

Planning and Development (Draft Variation No 369) Consultation Notice 2019

Notifiable instrument NI2019—807

made under the

Planning and Development Act 2007, s 63 (Public consultation—notification)

1 Name of instrument

This instrument is the *Planning and Development (Draft Variation No 369) Consultation Notice 2019*.

2 Draft variation to the Territory Plan

The planning and land authority (the *Authority*) has prepared a draft plan variation No 369 – Living Infrastructure in Residential Zones (the *draft variation*) to vary the Territory Plan. The draft variation proposes changes to the Territory Plan to improve standards for soft landscaping for new development in all residential zones.

3 Documents available for public inspection

- (1) The Authority gives notice that the following documents are available for public inspection and purchase:
 - (a) the draft variation; and
 - (b) the background papers relating to the draft variation.
- (2) Copies of the documents mentioned in section 3 (1) are available for inspection and purchase at Access Canberra Shopfront, Ground Floor South, Dame Pattie Menzies House, 16 Challis Street, Dickson, Monday to Friday (except public holidays) between 8:30am and 4:30pm for the period commencing on the day this notice commences and ending on 28 February 2020 (the *consultation period*).
- (3) Copies of the documents mentioned in section 3 (1) are also available for inspection during the consultation period online at <https://www.planning.act.gov.au/tools-resources/plans-registers/plans/territory-plan/draft-variations-to-the-territory-plan>

4 Invitation to give written comments

- (1) The Authority invites written comments about the draft variation during the consultation period. Comments should include reference to the draft variation and be addressed to the Territory Plan Section of the Environment, Planning and Sustainable Development Directorate (*EPSDD*). Please also provide your name and contact details to assist in the assessment of the comments provided and to enable the Authority to contact you in relation to your comments, if required.
- (2) Written comments should be provided to the Authority by:
 - (a) email to terrplan@act.gov.au; or
 - (b) mail to Territory Plan Section, EPSDD, GPO Box 158, Canberra, ACT 2601; or
 - (c) hand delivery to Access Canberra Shopfront, Ground Floor South, Dame Pattie Menzies House, 16 Challis Street, Dickson.

Note All personal information will be managed in accordance with the *Information Privacy Act 2014* and the *EPSDD Information Privacy Policy* which are available through the EPSDD website.

5 Public inspection of written comments

- (1) Copies of written comments about the draft variation given in response to the invitation in section 4, or otherwise, or received from the National Capital Authority will be available (unless exempted) for public inspection for a period of at least 15 working days starting 10 working days after the day the consultation period ends, at Access Canberra Shopfront, Ground Floor South, Dame Pattie Menzies House, 16 Challis Street, Dickson, Monday to Friday (except public holidays) between 8:30am and 4:30pm and may be published on the EPSDD website at www.planning.act.gov.au.
- (2) You may apply under section 411 of the *Planning and Development Act 2007* (the *Act*) for part of your consultation comments to be excluded from being made available to the public. A request for exclusion under this section must be in writing, clearly identifying what you are seeking to exclude and how the request satisfies the exclusion criteria. Please note that your name and contact details and other personal information will not be made public unless you request otherwise.

6 Effect of the draft variation

Section 65 of the Act does not apply in relation to the draft variation and therefore it does not have interim effect. The current Territory Plan will continue to apply while the draft variation remains in draft form.

7 Obtaining further information

Further information about the draft variation can be obtained through email correspondence with the Territory Plan Section, EPSDD, at terrplan@act.gov.au. A reference to the draft variation should be included in any email.

8 Dictionary

In this instrument:

draft plan variation No 369 – Living Infrastructure in Residential Zones means the draft plan variation in the schedule.

Carolyn O'Neill
Delegate of the planning and land authority
12 December 2019



ACT
Government

Environment, Planning and
Sustainable Development

Schedule

Planning and Development Act 2007

**Draft
Variation to the
Territory Plan
No 369**

Living Infrastructure in Residential Zones

December 2019

Draft variation for public circulation prepared
under s60 of the *Planning and Development Act 2007*

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1. INTRODUCTION

1.1 Summary of the Proposal

The draft variation to the Territory Plan No 369 (DV369) for Living Infrastructure in Residential Zones proposes changes to make sure standards for soft landscaping area in all residential areas (RZ1 to RZ5) are met.

The draft variation responds to Direction 3.3 of the ACT Planning Strategy 2018, which seeks to “*Integrate living infrastructure and sustainable design to make Canberra a resilient city within the landscape*”. Action 3.3.1 is to:

“Support the implementation of a living infrastructure plan for the ACT through the review of planning policy and planning mechanisms to support the maintenance and enhancement of the urban forest in precinct, estate and district level planning processes, and relevant development and design guidelines.”

DV369 responds to Action 2 of Canberra’s Living Infrastructure Plan, which seeks to achieve 30% tree canopy cover (or equivalent) and 30% permeable surfaces in urban areas by 2045. DV369 will assist in working towards achieving these targets for urban areas by making changes related to site coverage and planting area requirements on private land in all residential zones (RZ1 to RZ5).

1.2 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 planning and land authority as the Authority that prepares and administers the Territory Plan, including continually reviewing and proposing amendments as necessary. The functions of the planning and land authority are administered by the Environment, Planning and Sustainable Development Directorate (EPSDD). The Director-General of EPSDD is the planning and land authority.

The Territory Plan is comprised of a written statement and a map. The written statement contains several parts, namely governance; strategic directions; zones (including objectives and development tables and zone or centre development codes); precinct codes; general codes; overlays; definitions; structure plans, concept plans and development codes for future urban areas.

The Territory Plan Map graphically represents the applicable land use zones (under the categories of residential, commercial, industrial, community facility, urban parks and recreation, transport and services and non-urban), precincts and overlays. The zone, precinct and overlay requirements are detailed in the volumes of the Territory Plan.

Draft variations to the Territory Plan are prepared in accordance with the Act. Following the release of the draft variation under section 63 of the Act, submissions from the public are invited. At the conclusion of the consultation period the EPSDD (planning and land authority) submits a report on consultation and a recommended final variation to the Minister responsible for planning for referral to the Legislative Assembly standing committee responsible for planning. The Minister must consider the findings of the committee before deciding whether to approve the draft variation. If the Minister approves the variation, the variation and associated documents will be tabled in the Legislative Assembly. Unless disallowed by the Legislative Assembly within five sitting days, the variation commences on a day nominated by the Minister.

1.3 This document

This document contains the background information in relation to the proposed variation. It comprises the following parts:

Part 1 This Introduction

Part 2 An Explanatory Statement, which gives reasons for the proposed variation and describes its effect

Part 3 The Draft Variation, which details the precise changes to the Territory Plan that are proposed

1.4 Public Consultation

Written comments about the draft variation are invited from the public by **28 February 2020**.

Comments should include reference to the draft variation and be addressed to the Territory Plan Section, EPSDD. Please also provide your name and contact details to assist in the assessment of the comments provided, and to enable EPSDD to contact you in relation to your comments, if required. Your personal information will be managed in accordance with the *Information Privacy Act 2014* and the EPSDD Information Privacy Policy, which is available for viewing on EPSDD's website.

Comments can be:

- emailed to terrplan@act.gov.au
- mailed to Territory Plan Section, GPO Box 158, Canberra, ACT 2601
- delivered to the Access Canberra Customer Service Centre at 16 Challis Street, Dickson

Copies of written comments received with respect to the draft variation will be made available for public inspection for no less than 15 working days starting 10 working days after the closing date for comment. The comments will be available at the Access Canberra customer service centre in Dickson and may be published on EPSDD's website. Comments made available will not include personal contact details unless you request otherwise.

A request may be made for parts of a submission to be excluded under section 411 or 412 of the *Planning and Development Act 2007*. A request for exclusion under these sections must be in writing, clearly identifying what parts of your submission you are seeking to exclude and how the request satisfies the exclusion criteria.

Further Information

The draft variation and background documents are available online at **www.act.gov.au/draftvariations** until the closing date for written comments.

Printed copies of the draft variation (this document) and background documents are available for inspection and purchase at the Access Canberra Customer Service Centre, 16 Challis Street, Dickson, Monday to Friday (except public holidays) between 8:30am and 4:30pm. Please call 6207 1923 to arrange a copy for purchase.

2. EXPLANATORY STATEMENT

2.1 Background

EPSDD investigated the policy principles, strategies and mechanisms for establishing living infrastructure requirements as part of the ACT Planning Strategy 2018.

The purpose of this project was to provide advice and recommendations on mechanisms for establishing living infrastructure requirements as part of urban intensification in future urban renewal and greenfield development areas in the ACT.

As Canberra becomes a more compact city with greater intensively developed urban areas, the need for making living infrastructure an integral part of the city's form and function increases.

With a growing population it will be necessary to ensure that future development provides a good balance between urban intensification and living infrastructure to create a healthier, more liveable and sustainable urban environment, as well as to help adapt and mitigate the effects of climate change.

The project investigated the balance between living infrastructure and residential development at the block, street and suburb level to understand requirements for living infrastructure on both public and private land including tree canopy, permeable surface areas, building site coverage and planting areas.

DV369 incorporated changes made as a result of the recommendations of this project for the improvement of living infrastructure in residential areas in the ACT.

DV369 proposes changes to all residential zones (RZ1 to RZ5) that will contribute towards the targets for tree canopy cover and permeable surfaces in urban areas, as outlined in Canberra's Living Infrastructure Plan: Cooling the City (2019).

2.2 Proposed Changes

2.2.1 Proposed Changes to the Territory Plan Map

There are no changes proposed to the Territory Plan map.

2.2.2 Proposed Changes to Territory Plan

DV369 proposes to make changes to the Single Dwelling Housing Development Code and Multi Unit Housing Development Code of the Territory Plan, and to amend the definitions in the Territory Plan in relation to site coverage and planting area controls.

The proposed changes are to:

- Introduce provisions for ‘site coverage’ and amend current provisions for ‘planting area’ for all residential areas (RZ1–RZ5) to increase the area of a block available for soft landscaping.
- Expand the definition of ‘planting area’ to clarify that elements that impact permeability of the ground (i.e. terraces, pergolas, patios or decks) are not considered to be planting area.
- Expand the definition of ‘site coverage’ to clarify that elements that impact permeability of the ground (i.e. terraces, pergolas, patios, decks or balconies) are considered to be site coverage; and to clarify that some elements are not considered to be site coverage (i.e. awnings, eaves and the like).
- Reinforce the criteria and guidelines to consider planting area, site coverage, water infiltration, landscape quality, deep root planting area, tree canopy, green roofs, green walls, and the like.
- Add a new requirement that development provides a minimum level of tree planting, with associated requirements for canopy trees on compact, mid-sized and large residential blocks.
- The variation also takes the opportunity to remove outdated acronyms located in the introductions to the Single Dwelling and Multi Unit Housing Development Codes and to correct the reference to Transport Canberra and City Services in the codes, which is currently referenced as Territory and Municipal Services (TAMS).

2.3 Reasons for the Proposed Draft Variation

The reason for the draft variation is to implement some of the living infrastructure elements recommended as part of the ACT Planning Strategy 2018 to make Canberra a resilient city within the landscape. A growing city with a changing climate and increased density needs to be balanced with the integration of the environment, green spaces and trees.

The draft variation is consistent with the strategic directions and actions of the ACT Planning Strategy 2018.

The draft variation responds to Direction 3.3 of the ACT Planning Strategy 2018, which seeks to “*Integrate living infrastructure and sustainable design to make Canberra a resilient city within the landscape*”.

Action 3.3.1 is to:

“Support the implementation of a living infrastructure plan for the ACT through the review of planning policy and planning mechanisms to support the maintenance and enhancement of the urban forest in precinct, estate and district level planning processes, and relevant development and design guidelines.”

The draft variation is also consistent with the objectives of Canberra’s Living Infrastructure Plan: Cooling the City. The draft variation responds to Action 2 of Canberra’s Living Infrastructure Plan, which seeks to achieve 30% tree canopy cover (or equivalent) and 30% permeable surfaces in urban areas by 2045. DV369 will assist in contributing to achieving these targets on private land in residential zones.

2.4 Planning Context

2.4.1 National Capital Plan

The *Australian Capital Territory (Planning and Land Management) Act 1988* established the National Capital Authority (NCA) with two of its functions being to prepare and administer a National Capital Plan (NCP) and to keep the NCP under constant review and to propose amendments to it when necessary.

The NCP, which was published in the Commonwealth Gazette on 21 January 1990 is required to ensure that Canberra and the Territory are planned and developed in accordance with their national significance. The *Planning and Land Management Act 1988* also requires that the Territory Plan is not inconsistent with the NCP.

2.4.2 ACT Planning Framework

Statement of Strategic Directions

The Statement of Strategic Directions sets out the principles for giving effect to the main objective of the Territory Plan as required by the *Planning and Development Act 2007*. The proposal is consistent with the Territory Plan’s statement of strategic directions in terms of environmental, economic and social sustainability and spatial planning and urban design principles.

The proposal is consistent with the following general principle:

2.16 Retention of Canberra’s unique landscape setting, including the integration of natural and cultural elements that create its ‘garden city’ and ‘bush capital’ qualities, will be accorded the highest priority. Special attention will be given to safeguarding visual amenity, protecting vegetation and other important features within the established urban landscape, and ensuring the high quality of environmental design in new developments or redevelopment.

ACT Planning Strategy 2018

The proposal is consistent with the ACT Planning Strategy 2018. It is consistent with the following directions and actions of the planning strategy:

- *Strategic Direction 3 Sustainable and Resilient Territory, to adapt to a changing climate and establish resilience in our built forms.*

Direction 3.3 Integrate living infrastructure and sustainable design to make Canberra a resilient city within the landscape.

Action 3.1 Support the implementation of a living infrastructure plan for the ACT through the review of planning policy and planning mechanisms for the maintenance and enhancement of the urban forest into precinct, estate and district level planning processes, and relevant development and design guidelines.

A study on planning and design for living infrastructure as part of residential intensification in a changing climate was carried out by EPSDD to implement the ACT Planning Strategy 2018. The study made recommendations on site coverage and planting area controls, and that existing and new trees on blocks in residential zones provide 15% canopy cover.

2.5 Interim Effect

Section 65 of the *Planning and Development Act 2007* does not apply in relation to the draft variation, so it does not have interim effect. The current Territory Plan will continue to apply while the variation remains in draft form.

2.6 Consultation with Government Agencies

The EPSDD is required to, in preparing a draft variation under section 61(b) consult with each of the following in relation to the proposed draft variation:

- the National Capital Authority
- the Conservator of Flora and Fauna
- the Environment Protection Authority
- the Heritage Council
- the Land Custodian, if the draft variation would, if made, be likely to affect unleased land or leased public land – each custodian for the land likely to be affected

National Capital Authority

The National Capital Authority provided the following comments on 30 September 2019:

“Some of the matters raised by the National Capital Authority (NCA) concerning green infrastructure requirements in response to the initial draft DV have been addressed (for example, definitions of ‘deep soil zone’ and ‘canopy tree’.

However, the NCA has the following questions and comments on the new DV369 – Living Infrastructure in Residential Zones:

- A reasonable number of dwellings are delivered in non-residential zones. Is there capacity for the proposed provisions concerning soft landscaping to be applied in these circumstances?*
- How can EPSDD ensure that the intended soft landscaping outcomes are not diminished over time? For example, do mechanisms exist to prevent a subsequent lessee of a property from removing trees or paving over planting area, if these works do not require either DA or building approval?*
- The NCA understands that in some cases, development need only comply with the rules of a code, and not the criteria. In some cases, it appears that the intent of the criteria may not necessarily be met by meeting the corresponding rule. For example, proposed criteria C38 of the Single Dwelling Housing Development Code requires plantings areas that ensure landscaping that provides substantial shade in summer and admit winter sunlight, enhance living infrastructure through deep soil zones, canopy trees, etc. The NCA is of the view that meeting the rule however does not necessarily mean that the intent of the criteria will be achieved, given the rule is based purely on quantitative dimensions.*
- Section 2.2.2 of the DV identifies that the definition of ‘planting area’ is to be expanded to include elements that impact permeability of the ground. This suggests that planting area could include elements such as terraces, pergolas, patios, etc. Section 3.1.5 however makes the intent of the definition change unambiguous. It is suggested that section 2.2.2 could be rephrased to be more explicit in its meaning.”*

Response

DV369 is intended to introduce soft planting area for residential zones only. Soft planting area can be considered for residential developments in non-residential land use zones as part of the ACT Planning Review.

Mechanisms to ensure soft landscaping outcomes are not diminished over time can be considered as part of the ACT Planning Review.

It is correct that in some cases, development need only comply with the rules of a code, and not the criteria. The points raised by the NCA about meeting Rule 38 does not necessarily mean that the intent of Criteria 38 would be achieved. The wording in Rule 39 and Criteria 38 were amended accordingly. Similar changes were made for Rule/Criteria 39 and Rule/Criteria 40. It should be noted however that if a provision in the Single Dwelling Housing Development Code does not have a rule associated with a criterion, a development may no longer be able to be exempt from development approval. For this reason the criteria associated with the private open space rules were not rewritten to be stand along criteria.

Section 2.2.2 of DV369 was updated as follows: Expand the definition of 'planting area' to include elements that impact permeability of the ground (i.e. terraces, pergolas, patios, decks or balconies) and clarify that they are not considered to be planting area.

Conservator of Flora and Fauna

The Conservator of Flora and Fauna made the following comments on 25 September 2019:

"In accordance with Section 61(b) of the Planning and Development Act 2007 I advise that I have examined Draft Variation No 369 Living Infrastructure in Residential Zones. I support the Draft Variation and have no comment."

Response

Noted.

Environment Protection Authority

The Environment Protection Authority provided the following comments on 24 September 2019:

"The Environment Protection Authority has no comment in relation to the proposed changes."

Response

Noted.

Heritage Council

The Heritage Council provided the following comments on 23 September 2019:

"Draft TPV 369 'Living Infrastructure' proposes changes to the site coverage and planting area requirements in Single Dwelling Housing Development Code and Multi Unit Housing Development Code of the Territory Plan, and to amend the definition of 'planting area' in the Territory Plan."

The proposed definition of ‘planting area’ will more closely align with the definition of planting area defined in the Specific Requirements for Conservation (Heritage Guidelines) for Garden City Precincts on the ACT Heritage Register. The proposed definition of ‘planting area’ will more closely align with the definition of planting area defined in the Specific Requirements for Conservation (Heritage Guidelines) for Garden City Precincts on the ACT Heritage Register.

In light of the above, the Council raises no objection to Draft TPV 369.”

Response

Noted.

3. DRAFT VARIATION

3.1 Variation to the Territory Plan

The Territory Plan is varied in the following ways:

3.1.1 Variation to the Single Dwelling Housing Development Code

1. Introduction; Definitions

Substitute

“Defined terms, references to legislation and other documents are italicised.

Definitions of terms used in this code are listed in part 13 of the Territory Plan or, for terms applicable only to this code, are associated with the respective rule or listed below.

Canopy tree: a woody perennial plant suitable for the Canberra climate, with one or more bare trunks, capable of achieving a crown diameter of a minimum of 8 metres, and main supporting branches generally at least 1.8m above the finished ground level. Does not include any plant described in schedule 1 of the *Pest Plants and Animals (Pest Plants) Declaration 2015 (No 1)* or any subsequent declaration made under section 7 of the *Pest Plants and Animals Act 2005*.

Deep soil zone: an area of soil within a *development* that is unimpeded by *buildings* or *structures* above and below ground, and which has dimensions to allow for the growth of healthy trees.

Deep soil zones exclude *basements*, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways, podium and roof areas.

2. Introduction; Acronyms

Omit

ACTPLAACT Planning and Land Authority

EDDACT Economic Development Directorate

EPAACT Environment Protection Authority

ESAEmergency Services Authority

ESDDACT Environment and Sustainable Development Directorate

NCANational Capital Authority

NCCNational Construction Code

P&D ActPlanning and Development Act 2007

TAMSACT Territory and Municipal Services Directorate

Insert

EPA ACT Environment Protection Authority

TCCS Transport Canberra and City Services Directorate

3. Element 5: Amenity; Item 5.2 Private Open Space

Substitute

5.2 Private open space	
<p>R38</p> <p>For large blocks, private open space complies with the following:</p> <ul style="list-style-type: none">a) has a minimum area equal to 60% of the block areab) has a minimum dimension of 6m for an area not less than 10% of the blockc) at least 50% of the minimum area in a) is <i>planting area</i>, with a minimum dimension of 2.5m. <p>Note: Private open space includes principal private open space, as required elsewhere in this element.</p>	<p>C38</p> <p><i>Private open space</i> provides residential amenity on the subject site and protects the residential amenity of adjoining sites by achieving the following:</p> <ul style="list-style-type: none">a) limits <i>site coverage</i> of buildings and vehicle parking and manoeuvring areasb) facilitates on-site infiltration of stormwater run-offc) provides outdoor areas that are readily accessible by residents for a range of uses and activitiesd) provides space for service functions such as clothes drying and domestic storagee) provides <i>planting areas</i> that ensure:<ul style="list-style-type: none">i) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areasii) enhance living infrastructure through water-sensitive urban design, providing areas for deep soil zones for ground water recharge, canopy trees and vegetation.

<p>R39</p> <p>For <i>mid-sized blocks</i>, <i>private open space</i> complies with the following:</p> <ul style="list-style-type: none"> a) a minimum area equal to 50% of the block area b) a minimum dimension as follows: <ul style="list-style-type: none"> i) blocks that are identified in a precinct code as an alternative boundary setback block – 4m for an area not less than 20% of the block area ii) in all other cases - 6m for an area not less than 10% of the block area c) at least 50% of the minimum area specified in a) is <i>planting area</i>, with a minimum dimension of 2.5m. <p>Note: Private open space includes principal private open space, as required elsewhere in this element.</p>	<p>C39</p> <p><i>Private open space</i> provides residential amenity on the subject site and protects the residential amenity of adjoining sites by achieving the following:</p> <ul style="list-style-type: none"> a) limits <i>site coverage</i> of buildings and vehicle parking and manoeuvring areas b) facilitates on-site infiltration of stormwater run-off c) provides outdoor areas that are readily accessible by residents for a range of uses and activities d) provides space for service functions such as clothes drying and domestic storage e) provides <i>planting areas</i> that ensure: <ul style="list-style-type: none"> i) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas ii) enhance living infrastructure through water-sensitive urban design, providing areas for deep soil zones for ground water recharge, canopy trees and vegetation.
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<p>R40</p> <p>For <i>compact blocks</i>, <i>private open space</i> complies with the following:</p> <ul style="list-style-type: none"> a) for <i>front loading blocks</i>, a minimum area is not less than 50% of the block area b) for <i>rear loading blocks</i>, a minimum area is not less than 30% of the block area c) at least 30% of the <i>block</i> area specified in a) is <i>planting area</i> with a minimum dimension of 2.5m. <p>Note: Private open space includes principal private open space, as required elsewhere in this element.</p>	<p>C40</p> <p><i>Private open space</i> provides residential amenity on the subject site and protects the residential amenity of adjoining sites by achieving the following:</p> <ul style="list-style-type: none"> a) limits <i>site coverage</i> of buildings and vehicle parking and manoeuvring areas b) facilitates on-site infiltration of stormwater run-off c) provides outdoor areas that are readily accessible by residents for a range of uses and activities d) provides space for service functions such as clothes drying and domestic storage e) provides <i>planting areas</i> that ensure: <ul style="list-style-type: none"> i) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas ii) enhance living infrastructure through water-sensitive urban design, providing areas for deep soil zones for ground water recharge, canopy trees and vegetation.
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Insert

5.2A Site coverage and tree planting	
<p>R40A</p> <p><i>Site coverage</i> is a maximum of:</p> <ul style="list-style-type: none"> a) for <i>large blocks</i>: 40% of the <i>block</i> area b) for <i>mid-sized blocks</i>: 50% of the <i>block</i> area c) for <i>compact blocks</i> that are <i>front loading blocks</i>: 50% of the <i>block</i> area d) for <i>compact blocks</i> that are <i>rear loading blocks</i>: 70% of the <i>block</i> area. 	<p>C40A</p> <p><i>Site coverage</i> and vehicle parking and manoeuvring areas is limited to:</p> <ul style="list-style-type: none"> a) maximise outdoor areas that are readily accessible by residents for a range of uses and activities b) provide adequate space for service functions such as clothes drying and domestic storage c) provide adequate <i>planting area</i> on the site.
<p>R40B</p> <p><i>Development</i> provides a minimum level of tree planting in <i>deep soil zones</i>, with associated planting requirements as described in table 7a, consistent with the following:</p> <ul style="list-style-type: none"> a) for <i>compact blocks</i>, at least one small <i>canopy tree</i> b) for <i>mid-sized blocks</i>, at least two small 	<p>C40B</p> <p>Tree planting provided in the development ensures:</p> <ul style="list-style-type: none"> a) Planting or retention of suitably sized canopy trees in <i>deep soil zones</i>, including adequate dimensions for <i>deep soil zones</i> to support healthy <i>canopy tree</i> growth, and provide adequate room for <i>canopy trees</i>

<p><i>canopy trees</i></p> <p>c) for <i>large blocks</i> less than or equal to 800m², one small <i>canopy tree</i> and one medium <i>canopy tree</i></p> <p>d) for <i>large blocks</i> more than 800m², at least:</p> <p>i) one medium <i>canopy tree</i> and one large <i>canopy tree</i>, and</p> <p>ii) one additional large <i>canopy tree</i> or two additional medium <i>canopy trees</i> for each additional 800m² block area.</p> <p>Note: Existing <i>canopy trees</i> being retained as part of development may be considered to meet these requirements.</p>	<p>b) planting <i>canopy trees</i> of semi-advanced stock and reasonable heights at maturity.</p>
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Insert

Table 7a: Tree sizes and associated minimum soil volumes and area requirements

Tree size	Mature height	Minimum soil surface area dimension	Minimum pot size (litres)*	Minimum soil volume
Small Tree	5-8m	3m	45**	18m ³
Medium Tree	8-12m	5m	75**	42m ³
Large Tree	>12m	7m	75**	85m ³

Notes:

*Minimum pot size refers to the container size of new trees prior to planting.

**The maximum pot size for small, medium and large *eucalyptus sp.* trees is 45 litres, with maximum height at planting of 2.5m and maximum trunk calliper of 3cm.

4. Element 7: Services; Item 7.1 Construction waste management – all zones, Rule R48

Substitute

TCCS for TAMS.

3.1.2 Variation to the Multi Unit Housing Development Code

5. Introduction; Definitions

Substitute

“Defined terms, references to legislation and other documents are italicised.

Definitions of terms used in this code are listed in part 13 of the Territory Plan or, for terms applicable only to this code, are associated with the respective rule or listed below.

Canopy tree: a woody perennial plant suitable for the Canberra climate, with one or more bare trunks, capable of achieving a crown diameter of at least 8 metres when mature, and main supporting branches generally at least 1.8m above the finished ground level. Does not include any plant described in schedule 1 of the *Pest Plants and Animals (Pest Plants) Declaration 2015 (No 1)* or any subsequent declaration made under section 7 of the *Pest Plants and Animals Act 2005*.

Deep soil zone: an area of area of soil within a *development* that is unimpeded by *buildings* or *structures* above and below ground, and which has adequate dimensions to allow for the growth of healthy trees. Deep soil zones exclude *basements*, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways, podium and roof areas.

6. Introduction; Acronyms

Omit

ACTPLA	ACT Planning and Land Authority
EDD	ACT Economic Development Directorate
EPA	ACT Environment Protection Authority
ESA	Emergency Services Authority
ESDD	ACT Environment and Sustainable Development Directorate
NCA	National Capital Authority
NCC	National Construction Code
P&D Act	Planning and Development Act 2007
TAMS	Territory and Municipal Services

Insert

ACTPLA	ACT planning and land authority
EPA	ACT Environment Protection Authority
TCCS	Transport Canberra and City Services Directorate

7. Element 4: Site design; Item 4.2 Site open space – RZ1 and RZ2

Substitute

4.2 Site open space – RZ1 and RZ2	
<p>R38</p> <p>This rule applies to RZ1 and RZ2.</p> <p>Not less than 40% of the total site area is allocated to one or more of the following:</p> <p>a) <i>communal open space</i> with a minimum dimension of 2.5m; and/or</p> <p>b) <i>private open space</i> that complies with the following:</p> <p>i) a minimum dimension of 2.5m; and</p> <p>ii) is associated with dwellings at the <i>lower floor level</i>.</p>	<p>C38</p> <p>Open space on the site achieves the following:</p> <p>a) adequate space for the recreation and relaxation of residents</p> <p>b) adequate space for planting, particularly trees with deep root systems, to accommodate on-site infiltration of stormwater run-off</p> <p>c) provision of outdoor areas that are readily accessible by residents for a range of uses and activities.</p> <p>One or more of the following matters may be considered when determining compliance with this criterion:</p> <p>i) whether the total area of <i>upper floor level private open space</i> contributes to the function of other open space on the site</p> <p>ii) whether any adjoining or adjacent public open space is readily available for the use of residents.</p>

Insert

4.2 Site open space – RZ1 and RZ2	
<p>R38A</p> <p>This rule applies to all development in RZ1 and RZ2.</p> <p><i>Site coverage</i> is a maximum of 40% of the <i>block</i> area.</p>	<p>C38A</p> <p><i>Development</i> complies with the following:</p> <p>a) limits <i>site coverage</i> and vehicle parking and manoeuvring areas</p> <p>b) provides outdoor areas that are readily accessible by residents for a range of uses and activities</p> <p>c) provides space for service functions such as clothes drying and domestic storage.</p>

<p>R38B</p> <p><i>Planting area</i> is a minimum of 35% of the <i>block area</i>.</p> <p>The minimum dimension of any area included in the <i>planting area</i> calculation is 2.5 metres.</p>	<p>C38B</p> <p><i>Planting area</i> provided in the <i>development</i> achieves the following:</p> <ul style="list-style-type: none"> a) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas b) enhance living infrastructure through water-sensitive urban design, providing <i>deep soil zone</i> areas for ground water recharge, canopy trees and vegetation c) infiltration of stormwater run-off and allow a greater ability to plant.
<p>R38C</p> <p>Existing and new trees on the block are to provide at least 15% canopy cover to the block at maturity. Trees are to be planted in <i>deep soil zones</i>.</p>	<p>This is a mandatory rule. There is no applicable criterion.</p>
<p>There is no applicable rule.</p>	<p>C38D</p> <p><i>Planting area</i> provided in the development achieves the following:</p> <ul style="list-style-type: none"> a) Planting of suitably sized plants in <i>deep soil zones</i>, including adequate dimensions for <i>deep soil zones</i> to support healthy <i>canopy tree</i> growth, and provide adequate room for <i>canopy trees</i> b) <i>deep soil zones</i> should allow subsoil drainage to support groundwater infiltration c) planting of <i>canopy trees</i> with semi-advanced stock and suitable heights at maturity d) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas.

<p>R38E</p> <p><i>Development</i> provides a minimum level of tree planting, with associated planting requirements as described in table A7a, consistent with the following:</p> <p>a) for <i>large blocks</i> less than or equal to 800m², at least one small <i>canopy tree</i> and one medium <i>canopy tree</i></p> <p>b) for <i>large blocks</i> more than 800m², at least:</p> <p>i) one medium <i>canopy tree</i> and one large <i>canopy tree</i>, and</p> <p>ii) one additional large <i>canopy tree</i> or two additional medium <i>canopy trees</i> for each additional 800m² block area.</p> <p>Note: Existing <i>canopy trees</i> being retained as part of development may be considered to meet these requirements.</p>	<p>C38E</p> <p>Tree planting in the development ensures:</p> <p>a) planting or retention of suitably sized <i>canopy trees</i> in <i>deep soil zones</i>, including adequate dimensions for <i>deep soil zones</i> to support healthy tree growth, and provide adequate room for <i>canopy trees</i></p> <p>b) planting <i>canopy trees</i> of semi-advanced stock and reasonable heights at maturity.</p>
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Insert

Table A7a: Tree sizes and associated minimum soil volumes and area requirements

Tree size	Mature height	Minimum soil surface area dimension	Minimum pot size (litres)*	Minimum soil volume
Small Tree	5-8m	3m	45**	18m ³
Medium Tree	8-12m	5m	75**	42m ³
Large Tree	>12m	7m	75**	85m ³

Notes:

*Minimum pot size refers to the container size of new trees prior to planting.

**The maximum pot size for small, medium and large *eucalyptus sp.* trees is 45 litres, with maximum height at planting of 2.5m and maximum trunk calliper of 3cm.

8. Element 4: Site design; Item 4.3 Site open space – RZ3, RZ4, RZ5 and commercial zones

Substitute

4.3 Site open space – commercial zones	
<p>R39</p> <p>This rule applies to commercial zones.</p> <p>Not less than 20% of the total site area is allocated to the following:</p> <p>a) for developments with fewer than 20 <i>dwelling</i>s, none of which are <i>apartment</i>s, one or more of the following:</p> <p>i) <i>communal open space</i> that complies with the following:</p> <p>a) a minimum dimension of 2.5m</p> <p>b) is directly accessible from common entries and pathways; and/or</p> <p>ii) <i>private open space</i> that complies with the following:</p> <p>a) a minimum dimension of 2.5m; and</p> <p>b) is associated with <i>dwelling</i>s at the <i>lower floor level</i>; and/or</p> <p>b) in all other cases, <i>communal open space</i> that complies with the following:</p> <p>i) a minimum dimension of 2.5m; and</p> <p>ii) is directly accessible from common entries and pathways.</p>	<p>C39</p> <p>Open space on the site achieves the following:</p> <p>a) adequate useable space for a range of recreational activities for residents to support active living</p> <p>b) adequate space for planting, particularly trees with deep root systems</p> <p>c) a contribution to on-site infiltration of stormwater run-off</p> <p>d) reasonable accessibility that is designed to be inclusive for all residents</p> <p>e) reasonable connectivity for pedestrians and cyclists to key local destinations and community uses.</p> <p>One or more of the following matters may be considered when determining compliance with this criterion:</p> <p>i) whether the total area of <i>upper floor level private open space</i> contributes to the function of other open space on the site; and/or</p> <p>ii) whether any adjoining or adjacent public open space is readily available for the use of residents.</p>

Insert

5.2 Site open space – RZ3, RZ4 and RZ5	
<p>R39A</p> <p>This rule applies to RZ3, RZ4 and RZ5.</p> <p><i>Site coverage</i> is a maximum of 45% of the <i>block</i> area.</p>	<p>C39A</p> <p><i>Development</i> complies with the following:</p> <ul style="list-style-type: none"> a) limits <i>site coverage</i> of <i>buildings</i> and vehicle parking and manoeuvring areas b) provides outdoor areas that are readily accessible by residents for a range of uses and activities c) provides space for service functions such as clothes drying and domestic storage.
<p>R39B</p> <p>This rule applies to RZ3, RZ4 and RZ5.</p> <p><i>Planting area</i> is a minimum of 25% of the <i>block</i> area.</p> <p>The minimum dimension of any area included in the <i>planting area</i> calculation is 2.5 metres.</p>	<p>C39B</p> <p><i>Planting area</i> provided in the <i>development</i> achieves the following:</p> <ul style="list-style-type: none"> a) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas b) enhance living infrastructure through water-sensitive urban design, providing areas for deep soil zones for ground water recharge, large canopy trees and vegetation c) in RZ5 only, if the minimum required planting area or canopy trees can't be provided on site, an equivalent area should be achieved through planting on structures.
<p>R39C</p> <p>This rule applies to RZ3, RZ4 and RZ5.</p> <p>Existing and new trees on the block are to provide at least 15% canopy cover of the block at maturity. Trees are to be planted in deep soil zones in <i>communal areas</i>.</p> <p>Note: for the purposes of this rule deep soil zones are areas of natural or structured soil medium with a minimum unobstructed depth of 1.2m, minimum surface area of 64m² and minimum volume of 85m³.</p>	<p>C39C</p> <p>Planting area provided in the development achieves the following:</p> <ul style="list-style-type: none"> a) planting in deep soil zones, including minimum dimensions for deep soil zones, to support healthy tree growth, and provide adequate room for trees b) planting of trees with appropriate species and with a semi-advanced stock and minimum heights at maturity c) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas d) in RZ5 only, if the minimum required planting area or canopy trees cannot be provided on site, an equivalent area should be achieved through planting on structures.

<p>R39D</p> <p>This rule applies to commercial zones. Not less than 20% of the total site area is allocated to the following:</p> <ul style="list-style-type: none"> a) for developments with fewer than 20 dwellings, none of which are apartments, one or more of the following: <ul style="list-style-type: none"> i) communal open space that complies with the following: <ul style="list-style-type: none"> a) a minimum dimension of 2.5m b) is directly accessible from common entries and pathways; and/or ii) private open space that complies with the following: <ul style="list-style-type: none"> a) a minimum dimension of 2.5m b) is associated with dwellings at the lower floor level b) in all other cases, communal open space that complies with the following: <ul style="list-style-type: none"> i) a minimum dimension of 2.5m ii) is directly accessible from common entries and pathways. <p>Not less than 10% of the total site area is planting area.</p>	<p>C39D</p> <p>Open space on the site achieves the following:</p> <ul style="list-style-type: none"> a) adequate useable space for a range of recreational activities for residents to support active living b) a contribution to on-site infiltration of stormwater run-off c) reasonable accessibility that is designed to be inclusive for all residents d) utilise planting on structures where planting area, canopy trees cannot be achieved on site e) reasonable connectivity for pedestrians and cyclists to key local destinations and community uses f) if the minimum required planting area can't be provided on site, an equivalent area should be achieved through planting on structures. <p>One or more of the following matters may be considered when determining compliance with this criterion:</p> <ul style="list-style-type: none"> i) whether the total area of upper floor level private open space contributes to the function of other open space on the site; and/or ii) whether any adjoining or adjacent public open space is readily available for the use of residents.
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Substitute

<p>R40</p> <p><i>Development</i> provides a minimum level of tree planting, with associated planting requirements as described in table A7b, consistent with the following:</p> <ul style="list-style-type: none"> a) for <i>compact blocks</i>, one small canopy tree b) for <i>mid-sized blocks</i>, two small canopy trees c) for <i>large blocks</i> less than or equal to 800m², one small canopy tree and one medium canopy tree d) for <i>large blocks</i> more than 800m²: <ul style="list-style-type: none"> i) one medium canopy tree and one large canopy tree, and ii) one additional large canopy tree or two additional medium canopy trees for each additional 800m² block area. <p>Note: For the purposes of this rule, a canopy tree is a woody perennial plant suitable for the Canberra climate, with one or more bare trunks, and main supporting branches generally at least 1.8m above the <i>finished ground level</i>.</p>	<p>C40</p> <p>Tree planting provided in the development ensures:</p> <ul style="list-style-type: none"> e) planting in deep soil zones, including minimum dimensions for deep soil zones, to support healthy tree growth, and provide adequate room for trees f) planting of trees with appropriate species and with a semi-advanced stock and minimum heights at maturity g) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas.
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Insert

<p>There is no applicable rule.</p>	<p>C40A</p> <p>Where one or more existing trees located within the subject block are to be retained as part of development to count towards tree coverage requirements as described elsewhere in this code, development applications are supported by a report prepared by a suitably qualified person demonstrating how the development complies with the following:</p> <ul style="list-style-type: none"> a) shows the tree(s) are in good health and likely to actively grow at the completion of works b) details how the tree(s) will be suitably protected during construction works c) provides adequate deep soil area to ensure the tree(s) will remain viable d) confirms that the tree(s) to be retained are sited appropriately and will not detrimentally impact the development in the future.
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Insert

Table A7b*: Tree sizes and associated minimum soil volumes and area requirements

Tree size	Mature height	Minimum soil depth (deep soil zone)	Minimum soil surface area dimension	Minimum pot size (litres)	Minimum soil volume
Small Tree	5-8m	0.8m	3m	45**	18m ³
Medium Tree	8-12m	1m	5m	75**	42m ³
Large Tree	>12m	1.2m	7m	75**	85m ³

Notes:

*This table applies to new trees only, not existing trees that are to be retained as part of the development.

** The maximum pot size for small, medium and large *eucalyptus sp.* trees is 45 litres, with maximum height at planting of 2.5m and maximum trunk calliper of 3cm.

9. Element 12: Waste management; Rules 98 and 99

Substitute

TCCS for TAMS at rules R98 and R99

1. Element 13: Utilities

Substitute

TCCS for TAMS at rule R101

3.1.3 Variation to the Definitions

2. Definitions, Part 13.1 Definitions, Part B Definitions of terms

Substitute

Planting area means an area of land within a *block* that is available for landscape planting and that is not covered by *buildings*, *structures*, vehicle parking and manoeuvring areas or any other form of impermeable element that impacts permeability of the ground surface (i.e. terraces, pergolas, patios, decks or pools).

Substitute

Site coverage means the proportion of actual *site* covered by *buildings*, including roofed terraces, pergolas, patios, decks and balconies but excluding any part of awnings, eaves and the like.

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:

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