

Australian Capital Territory

Planning and Development (Draft Variation No 306) Direction 2013*

Residential development, estate development and leasing codes: Replacement of residential zones objectives, development tables and housing development codes; Introduction of Residential Zones Development Code and Lease Variation General Code; Replacement of existing Residential Subdivision Development Code with Estate Development Code.

Notifiable Instrument NI2013-89

made under the

Planning and Development Act 2007, section 76 (Minister's powers in relation to draft plan variations)

Under s76(3)(b)(iv) of the *Planning and Development Act 2007*, the Minister responsible for planning returned draft variation 306 – Residential development, estate development and leasing codes: Replacement of residential zones objectives, development tables and housing development codes; Introduction of Residential Zones Development Code and Lease Variation General Code; Replacement of existing Residential Subdivision Development Code with Estate Development Code to the Planning and Land Authority on 12 February 2013 and directed the Authority to revise the draft variation as outlined in Annexure A.

Ben Ponton
Delegate of the Planning and Land Authority

14 February 2013

*Name amended under Legislation Act, s 60



Simon Corbell MLA

ATTORNEY GENERAL
MINISTER FOR POLICE AND EMERGENCY SERVICES
MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

COPY

MEMBER FOR MOLONGLO

Mr Ben Ponton
A/g Director General
Environment and Sustainable Development Directorate
PO Box 1908
CANBERRA ACT 2601

Dear Mr Ponton

Draft variation to the Territory Plan 306 (DV306) - residential development, estate development and leasing codes – direction

Pursuant to section 76(3)(b)(iv) of the *Planning and Development Act 2007*, I hereby direct the planning and land authority within the Environment and Sustainable Development Directorate to revise DV306 in the manner set out in *Attachment A*. These include revisions in response to recommendations 4 and 9 found in Report 15 of the Legislative Assembly's Standing Committee on Planning, Public Works and Territory and Municipal Services on DV306 (15 September 2012).

Following receipt of the revised DV306 I will consider whether it should be approved under section 76(3)(a) of the Act.

Yours sincerely

Simon Corbell MLA
Minister for the Environment and Sustainable Development

12.2.13

ACT LEGISLATIVE ASSEMBLY

Proposed changes to the Recommended Final Variation 306

In response to the recommendations and suggestions made in the Legislative Assembly's Standing Committee on Planning, Public Works and Territory and Municipal Services' Report No.15 the following changes to DV306 are proposed. Other changes are proposed to clarify and adjust the provisions to enable them to be applied as intended.

Provision	Proposed change	Reason for change
Residential Zones Development Code		
Part A – Residential housing development Part G – Environment and Introduction Element 3: Redevelopment	<p><i>Move</i> Element 3: Redevelopment <i>From Part A to Part G.</i></p> <p><i>Rename Part G to</i> Part G – General controls</p> <p><i>Move from introduction to Part A</i> It also includes controls that apply to the subdivision of existing residential blocks. <i>to introduction to Part G</i></p> <p><i>Update Introduction to the code to reflect these changes.</i></p>	<p>The provisions for redevelopment (including plot ratio, number of storeys and height) apply to all development in residential zones and not just to single dwelling or multi unit housing. Therefore, these provisions have been moved to Part G (which applies to all development) and the introduction to these parts updated.</p>
Part B – Other forms of residential development Element 4: Supportive Housing	<p><i>Change</i> Element 4: Supportive Housing <i>to</i> Element 4: Supportive Housing and Retirement Village</p> <p><i>Add after 'supportive housing'</i></p>	<p>The provisions for retirement village were inadvertently left out of the RZDC. Currently similar provisions to supportive housing apply to retirement villages, therefore retirement village has been added to Part B, Element 4</p>

	or retirement village <i>to relevant rules and criterion under Element 4</i>	of the RZDC
Part B – Other forms of residential development Element 5: Secondary residences	<i>In C12 delete</i> Access to facilities shared with the residents of the primary residence within the dwelling such as storage or a laundry may be considered when determining compliance with this criterion <i>And replace with</i> Residents of the secondary residence sharing facilities such as storage or a laundry with the residents of the primary residence may be considered when determining compliance with this criterion.	The Committee suggested rephrasing C12 to make clearer the reference to access by residents of the secondary dwelling to facilities within the primary residence. The criterion now also allows detached structures (such as a garage) to be considered when sharing facilities.
Part B – Other forms of residential development Element 5: Secondary residences	<i>At C22 insert new criterion</i> Car parking on the block is adequate for current and future residents and visitors. <i>At C23 insert new criterion</i> Car parking and related access on the block achieve all of the following: a) Reasonable amenity of neighbouring <i>residential</i> blocks b) Consistency with the value of the <i>streetscape</i> c) Public safety especially in relation to pedestrians and cyclists d) Reasonable surveillance of parking spaces	The Committee recommended that the proposed mandatory Rules 22 & 23 include a criterion to remove the requirement for a secondary residence car parking space, while ensuring that any future carparking needs can be met.
Part B – Other forms of residential development Element 6: Residential care accommodation	<i>After R26 insert new mandatory rule</i> All dwellings for the purpose of residential care accommodation meet both of the following: a) Australian Standard AS4299 Adaptable housing (Class C) b) Access and Mobility General Code.	The requirement for residential care accommodation to comply with AS4299 and the Access and Mobility General Code was inadvertently left out of the RZDC.
Part D – Subdivision and consolidation	<i>Add to R39 after ‘one or more of which is a single dwelling block’</i> , but does not apply to the consolidation of <i>a single dwelling block</i> with unleased territory	This allows for the consolidation of a single dwelling block with

Element 10: Subdivision and consolidation	land	surplus unleased Territory land without creating an additional block.
Single Dwelling Housing Development Code		
Element 1: Building and site controls 1.1 Plot ratio – single dwelling blocks	<p><i>In R1 change</i></p> <p>a) for large blocks – not more than 50%</p> <p>b) in all other cases – not applicable.</p> <p><i>to</i></p> <p>a) for large blocks, other than those referred to in item b) – not more than 50%</p> <p>b) for blocks in RZ1 created by subdivision of dual occupancy housing, the greater of –</p> <p>i) the plot ratio at the creation of the block, and</p> <p>ii) the maximum plot ratio calculated for the original block (ie. before subdivision) under R6 of the Multi Unit Housing Development Code</p> <p>c) in all other cases – not applicable.</p>	The plot ratio applicable to RZ1 blocks created by the subdivision of dual occupancy housing was inadvertently left out of the SDHDC.
Element 1: Building and site controls 1.6 Sun angle building envelope - all large blocks, mid sized blocks approved after (commencement date), compact blocks approved after (commencement date), all blocks in the Molonglo Valley and integrated housing development parcels	<p><i>In R7 change</i></p> <p>Buildings are sited wholly within the building envelope formed by projecting planes over the subject block comprising lines projected at X° to the horizontal from an infinite number of points on a line of infinite length 1.8m above the northern boundary or boundaries of an adjoining residential block.</p> <p>This rule does not apply to any part of a northern boundary to an adjoining residential block that is used primarily to provide access to the main part of the residential block (ie a “battleaxe” handle). The previous rule applies to this boundary.</p> <p>X° is the apparent sun angle at noon on the winter solstice. For the purposes of this rule values for X are given in table 1.</p> <p>Refer to figure 1.</p> <p><i>to</i></p> <p>Buildings are sited wholly within the building envelope formed by projecting planes over the subject block comprising lines projected at X° to the horizontal from an infinite number of points on a line of infinite length at the height of the solar fence on the northern boundary or boundaries of an adjoining residential block.</p>	The Committee raised concerns about the proposed solar envelope and its impact on the flexibility of building design on a block. In response the solar envelope provision has been amended to enable development to be located slightly closer to the southern boundary.

	<p>This rule does not apply to any part of a <i>northern boundary</i> to an adjoining <i>residential block</i> that is used primarily to provide access to the main part of the <i>residential block</i> (ie a “battleaxe” handle). The previous rule applies to this boundary.</p> <p>The height of the <i>solar fence</i> is given in table 1A.</p> <p>X° is the apparent sun angle at noon on the winter solstice. For the purposes of this rule values for X are given in table 1B.</p>							
<p>Element 1: Building and site controls</p>	<p><i>Insert new Table 1A above the current Table 1</i></p> <p>Table 1A – Height of solar fence</p> <table border="1" data-bbox="533 557 1653 1054"> <thead> <tr> <th data-bbox="533 557 1128 619">Location</th> <th data-bbox="1128 557 1653 619">Height of solar fence (m)</th> </tr> </thead> <tbody> <tr> <td data-bbox="533 619 1128 979"> <p>from:</p> <p>i) a point on the boundary at a distance from the front boundary equivalent to the minimum front boundary setback applying to that block</p> <p>to:</p> <p>ii) a point on the boundary 10m from point i)</p> </td> <td data-bbox="1128 619 1653 979" style="text-align: center;">2.4</td> </tr> <tr> <td data-bbox="533 979 1128 1054">all other parts of the boundary</td> <td data-bbox="1128 979 1653 1054" style="text-align: center;">1.8</td> </tr> </tbody> </table>	Location	Height of solar fence (m)	<p>from:</p> <p>i) a point on the boundary at a distance from the front boundary equivalent to the minimum front boundary setback applying to that block</p> <p>to:</p> <p>ii) a point on the boundary 10m from point i)</p>	2.4	all other parts of the boundary	1.8	<p>A new table is required in the code to accompany changes to the sun angle building envelope provision.</p>
Location	Height of solar fence (m)							
<p>from:</p> <p>i) a point on the boundary at a distance from the front boundary equivalent to the minimum front boundary setback applying to that block</p> <p>to:</p> <p>ii) a point on the boundary 10m from point i)</p>	2.4							
all other parts of the boundary	1.8							
<p>Element 1: Building and site controls</p>	<p><i>Replace Figure 1 with</i></p>	<p>A new figure is required in the code to accompany changes to the sun angle building envelope provision.</p>						

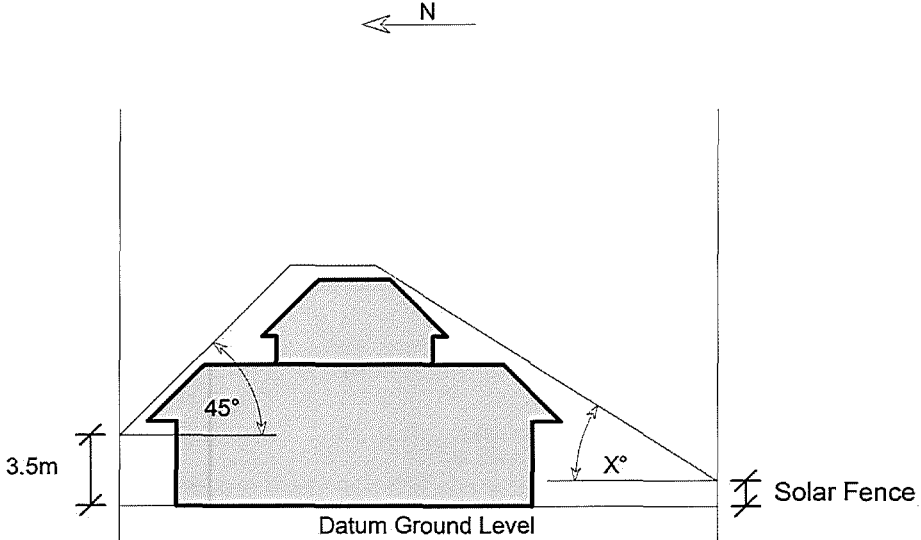
	<p>The diagram illustrates a building cross-section. A horizontal line represents the 'Datum Ground Level'. The building's main body is a rectangle with a height of 3.5m. The roof is a trapezoid with a 45-degree slope on the left side. A 'Solar Fence' is shown on the right side, with an angle of X degrees between the ground level and the fence line. A north arrow points to the left at the top of the diagram.</p>	
<p>Element 1: Building and site controls</p> <p>Table 6A: Side and rear setbacks – mid sized blocks in subdivisions approved before 2 October 2009</p> <p>Table 6B: Side and rear setbacks – mid sized blocks in subdivisions approved on or after 2 October 2009</p> <p>Table 6C: Alternative side and rear setbacks – mid sized blocks in subdivisions approved</p>	<p><i>In Table 6A, 6B and 6C under 'minimum side boundary setback within the primary building zone' delete under side boundary 2 or northern boundary of adjoining residential block</i></p> <p><i>In Table 6B and 6C under 'minimum side boundary setback within the rear zone' delete under side boundary 2 or northern boundary of adjoining residential block</i></p>	<p>Following public consultation the reference to 'or northern boundary of adjoining residential block' was removed from the table for large blocks but was inadvertently moved from side boundary 1 to side boundary 2 for mid sized blocks in the recommended final variation rather than being removed. This change removes the reference to 'or northern boundary of adjoining residential block' from the mid sized block tables. Boundaries do not need to be designated because the proposed solar access provisions will fully</p>

<p>on or after 2 October 2009 – applicable only to blocks nominated in a precinct code as an alternative boundary setback block</p>		<p>protect neighbouring properties.</p>
<p>Element 1: Building and site controls</p>	<p><i>Under section 1.16 Surveillance blocks insert new section</i> 1.17 Cut and fill R20 The maximum cut or fill within 1.5m of side and rear boundaries is 1.5m C20 Cut and fill is limited so that all of the following are achieved: a) stability of the block and adjoining blocks b) reasonable access to sunlight on the block c) compatibility with the streetscape.</p>	<p>In response to concerns regarding the stability of blocks, this provision will help protect adjoining blocks and the verge and restrict the amount of cut and fill near the boundaries of a block.</p>
<p>Element 5: Amenity Table 8: Principal Private Open Space</p>	<p><i>For RZ1 and RZ2 replace</i> 1 or 2 bedrooms <i>with</i> up to 105m² GFA <i>For RZ1 and RZ2 replace</i> 3 or more bedrooms <i>with</i> 105m² GFA or greater</p>	<p>The number of bedrooms in a dwelling is often difficult to determine, especially when differentiating between a bedroom and a study or other type of room. Therefore the provision will now be dependent on the GFA of a dwelling when determining the minimum area of principal private open space required.</p>
<p>Element 6: Environment</p>	<p><i>At the end of R42 after</i> at the date of lodgement of the development application</p>	<p>This provision has been amended to include developments that are</p>

6.1 Water sensitive urban design	<i>add</i> or building application, whichever is earlier	considered exempt development and therefore only require building approval (and not development approval)
Multi Unit Housing Development Code		
Part A – General controls Element 3: Building and site controls	<i>At R15 add after ‘...in any building is 4.’</i> This rule does not apply to basement car parking	The change to this provision clarifies that the rule does not apply to basement car parking.
Part A – General controls Element 3: Building and site controls 3.20 Building envelope – all blocks approved before (commencement date) except in Molonglo Valley and buildings over 3 storeys in RZ5 and commercial zones	<i>In R26 change</i> Buildings are sited wholly within the building envelope formed by projecting planes over the subject <i>block</i> comprising lines projected at X° to the horizontal from an infinite number of points on a line of infinite length 1.8m above the <i>northern boundary</i> or boundaries of an adjoining <i>residential block</i> . This rule does not apply to any part of a <i>northern boundary</i> to an adjoining <i>residential block</i> that is used primarily to provide access to the main part of the <i>residential block</i> (ie a “battleaxe” handle). The previous rule applies to this boundary. X° is the apparent sun angle at noon on the winter solstice. For the purposes of this rule values for X are given in Table A4. <i>to</i> Buildings are sited wholly within the building envelope formed by projecting planes over the subject <i>block</i> comprising lines projected at X° to the horizontal from an infinite number of points on a line of infinite length at the height of the <i>solar fence</i> on the <i>northern boundary</i> or boundaries of an adjoining <i>residential block</i> . This rule does not apply to any part of a <i>northern boundary</i> to an adjoining <i>residential block</i> that is used primarily to provide access to the main part of the <i>residential block</i> (ie a “battleaxe” handle). The previous rule applies to this boundary. The height of the <i>solar fence</i> is given in table A4A. X° is the apparent sun angle at noon on the winter solstice. For the purposes of this rule values for X	The Committee raised concerns about the proposed solar envelope and its impact on the flexibility of building design on a block. In response the solar envelope provision has been amended to enable development to be located slightly closer to the southern boundary.

	<p>are given in table A4B.</p> <p>Refer figure A1.</p> <p>Note: To remove any doubt, the reference to a building with more than 3 storeys is a reference to the whole building, not just that part of the building over 3 storeys.</p>	
<p>Part A – General controls</p> <p>Element 3: Building and site controls</p> <p>3.21 Building envelope – blocks approved on or after (commencement date) and in Molonglo Valley, except buildings over 3 storeys in RZ5 and commercial zones</p>	<p><i>In R28 change</i></p> <p>For any <i>northern boundary</i> of an adjoining <i>residential block</i> buildings are sited wholly within the building envelope formed by projecting planes over the subject <i>block</i> comprising lines projected at X° to the horizontal from an infinite number of points on a line of infinite length 1.8m above the boundary.</p> <p>This rule does not apply to any part of a <i>northern boundary</i> to an adjoining <i>residential block</i> that is used primarily to provide access to the main part of the <i>residential block</i> (ie a “battleaxe” handle). The previous rule applies to this boundary.</p> <p>X° is the apparent sun angle at noon on the winter solstice. Values for X are given in table A4.</p> <p><i>to</i></p> <p>Buildings are sited wholly within the building envelope formed by projecting planes over the subject <i>block</i> comprising lines projected at X° to the horizontal from an infinite number of points on a line of infinite length at the height of the <i>solar fence</i> on the <i>northern boundary</i> or boundaries of an adjoining <i>residential block</i>.</p> <p>This rule does not apply to any part of a <i>northern boundary</i> to an adjoining <i>residential block</i> that is used primarily to provide access to the main part of the <i>residential block</i> (ie a “battleaxe” handle). The previous rule applies to this boundary.</p> <p>The height of the <i>solar fence</i> is given in table A4A.</p> <p>X° is the apparent sun angle at noon on the winter solstice. For the purposes of this rule values for X are given in table A4B.</p> <p>Refer figure A1.</p>	<p>The Committee raised concerns about the proposed solar envelope and its impact on the flexibility of building design on a block. In response the solar envelope provision has been amended to enable development to be located slightly closer to the southern boundary.</p>
<p>Part A – General controls</p> <p>Element 3: Building and site controls</p>	<p><i>Insert new Table A4A above Table A4</i></p> <p>Table A4A – Height of solar fence</p>	<p>A new table is required in the code to accompany changes to the sun angle building envelope provision.</p>

	Location	Height of solar fence (m)	
	from: iii) a point on the boundary at a distance from the front boundary equivalent to the minimum front boundary setback applying to that block to: iv) a point on the boundary 10m from point i)	2.4	
	all other parts of the boundary	1.8	

<p>Part A – General controls Element 3: Building and site controls Figure A1 – Typical Building Envelope</p>	<p>Replace Figure A1 with</p>  <p>The diagram shows a cross-section of a building envelope. A north arrow labeled 'N' points to the left. The building has a main roof with a 45-degree slope on the left side. Below the roof is a shaded area representing the building's interior. A horizontal line labeled 'Datum Ground Level' is shown. To the right of the building, there is a vertical line labeled 'Solar Fence'. The angle between the datum ground level and the solar fence is labeled 'X°'. A vertical dimension of 3.5m is shown on the left side of the building.</p>	<p>A new figure is required in the code to accompany changes to the sun angle building envelope provision.</p>
<p>Part A – General controls Element 6: Amenity 6.9 Noise attenuation – external sources</p>	<p>Replace current R67 with</p> <p>Where a <i>block</i> has one or more of the following characteristics:</p> <ul style="list-style-type: none"> i) identified in a precinct code as being potentially affected by noise from external sources ii) adjacent to a road carrying or forecast to carry traffic volumes greater than 6,000 vehicles per day iii) located in a commercial zone iv) adjacent to a commercial or industrial zone <p>dwellings shall be constructed to comply with the relevant sections of all of the following:</p> <ul style="list-style-type: none"> a) AS/NZS 2107:2000 - <i>Acoustics – Recommended design sound levels and</i> 	<p>Technical amendment 2012-30 revised this provision in the current MUHDC. The revised text is consistent with that of TA2012-30.</p>

	<p><i>reverberation times for building interiors</i> (the relevant satisfactory recommended interior design sound level)</p> <p>b) <i>AS/NZS 3671 - Acoustics – Road Traffic Noise Intrusion Building Siting and Design.</i></p> <p>For other than road traffic noise, compliance with this rule is demonstrated by a noise management plan prepared by a member of the Australian Acoustical Society with experience in the assessment of noise, and endorsed by the EPA. For other than road traffic noise, the noise level immediately adjacent to the dwelling is assumed to be the relevant noise zone standard specified in the ACT Environment Protection Regulation 2005.</p> <p>For road traffic noise, compliance with this rule is demonstrated by an acoustic assessment and noise management plan, prepared by a member of the Australian Acoustical Society with experience in the assessment of road traffic noise, and endorsed by the Transport Planning & Projects Section in ESDD.</p> <p>Note: A condition of development approval may be imposed to ensure compliance with the endorsed noise management</p>	
Estate Development Code		
<p>Part B – Estate planning in residential zones and CZ5</p> <p>Element 8: Block layout and orientation</p>	<p><i>At R46 add after iii) for large blocks – 14m</i></p> <p><i>This rule does not apply to single dwelling blocks within an integrated housing development parcel</i></p> <p><i>Replace C46 with</i></p> <p><i>Single dwelling blocks are sized and oriented to allow all of the following:</i></p> <ul style="list-style-type: none"> e) the erection of a house that complies with the rules of the Single Dwelling Housing Development Code f) the erection of a house with a reasonable <i>gross floor area</i> g) the erection of a house with a reasonable access to sunlight. <p>Note: Compliance with this criterion will be established through an assessment of development intentions plans submitted with the estate development plan.</p>	<p>Proposed blocks in an integrated housing development parcel are assessed against a development intentions plan. The minimum block dimensions and the block compliance tables need not apply</p>

<p>Part B – Estate planning in residential zones and CZ5 Element 8: Block layout and orientation</p>	<p><i>After R46 add new mandatory rule</i> Not less than 95% of <i>single dwelling blocks</i> contained in an estate development plan comply with R47 or are contained within an <i>integrated housing development parcel</i> (refer C50).</p>	<p>This rule will limit the number of non complying blocks approved under C46</p>
<p>Part B – Estate planning in residential zones and CZ5 Element 8: Block layout and orientation</p>	<p><i>Replace R47 with</i> <i>Single dwelling blocks</i> that do not comply with R47 and are not contained in an <i>integrated housing development parcel</i> (refer C50) the previous rule are identified in the estate development plan as 'limited development potential blocks'.</p>	<p>This table better reflects the consequences of an approved block not complying with the minimum block dimensions and/or the block compliance tables. The main effect will be a possible restriction on upper floor level GFA compared with a similar complying block.</p>
<p>Part B – Estate planning in residential zones and CZ5 Element 8: Block layout and orientation</p>	<p><i>At C48 delete</i></p> <p>h) where the proposed house is part of a building containing two or more houses, the separation between blank walls on the same or adjoining blocks at ground level achieves both of the following-</p> <ul style="list-style-type: none"> i) reasonable access for maintenance ii) reasonable management of rodents 	<p>Feedback received indicated that there was not sufficient information provided with an estate development plan to assess the separation between walls of buildings. Therefore this part of the criterion has been removed.</p>
<p>Definitions</p>		
<p>G1. Redundant definitions</p>	<p><i>Add to redundant definitions</i> Habitable suite Relocatable unit</p>	<p>The Committee suggested removing the terms 'habitable suite' and 'relocatable unit' from the definitions as they are replaced by secondary residences.</p>

General		
Various	<i>Consequential changes to codes to reflect changes outlined above such as to contents pages, rule numbers, introductions etc as well as minor editorial changes.</i>	Minor changes to various codes to ensure references, links and contents pages are up to date as well as minor editorial changes to ensure text is grammatically correct