

Australian Capital Territory

Planning and Development (Plan Variation 365) Approval 2022

Notifiable instrument NI2022-179

made under the

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

1 Name of instrument

This instrument is the *Planning and Development (Plan Variation 365) Approval 2022*.

2 Approval of draft plan variation

- (1) I approve under section 76 (2) (a) of the *Planning and Development Act 2007* the plan variation 365 to the Territory Plan.
- (2) In this section:

plan variation 365 to the Territory Plan means the plan variation in the schedule.

Mick Gentleman MLA
Minister for Planning and Land Management

6 April 2022



ACT
Government

Environment, Planning and
Sustainable Development

Schedule (See section 2(2))

Planning and Development Act 2007

Variation to the Territory Plan 365

Housing Choices –
Boarding Houses and Co-Housing

February 2022

Final variation prepared under s76 of the
Planning and Development Act 2007

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1. EXPLANATORY STATEMENT

1.1 Background

Territory Plan Variation 365 (V365) implements part of the Housing Choices project which was undertaken by the Environment, Planning and Sustainable Development Directorate (EPSDD). The project investigated whether the housing needs of the Canberra community are adequately understood, whether they are currently being met, and how they can be better met in the future.

A Housing Choices Discussion Paper released for consultation in November 2017 provided a basis for community comment to inform future planning decisions on improving housing choice.

The approach to engagement and evidence-based policy development was collaborative, innovative and informed. It was carried out in two stages.

In stage one, feedback on housing choices was sought from the community and industry through media articles, correspondence and talk-back radio. EPSDD commissioned a social research survey of 1,000 citizens living across the city, and an economic analysis of the housing redevelopment market.

EPSDD released three reports:

- Housing Choices Discussion Paper (November 2017) for consultation from 17 November 2017 to 9 March 2018.
- Housing Choices Discussion Paper Community Engagement Report (May 2018).
- Housing Choices Collaboration Hub Information Kit (April 2018).

These reports informed the second stage of engagement from May to July 2018. This stage sought further feedback on housing choices from the community, including the Housing Choices Collaboration Hub (Collaboration Hub).

The Collaboration Hub was a group of 38 randomly selected individuals that represented a broad cross-section of the Canberra community.

The Collaboration Hub was a deliberative process that brought together these citizens to discuss, deliberate and receive information on housing choices. They considered the desires of stakeholders and best practice thinking to recommend options on ways to improve housing choices.

The Collaboration Hub participants wrote the recommendations report and provided it directly to the Minister for Planning and Land Management at the last Collaboration Hub meeting on 28 July 2018.

The Minister for Planning and Land Management gave support in-principle to all the Collaboration Hub's recommendations contained in its report. That is, the Minister agreed to the ideas proposed in the recommendations, with further detailed work required by EPSDD and other agencies to determine the most appropriate way to deliver the desired outcome.

The Government's response to each of the 13 recommendations is outlined in the *ACT Housing Choices Collaboration Hub: Government Response (September 2018)*. This report is available at <https://www.yoursay.act.gov.au/housing-choices>.

The Collaboration Hub's recommendations and other issues raised during consultation on the Housing Choices project will be considered and/or implemented through a variation to the Territory Plan and as part of the ACT Planning System Review and Reform project and other projects.

- a. Variation to the Territory Plan for Housing Choices – There will be a requirement for EPSDD to make changes to the Territory Plan to progress Recommendations 5 and 7.
- b. ACT Planning System Review and Reform – Recommendations 4, 7 (part), 8 (part), 11 (part) and 12 will be considered through this project which started in 2019.
- c. Other projects – Recommendations 1-3, 6, 7 (part), 8 (part), 9-10, 11 (part) and 13 will be considered and/or implemented through work connected to the ACT Indicative Land Release Program, 2018 ACT Housing Strategy and Affordable Housing Innovation Fund, 2018 ACT Planning Strategy and Living Infrastructure project, ACT Transport Strategy 2020, Public Housing Renewal Program, Improving the ACT Building Regulatory System reforms and Demonstration Housing projects.

1.2 Summary of the Proposal

V365 changes the Territory Plan to implement Recommendation 7 of the Collaboration Hub.

Theme 4 – Lifestyle and diversity – The current housing options driven by market do not provide flexibility for varying lifestyles in both physical space and possible procurement methods.

Recommendation 7 – *For both infill* and new developments, government should require and/or incentivise developers to deliver an increase in:*

- 1. Mix of dwelling sizes and diversity of dwelling types.*
- 2. The set proportion (%) of new dwellings that meet universal design standards: whilst taking into account different Precincts and changes over time.*

Other NOTES about Infill; this should allow:

- For rules to kick in over time, as spaces/blocks are redeveloped with reference to Precinct Plans.*
- For the mix and diversity for each area to be reviewed over time; not set and forget.*

Notes for Item 1. As examples for consideration/incorporation: single level age-in places, shop top living, build to rent, share housing, loft-style, courtyard, terrace house, mews and manor.

Notes for Item 2. Universal design is considered to be an adaptable house that is able to respond to changing lifestyle needs.

Rationale – Based on submissions/presentations by: Kate Auty, ACT Commissioner for Sustainability and Environment; Sue McGrath, The Benevolent Society; Clare Wall, Board of Community House Canberra; and Shane Garrett, Housing Industry Association.

EPSDD invited members of the Collaboration Hub and Stakeholder Reference Group to continue to be involved with the Housing Choices project. Many people from these groups expressed an interest in staying involved in the project. They attended workshops with EPSDD in November 2018 and February 2019 to explore the options for implementing recommendation 7. Key concerns raised at the workshops included the need to protect residential amenity and character, making sure there is enough space on blocks for landscaping, and good design of the built form and landscape.

These workshops led to the development of provisions to make changes to the Territory Plan, which are incorporated into V365 for Housing Choices.

V365 does not make any changes to the Territory Plan that would apply to blocks that are registered or provisionally registered on the ACT Heritage Register. Where a block is registered or provisionally registered on the ACT Heritage Register, *Heritage Act 2004* provisions continue to apply, including any applicable Heritage Guidelines or Conservation Management Plans.

1.3 The 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 required that the Territory Plan is not inconsistent with the NCP.

In accordance with section 10 of the *Australian Capital Territory (Planning and Land Management) Act 1988*, the NCP defines the planning principles and policies for Canberra and the Territory, for giving effect to the object of the NCP and sets out the general policies to be implemented throughout the Territory, including the range and nature of permitted land uses.

It also sets out the detailed conditions of planning, design and development for areas that have special significance to the National Capital known as designated areas and identifies special requirements for the development of some other areas.

1.4 Changes to the Territory Plan

Detailed changes to the Territory Plan are noted in section 2 of this document.

1.5 Consultation on the Draft Variation

The Draft Variation 365 (DV365) was released for public comment between 17 January 2020 and 6 March 2020. A consultation notice, under section 63 of the *Planning and Development Act 2007* (P&D Act) was published on the ACT Legislation Register on 17 January 2020 and in the ACT Government community notice board on 17 January 2020.

A total of 36 written submissions were received, which included submissions from the public, the Friends of Hawker Village, the Planning Institute of Australia, Master Builders Association, Cohousing CBR, the Bloom Collective, the Australian Housing Initiative and Caroline Le Couteur MLA.

Most of the public submissions expressed an interest in increasing housing choices across the residential zones and relaxing provisions to increase viability of boarding houses and co-housing. However, some submissions called for greater limitations and control of boarding houses and co-houses particularly in the Residential RZ1 Suburban and the Residential RZ2 Suburban Core Zones.

The issues raised by submitters included:

- Providing greater diversity in housing choices, above and beyond the provisions for boarding houses and co-housing in DV365.
- Retaining the provisions for small scale boarding houses in the Residential RZ1 Suburban Zone for affordable housing in established and low-density residential areas.
- Permitting co-housing in the Residential RZ1 Suburban Zone to increase housing choices.
- Ensuring that rental accommodation and share housing under the *Residential Tenancies Act 1997* are easier to develop by:
 - allowing private certification
 - relaxing adaptable housing requirements
 - treating boarding houses akin to ‘rooming houses’ and ‘next generation’ housing in Victoria and New South Wales respectively.
- Reducing car parking requirements for boarding houses and co-housing consistent with active living policies and promotion of alternative modes of transport.
- Reducing the minimum block sizes for co-housing to increase the supply of sites for co-housing.
- Reducing the bedroom limits for boarding houses, particularly in the RZ1 Zone to minimise impacts on residential amenity.

The above issues were considered and were detailed in a report on consultation. Changes to DV365 were informed by the issues raised. The outcomes of the consultation were considered by the Minister for Planning and Land Management prior to approval of this variation.

1.6 Revisions to the Draft Variation Recommended to the Minister

The Standing Committee on Planning Transport and City Services conducted an inquiry into DV365 and published its findings and recommendations in its report No. 4 of August 2021.

No amendments were made directly in response to the four recommendations of the Standing Committee. However, a ministerial direction was issued to make amendments to DV365 in response to additional matters raised in the public submissions to the Standing Committee inquiry in relation to co-housing. These are detailed in the following section 1.7.

1.7 Ministerial Direction

A ministerial direction under section 76 (2) (b) (iv) of the *Planning and Development Act 2007* was issued by the Minister for Planning and Land Management Mick Gentleman MLA.

The direction was to amend DV365 in response to matters raised in the public submissions to the Standing Committee inquiry in relation to co-housing. In particular, the submissions raised concerns that co-housing would be limited if the provisions of Element 3 of the Multi Unit Housing Development Code were applied to co-housing particularly in the Residential RZ2 Suburban Core Zone.

The direction states that DV365 be revised to amend the Multi Unit Housing Development Code to remove the requirement for co-housing to comply with the following provisions of Element 3 – Building and Site Controls:

- a) 3.8 Residential density – standard blocks RZ2
- b) 3.9 Additional dwellings – standard blocks – RZ2
- c) 3.11 Number of dwellings in each building – standard blocks – RZ2

Accordingly, rules R12, R13 and R15 in the Multi Unit Housing Development Code have been amended to state that the rule does not apply to co-housing.

2. VARIATION

2.1 Variation to the Territory Plan

The Territory Plan is varied in all of the following ways:

2.1.1 Variation to the RZ1 – Suburban zone development table

RZ1 – Suburban zone development table – PROHIBITED DEVELOPMENT

Insert

Co-housing

2.1.2 Variation to the RZ2 – Suburban core zone development table

RZ2 – Suburban core zone development table – MINIMUM ASSESSMENT TRACK MERIT
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Insert

Co-housing

2.1.3 Variation to the RZ3 – Urban residential zone development table

RZ3 – Urban residential zone development table – MINIMUM ASSESSMENT TRACK MERIT
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Insert

Co-housing

2.1.4 Variation to the RZ4 – Medium density residential zone development table

RZ4 – Medium density residential zone development table – MINIMUM ASSESSMENT TRACK MERIT

Insert

Co-housing

2.1.5 Variation to the RZ5 – High density residential zone development table

RZ5 – High density residential zone development table – MINIMUM ASSESSMENT TRACK MERIT

Insert

Co-housing

2.1.6 Variation to the Residential Zones Development Code

Relevant Development Codes and General Codes

Insert in the development/use column in Table 1:

co-housing	Y	Y	Y
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Element 6: Boarding houses in RZ1 and RZ2 - 6.1 Design and siting

Insert after Rule R25

R25A This rule applies to <i>boarding house</i> in RZ1. The maximum number of bedrooms in the boarding house is 4.	This is a mandatory requirement. There is no applicable criterion.
R25B This rule applies to <i>boarding house</i> in RZ2. The maximum number of bedrooms in the boarding house is 10.	This is a mandatory requirement. There is no applicable criterion.

Part B – Other forms of residential development

Insert after element 7 Rule R32

Element 8: Co-housing in RZ2—RZ5

8.1 Design and siting	
R32A <i>Co-housing</i> comprising 2 or more <i>dwelling</i> s complies with Element 3 of the Multi Unit Housing Development Code.	This is a mandatory requirement. There is no applicable criterion.
R32B <i>Co-housing</i> comprising one <i>dwelling</i> complies with Element 1 of the Single Dwelling Housing Development Code.	This is a mandatory requirement. There is no applicable criterion.
R32C The minimum <i>block</i> size for a <i>co-housing</i> development is 1,050m ² .	This is a mandatory requirement. There is no applicable criterion.
8.2 Subdivision	
R32D Subdivision under the <i>Unit Titles Act 2011</i> of a <i>co-housing</i> development is permitted. Note: Block amalgamations on suitable blocks (i.e. adjacent blocks with shared boundaries) are permitted for a <i>co-housing</i> development.	This is a mandatory requirement. There is no applicable criterion.
8.3 Parking	
R32E <i>Co-housing</i> development complies with all of the following: a) increase in the number of verge crossings is not permitted b) car parking spaces are provided in a single combined parking area screened from public view.	C32E <i>Co-housing</i> development complies with all of the following: a) minimises the extent of driveways b) encourages grouped car parking, suitably screened from public view c) considers visual amenity impacts of grouped car parking on internal residents.

Renumber

Element 8 in Part C, Element 9, Element 10 in Part D, Element 11 in Part E, Element 12 in Part F and Elements 13 and 14 in Part G

2.1.7 Variation to the Multi Unit Housing Development Code

Element 3 – Building and Site Controls - 3.8 residential density – standard blocks - RZ2 – Rule R12

Replace with

3.8 residential density – standard blocks - RZ2	
<p>R12</p> <p>This rule applies to standard blocks in RZ2 but does not apply <i>co-housing</i>.</p> <p>The maximum number of dwellings is shown in table A2.</p> <p>Note 1: Refer to element 4 of the Residential Zones Development Code for provisions relating to supportive housing.</p> <p>Notes 2: Refer to element 3 for provisions relating to the number of dwellings permitted in each building.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Element 3 – Building and Site Controls - 3.9 Additional Dwellings - standard blocks - RZ2 - Rule R13

Replace with

3.9 additional dwellings – standard blocks - RZ2	
<p>R13</p> <p>This rule applies to standard blocks in RZ2 where the length of the front boundary facing a public road that allows vehicular access is 20m or less. This rule does not apply to <i>co-housing</i>.</p> <p>Despite any other rule in this element, the maximum number of dwellings is 3.</p>	<p>This is a mandatory requirement. There is no applicable criterion.</p>

Element 3 – Building and Site Controls - 3.11 number of dwellings in each building - standard blocks - RZ2 – Rule R15

Replace with

3.11 number of dwellings in each building - standard blocks - RZ2	
R15 In RZ2 on standard blocks the maximum number of dwellings in any building is 4. This rule does not apply to <i>co-housing</i> . For the purposes of this rule, basements are not part of a building.	This is a mandatory requirement. There is no applicable criterion.

2.1.8 Variation to the Car Parking and Vehicular Access General Code

Schedule 1 – Residential Zones

Insert

Co-housing	0.5 spaces per bedroom plus 0.25 visitor spaces per bedroom
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2.1.9 Variation to the Definitions

Definitions, Part 13.1 Definitions, Part A Definitions of development

Insert in the Development column for RESIDENTIAL USE:

Co-housing means a development with separate *dwellings* or private living areas, with some common/shared indoor components such as kitchens, living areas, bedrooms and laundries. Private living areas must each contain a bedroom and a bathroom as a minimum and may contain a kitchenette. The common/shared indoor components may be provided in a separate building.

Omit from the Development column for RESIDENTIAL USE:

Boarding house means the use of land to principally provide long term accommodation where meals, laundry or other services are provided only to those residents of the *boarding house*, and which is not licensed to sell liquor.

Insert

Boarding house means the use of land to provide the residents with a principal place of residence for 3 months or more where meals, laundry or other services are provided only to those residents of the *boarding house*, and/or may also include shared facilities, such as communal living area, bathroom, kitchen or laundry facilities. A *boarding house* is not licensed to sell liquor under the *Liquor Act 2010*.

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-għajjuna t'interpretu, çempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefoniрајте:
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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