are accompanied by the words “This is a mandatory requirement. There is no applicable criterion”. Non-compliance with a mandatory rule will result in the refusal of the development application. Conversely, the words “There is no applicable rule” is found where a criterion only is applicable. Where both rule and criterion apply, compliance with the rule is deemed to satisfy the particular requirement. Provided the relevant criterion can be met, strict compliance with the rule is not required.

Assessment tracks

Assessment track for a particular developments are specified in the community facility zone development table.

Proposals in the **code track** must comply with all rules relevant to the development.

Proposals in the **merit track** and **impact track** must comply with each relevant rule or its associated criteria, where the rule is not mandatory (i.e. it has no related criterion). Where a rule is fully met, no reference to the related criterion needs to be made. If the rule is not met, or where a criterion only applies, the onus is on the applicant to demonstrate that the relevant criterion is satisfied, through supporting drawings and/or written documentation. In addition, the applicant for proposals in the impact track must justify any non-compliance by reference to the Statement of Strategic Directions.

Code hierarchy

Under the *Planning and Development Act 2007*, where more than one type of code applies to a development, the order of precedence if there is inconsistency of provisions between codes is: precinct code, development code, and general code.

Related codes

This code makes reference to development codes and general codes that may also apply.

In addition, precinct codes may contain additional provisions that apply to certain specified blocks.

Definitions

Defined terms, references to legislation and references to other documents are italicised. Definitions of terms used in this code are listed under the definitions heading of the Territory Plan, or for terms applicable to this code, associated with the respective rule or element.

Relevant Codes

Development codes (including this code) that apply to certain development or use in the community facility zone are marked Y in table A1.

Table A1 – Development codes applicable to development and uses in community facility zone

DEVELOPMENT / USE	THIS CODE	SINGLE DWELLING HOUSING DEVELOPMENT CODE	MULTI UNIT HOUSING DEVELOPMENT CODE
ancillary use	Y		
business agency	Y		
child care centre	Y		
community activity centre	Y		
community theatre	Y		
consolidation	Y		
cultural facility	Y		
demolition	Y		
educational establishment	Y		
emergency services facility	Y		
health facility	Y		
hospital	Y		
indoor recreation facility	Y		
lease variation	Y		
minor use	Y		
office	Y		
outdoor recreation facility	Y		
parkland	Y		
place of worship	Y		
public agency	Y		
religious associated use	Y		
residential care accommodation	Y	Y ³	Y ⁴
retirement village	Y		Y
sign	Y		
subdivision	Y		
supportive housing	Y	Y ³	Y ⁴
temporary use	Y		
scientific research establishment ¹	Y		
agriculture ²	Y		

Notes to Table A1:

¹- Development specific to section 38 blocks 4 and 5 Campbell

²- Development specific to section 450 block 1 Richardson

³- Applicable only where development is in the form of a *single dwelling housing*

⁴- Applicable only where development is in the form of *multi unit housing*

In addition to the **development codes** specified above, **precinct codes** and **general codes** may be relevant.

Precinct codes are located in section 10 of the Territory Plan.

The following **general codes**, in particular, may be relevant:

- Access and Mobility General Code

- Bicycle Parking General Code

- Community and Recreational Facilities Location Guidelines General Code

- Crime Prevention through Environmental Design General Code

- Parking and Vehicular Access General Code

- Signs General Code

- Water Ways: Water Sensitive Urban Design General Code

General codes are contained within the Territory Plan.

Development must comply with the relevant codes (including other general codes that may not be listed above), subject to the code hierarchy outlined in the introduction to this code.

GENERAL DEVELOPMENT CONTROLS

Element 1: Restrictions on use

Rules	Criteria
1.1 Supportive housing	
<p><u>R1</u> Development for supportive housing complies with all of the following:</p> <ul style="list-style-type: none"> a) the occupation of individual dwellings in a supportive housing complex is restricted by the lease to persons with special housing needs for reasons of age or disability b) the site has not been identified in a suburb precinct code as being prohibited for supportive housing c) all dwellings comply with Part 'C' of <i>Australian Standard AS4299 – Adaptable Housing</i>. d) subdivision of a lease developed for supportive housing, including subdivision under the Unit Titles Act 2001, is not permitted. 	<p>This is a mandatory requirement. There is no applicable criterion.</p>
1.2 Retirement village	
<p><u>R2</u> Development for <i>retirement village</i> complies with all of the following:</p> <ul style="list-style-type: none"> a) the site has not been identified in a suburb precinct code as being prohibited for retirement village b) Subdivision of a lease developed for retirement village, including subdivision under the <i>Unit Titles Act 2001</i>, is not permitted c) all dwellings comply with Part 'C' of <i>Australian Standard AS4299 – Adaptable Housing</i>. 	<p>This is a mandatory requirement. There is no applicable criterion.</p>
1.3 Business agency, office, public agency	
<p><u>R3</u> This rule applies to any of the following:</p> <ul style="list-style-type: none"> i) <i>business agency</i> ii) <i>office</i> iii) <i>public agency</i> <p>located within a surplus ACT Government owned <i>building</i>. The maximum <i>lease</i> term is 5 years</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
<p><u>R4</u> This rule applies to any of the following:</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Rules	Criteria
i) <i>business agency</i> ii) <i>office</i> iii) <i>public agency</i> located in other than a surplus ACT Government owned <i>building</i> , The use is conducted only by a not for profit organisation.	
<u>R5</u> This rule applies to any of the following: i) <i>business agency</i> ii) <i>office</i> iii) <i>public agency</i> located in other than a surplus ACT Government owned <i>building</i> . The total <i>gross floor area</i> of all such uses does not exceed 400m ² .	<u>C5</u> <i>Business agencies, offices and public agencies</i> are small scale.
1.4 Development proposals affected by approved lease and development conditions	
<u>R6</u> The development proposal complies with approved and current <i>lease and development conditions</i> applying to the <i>site</i> . Where there is an inconsistency between the <i>lease and development conditions</i> and the provisions of this code, the former shall take precedence, but only to the extent of the inconsistency.	<u>C6</u> The development meets the intent of any approved and current <i>lease and development conditions</i> applying to the <i>site</i> .

Element 2: Building and site controls

In this element:

Desired character means the form of development in terms of siting, building bulk and scale, and the nature of the resulting *streetscape* that is consistent with the relevant zone objectives

Rules	Criteria
2.1 Building height	
<u>R7</u> The maximum building height is: a) for that part of the building within 30m of a <i>residential block</i> – the greater of the following: i) 2 <i>storeys</i> ii) the maximum number of <i>storeys</i> permitted on that <i>residential block</i> b) in all other cases – the lesser of the following: i) 4 <i>storeys</i> ii) 15m <i>height of building</i> . For this rule: Residential block means a <i>block</i> that has at least one of the following characteristics –	<u>C7</u> <i>Buildings</i> achieve all of the following: a) consistency with the <i>desired character</i> b) a scale appropriate to the proposed use c) reasonable separation from adjoining developments d) reasonable privacy for <i>dwellings</i> on adjoining <i>residential blocks</i> e) reasonable privacy for <i>principal private open space</i> on adjoining <i>residential blocks</i> f) reasonable solar access to <i>dwellings</i> on adjoining <i>residential blocks</i> and their associated <i>principal private open space</i> .

Rules	Criteria
a) zoned residential b) affected by a lease which authorises residential use but does not include any land intended to remain as unleased Territory land or public open space.	
2.2 Setbacks	
<u>R8</u> Minimum <i>setback</i> of <i>buildings</i> to boundaries of <i>blocks</i> in a residential zone is 6m.	<u>C8</u> <i>Buildings</i> and other <i>structures</i> are sited to achieve all of the following: <ul style="list-style-type: none"> a) consistency with the <i>desired character</i> b) reasonable separation from adjoining developments c) reasonable privacy for <i>dwellings</i> on adjoining <i>residential blocks</i> d) reasonable privacy for <i>principal private open space</i> on adjoining <i>residential blocks</i> e) reasonable solar access to <i>dwellings</i> on adjoining <i>residential blocks</i> and their associated <i>principal private open space</i>.
2.3 Storage	
<u>R9</u> Outdoor storage areas are screened from view from any road or other public area.	<u>C9</u> Where the proposed use of the <i>site</i> requires open areas for storage of goods and materials, adequate provision is to be included in the design layout of the <i>site</i> and should not encroach on car parking areas, driveways or landscaped areas and be adequately screened from public view.

Element 3: Built form

Rules	Criteria
3.1 Materials and finishes	
There is no applicable rule.	<u>C10</u> Where development presents a blank façade to an <i>adjoining block</i> or public space, a visually interesting architectural treatment is applied to that wall, through the use of one or more elements such as colour, articulation, materials and shadows.
There is no applicable rule.	<u>C11</u> <i>Buildings</i> use high quality materials and have façade with visually interesting architectural treatments through the use of one or more elements such as colour, materials, shadows or deep framing profiles.
3.2 Interface	
There is no applicable rule.	<u>C12</u> Where appropriate, compatible uses of any existing <i>buildings</i> are integrated with new development and provide physical connections and linkages between <i>buildings</i> , and between <i>buildings</i> and public spaces.
There is no applicable rule.	<u>C13</u> Elements of the development that interface with a street promote an attractive <i>streetscape</i> .

Element 4: Traffic impact

Rules	Criteria
4.1 Traffic generation	
There is no applicable rule.	<u>C14</u> The existing road network can accommodate the amount of traffic likely to be generated by the development.

Element 5: Environment protection

Rules	Criteria
5.1 Water sensitive urban design	
<u>R15</u> This rule applies to sites 5000m ² or larger. The average annual stormwater pollutant export is reduced for all of the following: a) suspended solids by at least 60 per cent	This is a mandatory requirement. There is no applicable criterion.

Rules	Criteria
<p>b) total phosphorous by at least 45 per cent c) total nitrogen by at least 40 per cent compared with an urban catchment with no water quality management controls.</p> <p>Note: Compliance with this rule is demonstrated by a water sensitive urban design outcomes plan endorsed by a suitably qualified person.</p>	
<p>R16</p> <p>This rule applies to sites 2000m² or larger.</p> <p>Stormwater management complies with one of the following:</p> <p>a) the capacity of the existing pipe (minor) stormwater connection is not exceeded in 1-in-10 year storm event and the capacity of the existing major overland stormwater system is not exceeded in the 1-in-100 year storm event</p> <p>b) the 1-in-5 year and 1-in-100 year stormwater peak run off does not exceed pre-development levels.</p> <p>Note: Compliance with this rule is demonstrated by a water sensitive urban design outcomes plan endorsed by a suitably qualified person.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
<p>R17</p> <p>This rule applies to sites 2,000m² or larger. Provision is made for one or more of the following:</p> <p>a) the storage of stormwater equivalent to at least 1.4kl per 100m² of impervious area, and its release over a period of 1 to 3 days</p> <p>b) runoff peak flow for the 3 month ARI storm to be no more than pre-development levels and release of captured flow over a period of 1 to 3 days.</p> <p>Note: Compliance with this rule is demonstrated by a water sensitive urban design outcomes plan endorsed by a suitably qualified person.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
<p>There is no applicable rule.</p>	<p>C18</p> <p>Underground piping of natural stormwater overland flow paths is minimised.</p>
<p>5.2 Sediment and erosion control</p>	
<p>R19</p> <p>This rule applies to sites larger than 3000m². Development complies with a sediment and erosion control concept plan endorsed by the Environment Protection Authority.</p> <p>Supporting document: A sediment and erosion control concept plan is prepared in accordance with Environment Protection Authority <i>Environmental Protection Guidelines for</i></p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Rules	Criteria
<p><i>Construction and Land Development in the ACT 2011.</i> Note: A condition of development approval may be imposed to ensure compliance with this rule.</p>	
5.3 Earthworks	
<p>There is no applicable rule.</p>	<p><u>C20</u> The extent of earthworks is minimised.</p>
5.4 Tree protection	
<p><u>R21</u> This rule applies to <i>sites</i> where exceptional, high, or medium value trees are present. A tree management plan indicating that all exceptional, high, and medium value trees are retained and protected is endorsed by the Conservator of Flora and Fauna. Supporting document: Tree management plan endorsed by the Conservator of Flora and Fauna. Note: The Conservator of Flora and Fauna may endorse the removal of trees in accordance with the provisions of the <i>Tree Protection Act 2005</i>.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>
5.5 Heritage	
<p><u>R22</u> In accordance with section 148 of the <i>Planning and Development Act 2007</i>, applications for developments on <i>land</i> or <i>buildings</i> subject to provisional registration or registration under s.41 of the <i>Heritage Act 2004</i> are accompanied by advice from the Heritage Council stating that the development meets the requirements of the <i>Heritage Act 2004</i>.</p>	<p><u>C22</u> If advice from the Heritage Council is required however not provided, the application will be referred to the Heritage Council and its advice considered before the determination of the application.</p>
5.6 Contamination	
<p><u>R23</u> This rule applies where an assessment by the proponent in accordance with the <i>ACT Government Strategic Plan – Contaminated Sites Management 1995</i> and the <i>ACT Environment Protection Policy 2000</i> identifies contamination within or adjacent to the development area, but does not apply if the Environment Protection Authority has provided written advice that there are no contaminated sites within or adjacent to the development area. Development complies with an environmental site assessment report endorsed by Environment Protection Authority. Supporting document: Environmental site assessment report endorsed by Environment Protection Authority. 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>

Element 6: Amenity

Rules	Criteria
6.1 Noise	
<p><u>R24</u> This rule applies to any of the following:</p> <ul style="list-style-type: none"> i) emergency <i>services facility</i> ii) indoor <i>recreation facility</i> iii) outdoor <i>recreation facility</i> <p>Development complies with a noise management plan prepared by a suitably qualified person and endorsed by the Environment Protection Authority.</p> <p>The noise management plan will detail the proposed design, siting and construction methods that will be employed to ensure compliance with the Noise Zone Standard as detailed in the EPA's <i>Noise Environment Protection Policy, January 2010</i>, based on the estimated noise levels when the facility is in use.</p> <p>Supporting document: noise management plan endorsed by the Environment Protection Authority.</p> <p>Note: A condition of development approval may be imposed to ensure compliance with the endorsed noise management plan.</p>	<p><u>C24</u> Development types specified in rule R24 do not unreasonably diminish the residential amenity of current or future neighbouring residents.</p>

Element 7: Services and utilities

Rules	Criteria
7.1 Waste management	
<p><u>R25</u> Development complies with the waste facilities and management measures endorsed by Territory and Municipal Services Directorate.</p> <p>Supporting document: Written confirmation by Territory and Municipal Services Directorate that with the waste facilities and management associated with the development are in accordance with the current version of the <i>Development Control Code for Best Practice Waste Management in the ACT</i>.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Rules	Criteria
7.2 Utilities	
<p><u>R26</u> A statement of compliance from each relevant utility provider (for water, sewerage, stormwater, electricity and gas) is provided, which confirms that the location and nature of earthworks, utility connections, proposed buildings, pavements and landscape features comply with utility access provisions and asset clearance zones.</p> <p>Note: Where there is a conflict between planning and utility requirements, the utility requirements take precedence over other codified or merit provisions.</p>	<p><u>C26</u> If a statement of compliance is not provided the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p>
7.3 Waste water	
<p><u>R27</u> Subject to ActewAGL approval, all under cover areas drain to the sewer.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Element 8: Demolition

Rules	Criteria
8.1 Utilities	
<p><u>R28</u> This rule applies to demolition. The application is accompanied by a statement of endorsement for utilities (including water, sewerage, stormwater, electricity and gas) in accordance with section 148 of the <i>Planning and Development Act 2007</i> for all of the following:</p> <ol style="list-style-type: none"> a) all network infrastructure on or immediately adjacent to the site has been identified on the plan b) all potentially hazardous substances and conditions (associated with or resulting from the demolition process) that may constitute a risk to utility services have been identified c) all required network disconnections have been identified and the disconnection works comply with utility requirements d) all works associated with the demolition comply with and are in accordance with utility asset access and protection requirements. 	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Rules	Criteria
8.2 Hazardous materials	
<p><u>R29</u> Demolition of:</p> <p>a) <i>Multi unit housing</i> (including garages and carports) for which a certificate of occupancy was issued prior to 1985, or</p> <p>b) commercial or industrial premises for which a certificate of occupancy was issued before 2005,</p> <p>is undertaken in accordance with hazardous materials survey (including an asbestos survey) endorsed by the Environment Protection Authority.</p> <p>A hazardous materials survey includes, as a minimum, the identification of a disposal <i>site</i> for hazardous materials, including asbestos, that complies with one (1) of the following:</p> <p>i) is a licensed disposal facility in the ACT</p> <p>ii) another <i>site</i> outside the ACT.</p> <p>If hazardous materials, including asbestos, are to be transported for disposal interstate, approval from the Environment Protection Authority prior to removal of material from the <i>site</i>.</p> <p>An appropriately licensed contractor is engaged for the removal and transport of all hazardous materials (including asbestos) present at the <i>site</i>.</p> <p>Note: If an endorsed hazardous materials survey is required but not provided, the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p>	<p><u>C29</u></p> <p>If an endorsed hazardous material survey is required however evidence of an endorsed hazardous materials survey is not provided, the application will be referred to the relevant agency in accordance with the requirements of the <i>Planning and Development Act 2007</i>.</p>

Element 9: Subdivision

Rules	Criteria
9.1 Subdivision	
<p><u>R30</u> Subdivision is only permitted where all of the following are met:</p> <p>a) the subdivision is part of a development application for another assessable development</p> <p>b) it is demonstrated that any residual block can accommodate another assessable development designed in accordance with the relevant sections of this code.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

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 τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, çempel:
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 ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE

131 450

Canberra and District - 24 hours a day, seven days a week