

Australian Capital Territory

Planning and Development (Technical Amendment—Red Hill) Plan Variation 2016

Notifiable Instrument NI2016—501

Technical Amendment No 2016-08

made under the

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

1 Name of instrument

This instrument is the *Planning and Development (Technical Amendment—Red Hill) Plan Variation 2016*.

2 Technical amendment

I am satisfied under section 89(1)(a) of the *Planning and Development Act 2007* (the **Act**) that the Various plan variation is a technical amendment to the Territory Plan.

3 Commencement

This technical amendment commences on the day after it is notified.

4 Meaning of *Various plan variation*

For this instrument:

Various plan variation means the technical amendment to the Territory plan variation 2016-08 in the schedule.

Brett Phillips
Delegate of the planning and land authority
6 September 2016



ACT
Government

Environment and
Sustainable Development

Planning & Development Act 2007

Technical Amendment to the Territory Plan Variation 2016-08

Cygnets Street Precinct (Red Hill) – Block 1
Section 25, Block 1 Section 26, Blocks 26 to 34
Section 29, Blocks 1 to 15 and 49 Section 31 and
Blocks 51 to 55 Section 32

September 2016

Final version

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1. INTRODUCTION

1.1 Purpose

This technical amendment makes the following changes to the Territory Plan:

Red Hill Precinct Map and Code

- clarification of the desired character by adding further statements and amending others
- add a note to R4 which states that a basement becomes a storey once it is more than 1 metre out of the ground (as per the Territory Plan definitions).
- removal of C4 to give greater certainty for building heights
- removal of a note stating 'Note: This rule replaces any rule/criterion contained in a development code where relating to height in storeys and/or metres' to facilitate further clarification of height controls for the area
- addition of rule and criterion to further control height of a building in metres.

1.2 Public Consultation

Under section 88 of the *Planning and Development Act 2007* (the Act) this type of technical amendment was subject to limited public consultation.

Written comments were invited from 14 June 2016 until **COB 12 July 2016**.

Written comments for **TA2016-08** were invited to be submitted in one of the following ways:

- Emailed to terrplan@act.gov.au
- Hand delivered to:
Territory Plan Section
Environment and Planning Directorate
Customer Service Centre
16 Challis Street, DICKSON
- Posted to:
Territory Plan Section
Environment and Planning Directorate
GPO Box 158
CANBERRA ACT 2601

A total of 8 written submissions were received during the public consultation period. The main issues raised by these submissions were:

- Enhancement of desired character statements
- Ultimate housing density and typology
- Further control of height, including prohibition of plant rooms, attics and amending the definition of basement
- Retention and movement of landscaping areas
- Movement of the MT1 area and allowing further commercial uses
- Relationship and disparity between the Estates development plan, Territory Plan and the Technical Amendment
- Traffic and parking
- RZ5 High Density Zoning
- Minister 'Call in Powers' in relation to the Technical Amendment, Estates Development Plan and future Development Applications.

Issues raised during the public consultation period have been responded to in the Report on Consultation.

1.3 National Capital Authority

The planning and land authority are required to notify the National Capital Authority (NCA) when undertaking a technical amendment. The planning and land authority notified the NCA on 14 June 2016 and received NCA support on the same day. The NCA comments can be see at Appendix 4 of the Report on Consultation for TA2016-08

1.4 Process

This technical amendment has been prepared in accordance with section 87 of the Planning and Development Act 2007 (the Act).

Comments received from the public and the National Capital Authority will be taken into account before the planning and land authority “makes” the technical amendment under section 89 of the Act. The planning and land authority must then notify the public of its decision.

1.5 Types of technical amendments under the Act

The following categories of technical amendments are provided under section 87 of the Act:

- (1) Each of the following territory plan variations is a **technical amendment** for which no consultation is needed before it is made under section 89:
 - (a) a variation (an **error 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;
 - (b) a variation to change the boundary of a zone or overlay under section 90A (Rezoning – boundary changes);
 - (c) a variation, other than one to which subsection (2) (d) applies, in relation to an estate development plan under section 96 (Effect of approval of estate development plan);
 - (d) a variation required to bring the territory plan into line with the national capital plan;
 - (e) a variation to omit something that is obsolete or redundant in the territory plan.
- (2) Each of the following territory plan variations is a **technical amendment** for which only limited public consultation is needed under section 90:
 - (a) a variation (a **code variation**) 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;
 - (b) a variation to change the boundary of a zone under section 90B (Rezoning – development encroaching on adjoining territory land);
 - (c) a variation in relation to a future urban area under section 90C (Technical amendments – future urban areas);
 - (d) a variation in relation to an estate development plan under section 96 (Effect of approval of estate development plan) if it incorporates an ongoing provision that was not included in the plan under section 94 (3) (g);
 - (e) a variation to clarify the language in the territory plan if it does not change the substance of the plan;
 - (f) a variation to relocate a provision within the territory plan if the substance of the provision is not changed.

Following each item in Part 2 Explanation of this technical amendment is a statement of compliance against the specific criteria for the relevant category of technical amendment. TA2016-08 has been prepared in accordance with sections 87(2) (a) and 87(2) (e) of the Act.

2. EXPLANATORY STATEMENT

This part of the technical amendment document explains the changes to be made to the Territory Plan, the reasons for the change, and a statement of compliance against the relevant section of the Act.

2.1 Red Hill Precinct Map and Code

A. DESIRED CHARACTER

The RC1 area of the Red Hill Precinct Map and Code currently contains two desired character statements. These two desired character statements are as follows:

Existing desired character

- Building facades should be of high quality finish, detailing and visually articulated to avoid a 'continuous wall' of development and excessive bulk and scale and provide visual interest and differentiation.
- Development should frame and address Lady Nelson Place Park (Section 40, Red Hill) and the landscape areas through visually interesting facades and providing passive surveillance.

Variation to the Territory Plan 334 – Red Hill (V334) introduced the above desired character to the Red Hill Precinct Map and Code. Prior to public consultation, V334 had ten desired character statements. After public consultation had concluded, the number of desired character statements was reduced from ten to two. The main reasons for the reduction were as follows:

- The intent of some desired character statements were moved to relevant rules/criteria within the code.
- Some desired character statements are already covered by the rules/criteria of the Red Hill Precinct Map and Code or the Multi Unit Housing Development Code
- Some were amalgamated to create the two current desired character statements

The reduction process above may not have the desired built form outcome and allow for a holistic assessment of the development. Therefore to clarify the intent of the desired character, the original ten desired character statements will be placed back in the Red Hill Precinct Map and Code with a few minor amendments (for instance to allow for statements which have been amalgamated). These desired character statements can be seen below:

Proposed desired character

- The arrangement of buildings and spaces enhance solar access to landscape areas, communal areas, private open space and public spaces on and surrounding the site.
- Development fronting the public realm and/or landscape areas addresses and enhances the quality and useability of the spaces.
- Building facades should be of high quality finish, detailing and visually articulated to avoid a 'continuous wall' of development and excessive bulk and scale and provide visual interest and differentiation. Buildings should predominately engage at street level, avoiding large expanses of blank walls or grilled car parks.
- The taller building elements are focused on the centre of the site and adjacent to the existing commercial zone.
- Provision of a range and diversity of housing choices including opportunities to age in place.
- Landscaped areas between the buildings are of a high quality that link the overall development together and contribute to the amenity of the area.
- There is a clear hierarchy of public and private zones through the site with safe and attractive pedestrian areas.
- A high-level of sustainability, with a large percentage of the units facing north, and construction to achieve high-energy performance ratings.
- Development should frame and address Lady Nelson Place Park (Section 40, Red Hill) and the landscape areas through visually interesting facades and providing passive surveillance.
- Development provides interest and activity to the public realm through articulated facades to public spaces, avoiding solid, featureless walls of development.

Statement of compliance with the Planning and Development Act 2007

Section	Statement
S87 (2) (a) a variation (a code variation) that: <ul style="list-style-type: none">i. would only change a code; andii. is consistent with the policy purpose and policy framework of the code; andiii. is not an error variation	<p>Compliant.</p> <p>This amendment changes only the Red Hill Precinct Code. It does not make any changes to the Territory Plan Map.</p> <p>This amendment is consistent with the original policy purpose of the desired character statements. In some cases this amendment emphasises principles and concepts already included in the multi unit housing development code.</p> <p>These changes are not considered a formal correction. They enhance the understanding of the original intent of the policy.</p>

B. HEIGHT

R4/C4 of the Red Hill Precinct Map and Code states the following:

TA2016-08 seeks to clarify six parts of R4/C4 as follows:

- R4 a) ii) – replace ‘if’ with ‘of’
- R4 Plant room – change of note to state that plant rooms must be screened.
- R4 additional note – inclusion of a note to R4 to clarify that basement has the same definition as the Territory Plan definitions.
- removal of C4 and making R4 a mandatory rule
- removal of a note stating ‘Note: This rule replaces any rule/criterion contained in a development code where relating to height in storeys and/or metres’ to facilitate further clarification of height controls for the area.
- Change of title of ‘3.1 building height and storeys’
- Add new provision to further restrict height in metres

Change to R4 a) ii) and R4 Plant Room

The wording of R4 a) ii) will be typographically corrected by changing the word ‘if’ with the word ‘of’.

In terms of built form and design the note regarding plant rooms contained within R4 will be amended to state the following:

“Rooftop plant rooms that are setback from the floor immediately below and screened from a public road are not included in the number of storeys.”

This amendment will make the control of rooftop plant areas more consistent with other areas covered by the Territory Plan. It will no longer require plant rooms to be setback 3 metres but will require them to be setback and screened from public roads. This will mean that a developer has greater flexibility in building design regarding where to provide a plant room. By limiting it to a 3 metre setback, it could create a situation where the location of the plant room would stifle innovative design, particularly in roof form.

Both of these proposed amendments reinforce the original policy intent of Variation 334.

Change to R4 – additional note

The Territory Plan defines *storey* and *basement* as follows:

“Storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor level above, the ceiling or roof above but does not include an attic or a basement.”

“Basement means a space within a building where the floor level of the space is predominantly below datum ground level and where the finished floor level of the level immediately above the space is less than 1.0 metre above datum ground level.”

The note which is to be added to R4 states:

*“Note: **Basement** means a space within a building where the floor level of the space is predominantly below datum ground level and where the finished floor level of the level immediately above the space is less than 1.0 metre above datum ground level.”*

The additional note added to R4 does not propose to vary the above definition for *storey* or *basement*. The additional note is only to clarify what constitutes a basement and adds guidance when a basement is not predominately below ground level and/or is 1 metre or greater above ground level.

Removal of C4 and making R4 a mandatory rule

TA2016-08 proposes to remove C4 entirely and make R4 a standard rule. The intent of the height requirements introduced by Variation 334 was to give the community clear expectations in relation to the building heights that would be developed at Red Hill. TA2016-08 proposes to remove C4 and make R4 a mandatory rule to ensure greater certainty in relation to building height.

Removal of note relating to height in storeys and metres

R4 of the Red Hill Precinct Map and Code contained a note which stated the following:

Note: This rule replaces any rule/criterion contained in a development code where relating to height in storeys and/or metres.

The note will be removed to facilitate the changes detailed in subsection ‘C - Height of a building’ (below) of this document.

Change of title of ‘3.1 Building height and storeys’

The title of ‘3.1 Building height and storeys’ is proposed to be changed to ‘3.1 Number of Storeys’.

This change clarifies that R4 only relates to height in storeys and not metres. ‘Number of Storeys’ is also the common wording used for the relevant rule in the development codes, therefore amending the title of 3.1 will further clarify that R4 applies instead of any identical rule in a development code. A height in metres rule will also be added to the Red Hill Precinct Code by TA2016-08. The details of this new rule are outlined below.

Existing provisions

3.1 Building height and storeys	
<p>R4</p> <p>This rule applies to areas 'a', 'b' and 'c' identified in Figure 1.</p> <p>The maximum <i>number of storeys</i> permitted are as follows:</p> <p>a) In area 'a' – 2 <i>storeys</i>. Area 'a' is measured as:</p> <ul style="list-style-type: none">i. For section 25 and 26 – a maximum of 30 metres deep from the boundaries fronting La Perouse Street and Monaro Crescentii. For section 29 – the maximum length if the front boundary to Cygnet Crescent is 58 metres. <p>b) In area 'b' – 3 <i>storeys</i>. Area 'b' is the area remaining after excluding area 'a' and area 'c'</p> <p>c) In area 'c' – 4 <i>storeys</i>. Area 'c' is measured as:</p> <ul style="list-style-type: none">i. For section 25 and 26 – a maximum of 30 metres deep from the boundary frontages with Discovery Street and a maximum of 34 metres deep from the boundary frontage with Lady Nelson Place.ii. For section 31 – the area between the two terminating roads identified in figure 1 and a maximum of 34 metres deep from the boundary fronting Cygnet Crescent. <p>Plant room set back a minimum of 3 metres from the building facades of the floor immediately below is not included in the number of storeys.</p> <p>Note: This rule replaces any rule/criterion contained in a development code where relating to height in storeys and/or metres.</p>	<p>C4</p> <p>The maximum number of storeys may be increased by 1 storey where the additional storey is:</p> <ul style="list-style-type: none">a) being used predominately for vehicular parking;b) Is a continuation of a basement which is also being predominately used for vehicular parking; andc) Is at ground floor level.

Proposed Provision

3.1 Number of storeys	
<p>R4</p> <p>This rule applies to areas 'a', 'b' and 'c' identified in Figure 1.</p> <p>The maximum number of <i>storeys</i> permitted are as follows:</p> <p>a) in area 'a' – 2 storeys. Area 'a' is measured as:</p> <ul style="list-style-type: none">i. for section 25 and 26 – a maximum of 30 metres deep from the boundaries fronting La Perouse Street and Monaro Crescentii. for section 29 – the maximum length of the front boundary to Cygnet Crescent is 58 metres. <p>b) in area 'b' – 3 <i>storeys</i>. Area 'b' is the area remaining after excluding area 'a' and area 'c'</p> <p>c) in area 'c' – 4 <i>storeys</i>. Area 'c' is measured as:</p> <ul style="list-style-type: none">i. for section 25 and 26 – a maximum of 30 metres deep from the boundary frontages with Discovery Street and a maximum of 34 metres deep from the boundary frontage with Lady Nelson Place.ii. for section 31 – the area between the two terminating roads identified in figure 1 and a maximum of 34 metres deep from the boundary fronting Cygnet Crescent. <p>Rooftop plant rooms that are setback from the floor immediately below and screened from a public road are not included in the number of storeys.</p> <p>Note: Basement means a space within a <i>building</i> where the floor level of the space is predominately below <i>datum ground level</i> and where the <i>finished floor level</i> of the level immediately above the space is less than 1.0 metre above <i>datum ground level</i>.</p>	<p>This is a mandatory requirement, there is no applicable criterion.</p>

Add new provision to restrict height in metres

Introduced by V334, the current Red Hill Precinct Code limits height in storeys to 2, 3 or 4 storeys in selected areas. TA2016-08 proposes to remove the note in R4 to allow the height in metre limit in the RZ5 to apply over the site. The Multi Unit Housing Development code states that the building should be limited to 21.5 metres. This height limit in metres assumed a 6 storey height limit which is the norm in RZ5. As 21.5 metres could result in some high floor to ceiling heights that are much greater than intended for the 2, 3 or 4 storey limit, a rule to limit height in metres will be introduced as outline below.

The intention of the height controls introduced by V334 was not for buildings to be of a disproportionate height in metres to what was permitted in storeys. Therefore EPD will add an additional height in metres provision to clarify the intent of V334 and give greater expectation to the community. This provision can be seen below and in part 3 of this document.

3.1a Height of buildings	
<p>R4a</p> <p>This rule applies to areas 'a', 'b' and 'c' identified in Figure 1.</p> <p>Maximum <i>height of building</i> is:</p> <p>a) In area 'a' – 9.5m. Area 'a' is measured as:</p> <ol style="list-style-type: none"> i. for section 25 and 26 – a maximum of 30 metres deep from the boundaries fronting La Perouse Street and Monaro Crescent ii. for section 29 – the maximum length of the front boundary to Cygnet Crescent is 58 metres. <p>b) In area 'b' – 12.5m. Area 'b' is the area remaining after excluding area 'a' and area 'c'</p> <p>c) In area 'c' – 16m. Area 'c' is measured as:</p> <ol style="list-style-type: none"> i. for section 25 and 26 – a maximum of 30 metres deep from the boundary frontages with Discovery Street and a maximum of 34 metres deep from the boundary frontage with Lady Nelson Place. ii. for section 31 – the area between the two terminating roads identified in figure 1 and a maximum of 34 metres deep from the boundary fronting Cygnet Crescent. 	<p>C4a</p> <p>Buildings achieve all of the following:</p> <ol style="list-style-type: none"> a) consistency with the <i>desired character</i> b) reasonable solar access to dwellings on adjoining residential blocks and their associated private open space

This provision clarifies the scale of development intended by V334 whilst still allowing enough flexibility to promote innovation of design.

Reflecting heights specified in the Multi Unit Housing Development Code the following height limits will be included in the Red Hill Precinct Code:

- Area A – 9.5m
- Area B – 12.5m
- Area C – 16m

The following criterion will also be associated with the above rule:

“Buildings achieve all of the following:

- a) consistency with the *desired character*
- b) reasonable solar access to dwellings on adjoining residential blocks and their associated private open space

Statement of compliance with the Planning and Development Act 2007

Section	Statement
<p>S87 (2) (a) a variation (a code variation) that:</p> <ol style="list-style-type: none"> i. would only change a code; and ii. is consistent with the policy purpose and policy framework of the code; an iii. is not an error variation 	<p>Compliant.</p> <p>These amendments are consistent with the policy intent of the original variation in relation to:</p> <ul style="list-style-type: none"> • typographical corrections • greater certainty in relation to building height as intended by Variation 334 • removal of a note stating height in metres does not apply • to restrict buildings to their intended height through implementation of a height in metres requirement.
<p>S87 (2) (e) a variation to clarify the language in the territory plan if it does not change the substance of the plan</p>	<p>Compliant.</p> <p>The additional note added to R4 clarifies R4 by explaining the definition of basement</p>

3. TECHNICAL AMENDMENT

This section of the technical amendment document provides the actual instructions for implementing the changes to the Territory Plan.

3.1 Red Hill Precinct Map and Code

1. Desired Character

Substitute all of the Desired Character of 'RC1 – Cygnet Crescent Precinct' with the following:

Desired Character

The desired character for the RC1 precinct is:

- The arrangement of buildings and spaces enhance solar access to landscape areas, communal areas, private open space and public spaces on and surrounding the site.
- Development fronting the public realm and/or landscape areas addresses and enhances the quality and useability of the spaces.
- Building facades should be of high quality finish, detailing and visually articulated to avoid a 'continuous wall' of development and excessive bulk and scale and provide visual interest and differentiation. Buildings should predominately engage at street level, avoiding large expanses of blank walls or grilled car parks.
- The taller building elements are focused on the centre of the site and adjacent to the existing commercial zone.
- Provision of a range and diversity of housing choices including opportunities to age in place.
- Landscaped areas between the buildings are of a high quality that link the overall development together and contribute to the amenity of the area.
- There is a clear hierarchy of public and private zones through the site with safe and attractive pedestrian areas.
- A high-level of sustainability, with a large percentage of the units facing north, and construction to achieve high-energy performance ratings.
- Development should frame and address Lady Nelson Place Park (Section 40, Red Hill) and the landscape areas through visually interesting facades and providing passive surveillance.
- Development provides interest and activity to the public realm through articulated facades to public spaces, avoiding solid, featureless walls of development.

2. Height

Substitute R4 and C4 for the following:

3.1 Number of storeys	
<p>R4</p> <p>This rule applies to areas 'a', 'b' and 'c' identified in Figure 1.</p> <p>The maximum number of <i>storeys</i> permitted are as follows:</p> <p>a) in area 'a' – 2 storeys. Area 'a' is measured as:</p> <ul style="list-style-type: none">i. for section 25 and 26 – a maximum of 30 metres deep from the boundaries fronting La Perouse Street and Monaro Crescentii. for section 29 – the maximum length of the front boundary to Cygnet Crescent is 58 metres. <p>b) in area 'b' – 3 <i>storeys</i>. Area 'b' is the area remaining after excluding area 'a' and area 'c'</p> <p>c) in area 'c' – 4 <i>storeys</i>. Area 'c' is measured as:</p> <ul style="list-style-type: none">i. for section 25 and 26 – a maximum of 30 metres deep from the boundary frontages with Discovery Street and a maximum of 34 metres deep from the boundary frontage with Lady Nelson Place.ii. for section 31 – the area between the two terminating roads identified in figure 1 and a maximum of 34 metres deep from the boundary fronting Cygnet Crescent. <p>Rooftop plant rooms that are setback from the floor immediately below and screened from a public road are not included in the number of storeys.”</p> <p>Note: Basement means a space within a <i>building</i> where the floor level of the space is predominately below <i>datum ground level</i> and where the <i>finished floor level</i> of the level immediately above the space is less than 1.0 metre above <i>datum ground level</i>.</p>	<p>This is a mandatory requirement, there is no applicable criterion.</p>

Insert after R4

3.1a Height of buildings	
<p>R4a</p> <p>This rule applies to areas 'a', 'b' and 'c' identified in Figure 1.</p> <p>Maximum <i>height of building</i> is:</p> <p>a) In area 'a' – 9.5m. Area 'a' is measured as:</p> <ul style="list-style-type: none">i. for section 25 and 26 – a maximum of 30 metres deep from the boundaries fronting La Perouse Street and Monaro Crescentii. for section 29 – the maximum length of the front boundary to Cygnet Crescent is 58 metres. <p>b) In area 'b' – 12.5m. Area 'b' is the area remaining after excluding area 'a' and area 'c'</p> <p>c) In area 'c' – 16m. Area 'c' is measured as:</p> <ul style="list-style-type: none">i. for section 25 and 26 – a maximum of 30 metres deep from the boundary frontages with Discovery Street and a maximum of 34 metres deep from the boundary frontage with Lady Nelson Place.ii. for section 31 – the area between the two terminating roads identified in figure 1 and a maximum of 34 metres deep from the boundary fronting Cygnet Crescent.	<p>C4a</p> <p>Buildings achieve all of the following:</p> <ul style="list-style-type: none">a) consistency with the <i>desired character</i>b) reasonable solar access to dwellings on adjoining residential blocks and their associated private open space

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, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefonirajte:
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