

Australian Capital Territory

# Planning and Development (Plan Variation 369) Approval 2022

Notifiable instrument NI2022-238

made under the

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

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## 1 Name of instrument

This instrument is the *Planning and Development (Plan Variation 369) 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 369 to the Territory Plan.
- (2) In this section:

*plan variation 369 to the Territory Plan* means the plan variation in the schedule.

Mick Gentleman MLA  
Minister for Planning and Land Management

2 May 2022



**ACT**  
Government

Environment, Planning and  
Sustainable Development

**Schedule (See section 2(2))**

*Planning and Development Act 2007*

# **Variation to the Territory Plan 369**

## **Living Infrastructure in Residential Zones**

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

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# 1. EXPLANATORY STATEMENT

## 1.1 Background

EPSSD 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.

Variation 369 to the Territory Plan (V369) incorporated changes made as a result of the recommendations of this project for the improvement of living infrastructure in residential areas in the ACT.

V369 makes 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).

## 1.2 Summary of the Proposal

Variation 369 changes to make sure standards for soft landscaping area in all residential areas (RZ1 to RZ5) are met.

The 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.”*

V369 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. V369 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). The new provisions will not apply to blocks approved under an estate development plan after 1 January 2020.

## 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

Draft Variation 369 (DV369) was released for public comment between 13 December 2019 until 28 February 2020 and a consultation notice under section 63 of the *Planning and Development Act 2007* was published on the ACT Legislation Register on 13 December 2019 and on the ACT Government public notices website. The public consultation period was formally extended twice, the first time until 3 April 2020 and the second time until 8 May 2020. Notices were published on the Legislation Register and ACT Government public notice website advising of the extensions.

A total of 82 written submissions were received. These included 53 submissions from individuals, 13 submissions from industry professionals (including architects, building designers and estate developers), 12 submissions from community councils and organisations, 4 submissions from specialist interest and environmental groups, and 1 submission from a political party.

Most submissions expressed support for the aim of DV369 to increase tree coverage and permeability, but a number of those submissions also raised concerns about the changes not going far enough, how the provisions were going to work in reality and how the trees were going to be located and maintained on residential blocks, financial incentives for compliance, monitoring of compliance and enforcement of non-compliance penalties or removal of trees after approval. Some submissions from industry professionals raised concerns about lack of equity in provisions and limitations imposed on development.

The following key issues were raised:

<b>Issue</b>	<b>Number of submissions</b>
15% coverage is too low and should be increased to 30% canopy target or more	45
Concerns with proposed Rules and Criteria in the SDHDC	34
Concerns with proposed Rules and Criteria in the MUHDC	28

Tree coverage should be increased more broadly including new estates, public places and spaces and commercial areas	26
Concerns about retention, maintenance and upkeep of trees	19
Definitions need further clarification	16
Other ways to reduce urban heat island effect and increase living infrastructure	15
Concerns about monitoring, compliance and enforcement	14
Appropriate species selection (pollinators, resilience, etc)	14
Incentives for increasing / maintaining living infrastructure	12
Changes will severely restrict development and increase costs to homeowners	10
Consideration of green architecture options	10
Education and awareness provided to community and industry	6
Ongoing evaluation of effectiveness of changes needed	4
Overlapping of tree canopies – how will it be dealt with?	3
Further work needed to determine whether the proposed changes can work in reality and to better refine provisions	3
Ginninderry and Denman Prospect - specific comments	3
Public dialogue on the DV	3

The above issues were considered and are detailed in a report on consultation, which is available at [www.act.gov.au/recommendedvariations](http://www.act.gov.au/recommendedvariations). Changes to DV369 were informed by the issues raised. The outcomes of consultation were considered by the Minister responsible for planning prior to approval of this variation.

## 1.6 Revisions to the Draft Variation Recommended to the Minister

A ministerial direction was issued to make amendments to DV369 to clarify the requirements of the provisions. These are detailed in the following section 1.7.

### 1.7 Ministerial Direction

A ministerial direction was issued under section 76 (2) (b) (iv) of the *Planning and Development Act 2007*.

The ministerial direction states that DV369 be revised *to amend the Single Dwelling Housing Development Code in the following ways:*

- *Amend the proposed provisions to state that they do not apply to blocks approved under an estate development plan after 1 January 2020 and renumber the provisions accordingly*
- *Amend R39 to reflect changes made to private open space for blocks less than 360m<sup>2</sup> through Technical Amendment TA2020-11*
- *Adjust the definition of deep soil zone to include the word ‘adequate’ before ‘dimension’, to be consistent with the definition in the Multi-Unit Housing Development Code*
- *Amend rules and criteria where relevant to refer to ‘all of the following’ to clarify that a proposal needs to demonstrate compliance with all the requirements in the relevant rules and criteria*

The direction also states that DV369 be revised *to amend the Multi Unit Housing Development Code in the following ways:*

- *Amend the proposed provisions to state that they do not apply to blocks approved under an estate development plan after 1 January 2020 and renumber the provisions accordingly*
- *Remove reference to “Not less than 20% of the total site area is planting area” in Rule R39D of the Multi Unit Housing Development Code, as this requirement is dealt with in Rule R39B*
- *Amend rules and criteria where relevant to refer to ‘all of the following’ to clarify that a proposal needs to demonstrate compliance with all the requirements in the relevant rules and criteria*

The variation has been amended to comply with the directed revisions.

## 2. VARIATION

### 2.1 Variation to the Territory Plan

#### 2.1.1 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.

*Deep soil zone*: an 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.

##### 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 approved under an estate development plan on or after 1 January 2020, private open space complies with all of the following:</p> <ul style="list-style-type: none"> <li>a) has a minimum area equal to 60% of the block area, less 50m<sup>2</sup></li> <li>b) has a minimum dimension of 6m for an area not less than 10% of the block</li> <li>c) at least 50% of the minimum area specified in a) is <i>planting area</i>.</li> </ul> <p><b>Note:</b> Private open space includes principal private open space, as required elsewhere in this element.</p>	<p>C38</p> <p>Private open space provides residential amenity on the subject site and protects the residential amenity of adjoining sites by achieving all of the following:</p> <ul style="list-style-type: none"> <li>a) limits site coverage of buildings and vehicle parking and manoeuvring areas</li> <li>b) provides space for planting</li> <li>c) facilitates on-site infiltration of stormwater run-off</li> <li>d) provides outdoor areas that are readily accessible by residents for a range of uses and activities</li> <li>e) provides space for service functions such as clothes drying and domestic storage.</li> </ul>

#### Insert

<p>R38A</p> <p>For large blocks approved under an estate development plan before 1 January 2020, private open space complies with all of the following:</p> <ul style="list-style-type: none"> <li>f) has a minimum area equal to 60% of the block area</li> <li>g) has a minimum dimension of 6m for an area not less than 10% of the block</li> <li>h) at least 30% of the block area is <i>planting area</i>, with a minimum dimension of 2.5m.</li> </ul> <p><b>Note:</b> Private open space includes principal private open space, as required elsewhere in this element.</p>	<p>C38A</p> <p>To reduce urban heat island effects, retain water and maintain ecosystem services, and to provide residential amenity on the subject site and protect residential amenity of adjoining sites, private open space achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) limits <i>site coverage</i> of buildings and vehicle parking and manoeuvring areas</li> <li>b) facilitates on-site infiltration of stormwater run-off</li> <li>c) provides substantial outdoor areas that are readily accessible by residents for a range of uses and activities</li> <li>d) provides space for service functions such as clothes drying and domestic storage</li> <li>e) provides <i>planting areas</i> that demonstrates: <ul style="list-style-type: none"> <li>i) establishment of landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas</li> <li>ii) enhancement of living infrastructure through water-sensitive urban design</li> </ul> </li> </ul>
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	and providing adequate areas for deep soil zones for ground water recharge, canopy trees and vegetation.
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*Substitute*

<p>R39</p> <p>For <i>mid-sized blocks</i> approved under an <i>estate development plan</i> on or after 1 January 2020, <i>private open space</i> complies with all of the following:</p> <ul style="list-style-type: none"> <li>a) a minimum area is not less than 40% of the block area, less 50m<sup>2</sup></li> <li>b) a minimum dimension as follows: <ul style="list-style-type: none"> <li>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</li> <li>ii) blocks less than 360m<sup>2</sup> – 5m for an area not less than 10% of the block</li> <li>iii) in all other cases - 6m for an area not less than 10% of the block area</li> </ul> </li> <li>c) at least 50% of the minimum area specified in a) is <i>planting area</i>.</li> </ul> <p><b>Note:</b> 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 all of the following:</p> <ul style="list-style-type: none"> <li>a) limits site coverage of buildings and vehicle parking and manoeuvring areas</li> <li>b) provides space for planting</li> <li>c) facilitates on-site infiltration of stormwater run-off</li> <li>d) provides outdoor areas that are readily accessible by residents for a range of uses and activities</li> <li>e) provides space for service functions such as clothes drying and domestic storage.</li> </ul>
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## Insert

<p>R39A</p> <p>For <i>mid-sized blocks</i> approved under an <i>estate development plan</i> before 1 January 2020, <i>private open space</i> complies with all of the following:</p> <ul style="list-style-type: none"> <li>d) a minimum area is not less than 40% of the block area</li> <li>e) a minimum dimension as follows: <ul style="list-style-type: none"> <li>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</li> <li>ii) blocks less than 360m<sup>2</sup> – 5m for an area not less than 10% of the block</li> <li>iii) in all other cases - 6m for an area not less than 10% of the block area</li> </ul> </li> <li>f) at least 20% of the block area is <i>planting area</i>, with a minimum dimension of 2.5m.</li> </ul> <p><b>Note:</b> Private open space includes principal private open space, as required elsewhere in this element.</p>	<p>C39A</p> <p>To reduce urban heat island effects, retain water and maintain ecosystem services, and to provide residential amenity on the subject site and protect residential amenity of adjoining sites, <i>private open space</i> achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) limits <i>site coverage</i> of buildings and vehicle parking and manoeuvring areas</li> <li>b) facilitates on-site infiltration of stormwater run-off</li> <li>c) provides substantial outdoor areas that are readily accessible by residents for a range of uses and activities</li> <li>d) provides space for service functions such as clothes drying and domestic storage</li> <li>e) provides <i>planting areas</i> that demonstrates: <ul style="list-style-type: none"> <li>i) establishment of landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living area</li> <li>ii) enhancement of living infrastructure through water-sensitive urban design and providing adequate areas for deep soil zones for ground water recharge, canopy trees and vegetation.</li> </ul> </li> </ul>
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## Substitute

<p>R40</p> <p>For <i>compact blocks</i> approved under an <i>estate development plan</i> on or after 1 January 2020, <i>private open space</i> complies with all of the following:</p> <ul style="list-style-type: none"> <li>a) a minimum area is not less than 20% of the block area</li> <li>b) at least 50% of the minimum area specified in a) is <i>planting area</i>.</li> </ul> <p><b>Note:</b> 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 all of the following:</p> <ul style="list-style-type: none"> <li>a) limits site coverage of buildings and vehicle parking and manoeuvring areas</li> <li>b) provides space for planting</li> <li>c) facilitates on-site infiltration of stormwater run-off</li> <li>d) provides outdoor areas that are readily accessible by residents for a range of uses and activities</li> <li>e) provides space for service functions such as clothes drying and domestic storage.</li> </ul>
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*Insert*

<p>R40A</p> <p>For <i>compact blocks</i> approved under an <i>estate development plan</i> before 1 January 2020, <i>private open space</i> complies with the following:</p> <p>c) a minimum area is not less than 30% of the block area</p> <p>d) at least 15% of the <i>block area</i> is <i>planting area</i> with a minimum dimension of 2.5m.</p> <p><b>Note:</b> Private open space includes principal private open space, as required elsewhere in this element.</p>	<p>C40A</p> <p>To reduce urban heat island effects, retain water and maintain ecosystem services, and to provide residential amenity on the subject site and protect residential amenity of adjoining sites, <i>private open space</i> achieves all of the following:</p> <p>a) limits <i>site coverage</i> of buildings and vehicle parking and manoeuvring areas</p> <p>b) facilitates on-site infiltration of stormwater run-off</p> <p>c) provides substantial outdoor areas that are readily accessible by residents for a range of uses and activities</p> <p>d) provides space for service functions such as clothes drying and domestic storage</p> <p>e) provides <i>planting areas</i> that demonstrates:</p> <p>i) establishment of landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas</p> <p>ii) enhancement of living infrastructure through water-sensitive urban design and providing adequate areas for deep soil zones for ground water recharge, canopy trees and vegetation</p>
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*Insert*

5.2A Site coverage and tree planting	
<p>R40A</p> <p>This rule applies to <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</p> <p><i>Site coverage</i> is a maximum of:</p> <p>a) for <i>large blocks</i>: 40% of the <i>block area</i></p> <p>b) for <i>mid-sized blocks</i>: 60% of the <i>block area</i></p> <p>c) for <i>compact blocks</i>: 70% of the <i>block area</i>.</p>	<p>C40A</p> <p><i>Site coverage</i> and vehicle parking and manoeuvring areas is limited to:</p> <p>a) maximise outdoor areas that are readily accessible by residents for a range of uses and activities</p> <p>b) provide adequate space for service functions such as clothes drying and domestic storage</p> <p>c) provide adequate <i>planting area</i> on the site.</p>
<p>R40B</p> <p>This rule applies to <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</p> <p><i>Development</i> provides a minimum level of tree</p>	<p>C40B</p> <p>Tree planting provided in the development ensures:</p> <p>a) Planting or retention of suitably sized</p>

<p>planting in <i>deep soil zones</i>, with associated planting requirements as described in table 7a, consistent with the following:</p> <p>a) for <i>compact blocks</i>, at least one small tree</p> <p>b) for <i>mid-sized blocks</i>, at least two small trees</p> <p>c) for <i>large blocks</i> less than or equal to 800m<sup>2</sup>, one small tree and one medium tree</p> <p>d) for <i>large blocks</i> more than 800m<sup>2</sup>, at least:</p> <p>i) one medium tree and one large tree, and</p> <p>ii) one additional large tree or two additional medium trees for each additional 800m<sup>2</sup> block area.</p> <p>Note: Existing canopy trees being retained as part of development may be considered to meet these requirements.</p>	<p>canopy trees in <i>deep soil zones</i>, including adequate dimensions for <i>deep soil zones</i> to support healthy canopy tree growth, and provide adequate room for canopy trees</p> <p>b) planting canopy trees of semi-advanced stock and reasonable heights at maturity.</p>
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*Insert*

**Table 7a:** Tree sizes and associated planting requirements

Tree size	Mature height	Minimum canopy diameter	Minimum soil surface area dimension	Minimum pot size (litres)*	Minimum soil volume
Small Tree	5-8m	4m	3m	45**	18m <sup>3</sup>
Medium Tree	8-12m	6m	5m	75**	42m <sup>3</sup>
Large Tree	>12m	8m	7m	75**	85m <sup>3</sup>
<p>Notes:</p> <p>For the purposes of this table, a tree is defined as a woody perennial plant suitable for the Canberra climate. It 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, unless the tree is included on the ACT tree register.</p> <p>*Minimum pot size refers to the container size of new trees prior to planting.</p> <p>**The maximum pot size for small, medium and large <i>eucalyptus sp.</i> trees if selected is 45 litres, with maximum height at planting of 2.5m and maximum trunk caliper of 3cm.</p>					

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

##### *Substitute*

TCCS for TAMS.

### 2.1.2 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.

*Deep soil zone*: an 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 zones	
<p><b>R38</b></p> <p>This rule applies to all development in RZ1 and RZ2 zones on <i>blocks</i> approved under an <i>estate development plan</i> on or after 1 January 2020.</p> <p>Not less than 40% of the total site area is allocated to one or more of the following:</p> <ul style="list-style-type: none"> <li>a) <i>communal open space</i> with a minimum dimension of 2.5m; and/or</li> <li>b) <i>private open space</i> that complies with all of the following: <ul style="list-style-type: none"> <li>i) a minimum dimension of 2.5m; and</li> <li>ii) is associated with dwellings at the <i>lower floor level</i>.</li> </ul> </li> </ul> <p>Not less than 20% of the total site area is <i>planting area</i></p>	<p><b>C38</b></p> <p>Open space on the site achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) sufficient space for the recreation and relaxation of residents</li> <li>b) sufficient space for planting, particularly trees with deep root systems, to accommodate on-site infiltration of stormwater run-off</li> <li>c) provision of outdoor areas that are readily accessible by residents for a range of uses and activities.</li> </ul> <p>One or more of the following matters may be considered when determining compliance with this criterion:</p> <ul style="list-style-type: none"> <li>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</li> <li>ii) whether any adjoining or adjacent public open space is readily available for the use of residents.</li> </ul>

### Insert

<p><b>R38A</b></p> <p>This rule applies to all development in RZ1 and RZ2 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</p> <p>Not less than 40% of the total site area is allocated to one or more of the following:</p>	<p><b>C38A</b></p> <p>To reduce urban heat island effects, retain water and maintain ecosystem services, open space on the site achieves all of the following:</p> <ul style="list-style-type: none"> <li>d) adequate space for the recreation</li> </ul>
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<p>c) <i>communal open space</i> with a minimum dimension of 2.5m; and/or</p> <p>d) <i>private open space</i> that complies with the following:</p> <ul style="list-style-type: none"> <li>i) a minimum dimension of 2.5m; and</li> <li>ii) is associated with dwellings at the <i>lower floor level</i>.</li> </ul>	<p>and relaxation of residents</p> <p>e) adequate space for planting, particularly trees with deep root systems, to accommodate on-site infiltration of stormwater run-off</p> <p>f) 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> <ul style="list-style-type: none"> <li>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</li> <li>ii) whether any adjoining or adjacent public open space is readily available for the use of residents.</li> </ul>
<p>R38B</p> <p>This rule applies to all development in RZ1 and RZ2 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</p> <p><i>Site coverage</i> is a maximum of 40% of the <i>block</i> area.</p>	<p>C38B</p> <p>To reduce urban heat island effects, retain water and maintain ecosystem services, <i>development</i> complies with all of the following:</p> <ul style="list-style-type: none"> <li>a) limits <i>site coverage</i> and vehicle parking and manoeuvring areas</li> <li>b) provides outdoor areas that are readily accessible by residents for a range of uses and activities</li> <li>c) provides space for service functions such as clothes drying and domestic storage.</li> </ul>
<p>R38C</p> <p>This rule applies to all development in RZ1 and RZ2 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</p> <p><i>Planting area</i> is a minimum of 35% 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>C38C</p> <p>Planting area provided in the development achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas</li> <li>b) enhance living infrastructure through water-sensitive urban design, providing deep soil zone areas for ground water recharge, canopy trees and vegetation</li> <li>c) infiltration of stormwater run-off and allow a greater ability to plant.</li> </ul>

<p>R38D</p> <p>This rule applies to all development in RZ1 and RZ2 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</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>C38E</p> <p>This criterion applies to all development in RZ1 and RZ2 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</p> <p><i>Planting area</i> provided in the development achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) Planting of suitably sized plants in <i>deep soil zones</i>, including adequate dimensions for <i>deep soil zones</i> to support healthy canopy tree growth, and provide adequate room for canopy trees</li> <li>b) <i>deep soil zones</i> should allow subsoil drainage to support groundwater infiltration</li> <li>c) planting of canopy trees with semi-advanced stock and suitable heights at maturity</li> <li>d) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas.</li> </ul>
<p>R38F</p> <p>This rule applies to all development in RZ1 and RZ2 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</p> <p>Development provides a minimum level of tree planting, with associated planting requirements as described in table A7a, consistent with the following:</p> <ul style="list-style-type: none"> <li>a) for large blocks less than or equal to 800m<sup>2</sup>, at least one small tree and one medium tree</li> <li>b) for large blocks more than 800m<sup>2</sup>, at least: <ul style="list-style-type: none"> <li>i) one medium tree and one large tree, and</li> <li>ii) one additional large tree or two additional medium trees for each additional 800m<sup>2</sup> block area.</li> </ul> </li> </ul>	<p>C38F</p> <p>Tree planting in the development ensures:</p> <ul style="list-style-type: none"> <li>a) planting or retention of suitably sized canopy trees in deep soil zones, including adequate dimensions for deep soil zones to support healthy tree growth, and provide adequate room for canopy trees</li> <li>b) planting canopy trees of semi-advanced stock and reasonable heights at maturity.</li> </ul>

Note: Existing canopy trees being retained as part of development may be considered to meet these requirements.

*Insert*

**Table A7a:** Tree sizes and associated planting requirements

Tree size	Mature height	Minimum canopy diameter	Minimum soil surface area dimension	Minimum pot size (litres)*	Minimum soil volume
Small Tree	5-8m	4m	3m	45**	18m <sup>3</sup>
Medium Tree	8-12m	6m	5m	75**	42m <sup>3</sup>
Large Tree	>12m	8m	7m	75**	85m <sup>3</sup>
<p>Notes:</p> <p>For the purposes of this table, a tree is defined as a woody perennial plant suitable for the Canberra climate. It 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, unless the tree is included on the ACT tree register.</p> <p>*Minimum pot size refers to the container size of new trees prior to planting.</p> <p>**The maximum pot size for small, medium and large <i>eucalyptus sp.</i> trees if selected is 45 litres, with maximum height at planting of 2.5m and maximum trunk caliper of 3cm.</p>					

**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:</p> <ol style="list-style-type: none"> <li>all development in commercial zones</li> <li>all development in RZ3, RZ4 and RZ5 zones on <i>blocks</i> approved under an <i>estate development plan</i> on or after 1 January 2020.</li> </ol> <p>Not less than 20% of the total site area is allocated to the following:</p> <ol style="list-style-type: none"> <li>for developments with fewer than 20</li> </ol>	<p>C39</p> <p>Open space on the site achieves all of the following:</p> <ol style="list-style-type: none"> <li>sufficient useable space for a range of recreational activities for residents to support active living</li> <li>sufficient space for planting, particularly trees with deep root systems</li> <li>a contribution to on-site infiltration of</li> </ol>

<p><i> dwellings</i>, none of which are <i>apartments</i>, 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>dwellings</i> 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>Not less than 10% of the total site area is <i>planting area</i>.</p>	<p>stormwater run-off</p> <p>f) reasonable accessibility that is designed to be inclusive for all residents</p> <p>g) 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>
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*Insert*

5.2 Site open space – RZ3, RZ4 and RZ5 zones	
<p>R39A</p> <p>This rule applies to all development in RZ3, RZ4 and RZ5 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020. Site coverage is a maximum of 45% of the block area.</p>	<p>C39A</p> <p>To reduce urban heat island effects, retain water and maintain ecosystem services, development complies with all of the following:</p> <p>a) limits site coverage of buildings 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>R39B</p> <p>This rule applies to all development in RZ3, RZ4 and RZ5 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020. Planting area is a minimum of 25% of the block area.</p> <p>The minimum dimension of any area included in the planting area calculation is 2.5 metres.</p>	<p>C39B</p> <p>Planting area provided in the development achieves all of the following:</p> <p>a) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas</p> <p>b) enhance living infrastructure through water-sensitive urban design, providing areas for</p>

	<p>deep soil zones for ground water recharge, large canopy trees and vegetation</p> <p>c) if the minimum required planting area can't be provided on site, an equivalent area should be achieved through planting on structures.</p>
<p>R39C</p> <p>This rule applies to all development in RZ3, RZ4 and RZ5 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020. Existing and new trees on the block are to provide at least 20% canopy cover of the block at maturity. Trees are to be planted in <i>deep soil zones</i> in communal areas.</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 64m<sup>2</sup> and minimum volume of 85m<sup>3</sup>.</p>	<p>C39C</p> <p>Planting area provided in the development achieves all of the following:</p> <p>a) planting in <i>deep soil zones</i>, including minimum dimensions for deep soil zones, to support healthy tree growth, and provide adequate room for canopy trees</p> <p>b) planting of canopy trees with appropriate species and with a semi-advanced stock and minimum heights at maturity</p> <p>c) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas</p> <p>d) if the minimum required canopy trees cannot be provided on site, an equivalent area should be achieved through planting on structures.</p>
<p>R39D</p> <p>This rule applies to all development in RZ3, RZ4 and RZ5 zones on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020. Not less than 20% of the total site area is allocated to the following:</p> <p>a) for developments with fewer than 20 dwellings, none of which are apartments, one or more of the following:</p> <p>i) communal open space 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) private open space that complies with the following:</p> <p>a) a minimum dimension of 2.5m</p> <p>b) is associated with dwellings at the lower floor level</p> <p>b) in all other cases, communal open space that complies with the following:</p>	<p>C39D</p> <p>To reduce urban heat island effects, retain water and maintain ecosystem services, open space on the site achieves all of the following:</p> <p>a) adequate useable space for a range of recreational activities for residents to support active living</p> <p>b) a contribution to on-site infiltration of stormwater run-off</p> <p>c) reasonable accessibility that is designed to be inclusive for all residents</p> <p>d) utilise planting on structures where planting area, canopy trees cannot be achieved on site</p> <p>e) reasonable connectivity for pedestrians and cyclists to key local destinations and community uses</p> <p>f) if the minimum required planting area can't be provided on site, an equivalent area should be achieved through planting on structures.</p>

<ul style="list-style-type: none"> <li>i) a minimum dimension of 2.5m</li> <li>ii) is directly accessible from common entries and pathways.</li> </ul>	<p>One or more of the following matters may be considered when determining compliance with this criterion:</p> <ul style="list-style-type: none"> <li>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</li> <li>ii) whether any adjoining or adjacent public open space is readily available for the use of residents.</li> </ul>
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*Substitute*

<p>There is no applicable rule.</p>	<p>C40</p> <p>This criterion applies to all development on <i>blocks</i> approved under an <i>estate development plan</i> on or after 1 January 2020.</p> <p>Landscape and site design achieves all of the following:</p> <ul style="list-style-type: none"> <li>a) planting of trees of semi-mature stock</li> <li>b) planting of trees with a minimum mature height of 4m</li> <li>c) a contribution to energy efficiency by providing substantial shade in summer, especially to west-facing windows and open car-parking areas, and admitting winter sunlight to outdoor and indoor living areas, especially to the north</li> <li>d) reasonable residential amenity</li> <li>e) reasonable visibility along paths and driveways</li> <li>f) visual interest in pavement materials and finishes</li> <li>g) species with appropriate growth habits and mature height in relation to site conditions</li> </ul>
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*Insert*

<p>R40A</p> <p>This rule applies to all development on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</p> <p>Development provides a minimum level of tree planting, with associated planting requirements</p>	<p>C40A</p> <p>Tree planting provided in the development ensures:</p> <ul style="list-style-type: none"> <li>h) planting in deep soil zones, including minimum dimensions for deep soil zones, to support healthy canopy tree growth, and provide adequate room for canopy trees</li> </ul>
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<p>as described in table A7b, consistent with the following:</p> <p>a) for large blocks less than or equal to 800m<sup>2</sup>, one small tree and one medium tree</p> <p>b) for large blocks more than 800m<sup>2</sup>:</p> <p>i) one medium tree and one large tree, and</p> <p>ii) one additional large tree or two additional medium trees for each additional 800m<sup>2</sup> block area.</p>	<p>i) planting of canopy trees with appropriate species and with a semi-advanced stock and minimum heights at maturity</p> <p>j) landscaping to provide substantial shade in summer and admit winter sunlight to outdoor and indoor living areas.</p>
<p>There is no applicable rule.</p>	<p>C40B</p> <p>This criterion applies to all development on <i>blocks</i> approved under an <i>estate development plan</i> before 1 January 2020.</p> <p>Where one or more existing canopy trees located within the subject block are to be retained as part of development to count towards canopy 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 all of the following:</p> <p>a) shows the tree(s) are in good health and likely to actively grow at the completion of works</p> <p>b) details how the tree(s) will be suitably protected during construction works</p> <p>c) provides adequate deep soil area to ensure the tree(s) will remain viable</p> <p>d) confirms that the tree(s) to be retained are sited appropriately and will not detrimentally impact the development in the future.</p>

*Insert*

**Table A7b\*:** Tree sizes and associated planting requirements

Tree size	Mature height	Minimum canopy diameter	Minimum soil depth (deep soil zone)	Minimum soil surface area dimension	Minimum pot size (litres)	Minimum soil volume
Small Tree	5-8m	4m	0.8m	3m	45**	18m <sup>3</sup>

Medium Tree	8-12m	6m	1m	5m	75**	42m <sup>3</sup>
Large Tree	>12m	8m	1.2m	7m	75**	85m <sup>3</sup>
<p>Notes:</p> <p>For the purposes of this table, a tree is defined as a woody perennial plant suitable for the Canberra climate. It 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, unless the tree is included on the ACT tree register.</p> <p>*This table applies to new trees only, not existing trees that are to be retained as part of the development.</p> <p>** The maximum pot size for small, medium and large <i>eucalyptus sp.</i> trees if selected is 45 litres, with maximum height at planting of 2.5m and maximum trunk caliper of 3cm.</p>						

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

*Substitute*

*TCCS for TAMS at rules R98 and R99*

## 10. Element 13: Utilities

*Substitute*

*TCCS for TAMS at rule R101*

### 2.1.3 Variation to Definitions

## 11. 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 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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