Australian Capital Territory

Planning (Various Changes) Minor Plan Amendment 2024

Notifiable instrument NI2024-435

made under the

Planning Act 2023, s 85 (Making minor plan amendments)

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1 Name of instrument

This instrument is the *Planning (Various Changes) Minor Plan Amendment 2024*.

2 Commencement

This instrument commences on 2 August 2024.

3 Minor plan amendment

I am satisfied under the *Planning Act 2023*, section 85 (1) (a) that Minor Plan Amendment 2024-i is a minor plan amendment to the Territory Plan.

4 Dictionary

In this instrument:

Minor Plan Amendment 2024-i means the minor plan amendment in schedule 1.

Freya O'Brien
Delegate of the territory planning authority
1 August 2024

ACT Government

Environment, Planning and Sustainable Development

MINOR AMENDMENT TO THE TERRITORY PLAN 2024-i

Various changes to zone and district policies and dictionary definitions

This minor plan amendment was prepared under part 5.3 of the *Planning Act 2023*

Contents

1.0 INTRODUCTION

1.1 Outline of the process

Minor plan amendment 2024-i (MA2024-i) to the Territory Plan is a minor plan amendment (MA) prepared under section 84(1)(a) and section 84(2)(d) of the *Planning Act 2023* (the Planning Act).

Section 84 of the Planning Act outlines the different types of MAs, some which require limited consultation to be undertaken and some which require no consultation to be undertaken.

Under Section 85 of the Planning Act a MA can only be made where:

- any required limited consultation has taken place and the authority is satisfied that the content of the MA meets the requirements of the Planning Act
- if the MA is not inconsistent with the planning strategy or any relevant district strategy
- any comments received during the consultation period and from the National Capital Authority have been considered.

This MA required limited consultation to be undertaken and was released for public consultation in accordance with the *Planning Act 2023*.

The MA is not inconsistent with the planning strategy or any relevant district strategy. Further details of the changes are contained in section 3 of this document.

The National Capital Authority has received a copy of this MA.

For more information on the content of the Territory Plan and minor plan amendment processes please refer to the Environment, Planning and Sustainable Development (EPSDD) website https://www.planning.act.gov.au/

1.2 Summary of the amendments

MA2024–i makes the following changes:

- amend the land use tables in various district policies to include 'early childhood education and care' as an additional assessable development on PRZ2 Restricted Access Recreation zoned blocks where already permitted in the lease.

- amend Assessment Requirements in the Gungahlin District Policy to allow community housing on Block 4 Section 23 Moncrieff and Block 4 Section 235 Gungahlin as a standalone use.

- amend Assessment Requirement 2 in the Belconnen District Policy to include the previous provision allowing plant room elements set back a minimum of 3m from the building facade of the floor immediately below to be excluded from the number of storeys.

- amend the Inner South District Policy to remove the mandatory Assessment Requirement 7 for maximum number of storeys.

- amend Assessment Requirement 24 in the Woden District Policy to reinstate the provision for plant room to be excluded from the number of storeys where set back a minimum of 3m from the building facade of the floor immediately below.

- amend Assessment Requirement 33 in the Woden District Policy relating to the Phillip pool site to include a provision allowing an additional 3m to be added to the height limit for the building containing the Phillip pool facility.

- amend Assessment Requirement 1 in the Residential Zones Policy to clarify the site coverage requirements for single dwellings on subdivided blocks in the RZ2 to RZ5 zones.

- amend Assessment Requirement 22 in the Residential Zones Policy to clarify that the provision also relates to new additions or alterations to a dwelling.

- amend Assessment Requirement 23 in the Residential Zones Policy to clarify that it relates to housing density by adding a heading for the assessment requirement under the Control column.

- amend the Non-Urban Zones Policy and Commercial Zones Policy to permit 'data centre' in the NUZ1 Broadacre Zone and CZ3 Services Zone respectively.

- amend the definition of 'community use' to clarify that 'veterinary clinic' is a form of community use by including it in the definition.

- amend the definition of 'datum ground level' to require that determination of datum ground level is in accordance with the Surveyor-General Guideline No. 3: Estate Development Plans and Datum Ground Level'.

2.0 CONSULTATION WITH THE PUBLIC

2.1 Consultation period

Under section 84 (2) (c) of the *Planning Act 2023*, this minor amendment was subject to limited public consultation of at least 20 working days.

2.2 Comments from the public

Written comments were invited on MA2024-i from the public from 17 June 2024 until 15 July 2024.

Two submissions were received. The main comments and concerns raised during consultation relating to the changes proposed in the minor amendment were:

- Support for the minor amendment, specifically changes to definition of 'community use' to include 'veterinary clinic'.

- Concern that 'veterinary clinic' not included in 'health facility' definition in interim Territory Plan.

- Concern about lack of consultation with key stakeholders on changes to Territory Plan affecting the veterinary industry.

2.3 Changes made after public consultation

The following changes were made to the minor amendment after the conclusion of public consultation. These were:

- Changes to the land use table were revised in the Inner North and City District Policy to refer to Section 26 Ainslie to take into account of the future subdivision of Block 21. To avoid unintended consequences, additional prohibited uses for Blocks 9 and 10 Section 26 were included, to remove the potential for 'early childhood education and care' to be approved on these TSZ2 zoned blocks in Section 26.

- The wording for the community housing sites in Gungahlin and Moncrieff were modified in the Gungahlin District Policy to align with the wording in other district policies for similar instances.

3.0 TERRITORY PLAN CHANGES

This section contains details of the = changes to be made to the Territory Plan.

3.1 Child care centres in PRZ2 Restricted Access Recreation Zone

'Child care centre' was an assessable use in the PRZ2 Restricted Access Recreation Zone in the previous Territory Plan. It was removed as a permissible use in the interim Territory Plan as it was considered that the limited PRZ2 zoned land should be retained for predominantly recreational activities.

The definition of 'child care centre' has been replaced with 'early childhood education and care' in the new Territory Plan as changes to the delivery of early childhood education have necessitated the need for a new definition. A child care centre is considered to meet the new definition.

However, there are a number of PRZ2 zoned sites which contain child care centre developments, and/or have child care centre as a use permitted by their lease. Where a lease allows a prohibited use, the use is still an approvable development on the site. Where a block is subdivided though, new leases are granted for the new parcels of land, however they must only contain uses permitted by the Territory Plan. This means that where a child care centre (or 'early childhood education and care') is permitted by the lease on a PRZ2 zoned block, if the block is subdivided a child care centre is no longer permitted.

In order to retain existing development rights in these instances, it is proposed to amend the land use tables in the relevant district policies to add 'early childhood education and care' as an additional assessable development on blocks where it is already permitted in the lease. The identified parcels are:

- Section 26 Ainslie
- Block 9 Section 3 Hawker
- Block 53 Section 59 Lyneham
- Block 2 Section 84 Nicholls
- Block 2 Section 85 Nicholls
- Block 14 Section 86 Nicholls
- Block 11 Section 88 Nicholls
- Blocks 21- 22 Section 89 Nicholls
- Block 16 Section 126 Wanniassa

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023. The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision.

3.2 Gungahlin District Policy

New community housing sites

When community housing was introduced as a permitted use in the Community Facilities Zone (CFZ) in the interim Territory Plan, some parameters were put in place so that existing CFZ sites (with existing facilities) would not be replaced with community housing. Many church sites around Canberra were identified as having under-utilised land, so the allowance for community housing in association with these types of uses was included to encourage development on under-utilised land. In addition, developments such as Common Ground in Dickson demonstrated the benefits of collocating community housing with supportive housing (a use already permitted on CFZ sites).

The Moncrieff and Gungahlin sites however are new CFZ sites. An assessment has been undertaken to establish the most appropriate use for these sites, and it has been identified that community housing would be the most appropriate. As the sites are new blocks and not existing CFZ land, it is not considered to be necessary to require a place of workshop or supportive housing in addition to the community housing.

This minor amendment proposes to allow community housing on Block 4 Section 23 Moncrieff and Block 4 Section 235 Gungahlin as a standalone use (that is, without needing to be in conjunction with a place of worship, religious associated use or supportive housing).

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023. The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision.

3.3 Belconnen District Policy

Belconnen Town Centre - Assessment Requirement 2

It is proposed to amend Assessment Requirement 2 to reinstate the provision contained in the previous precinct code allowing plant room elements set back a minimum of 3m from the building facade of the floor immediately below to be excluded from the number of storeys.

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023. The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision.

3.4 Inner South District Policy

The Inner South District Policy contains mandatory storey limits for buildings in the Deakin Office precinct.

The Territory Plan 2008 expressed these storey limits as part of a criterion in the previous Deakin Precinct Map and Code, along with corresponding qualitative provisions to allow flexibility with building heights. Increases above these limits could be supported where compatibility, scale and function were considered and detrimental effects such as overshadowing and excessive scale were minimised.

The metric relating to the number of storeys will be transferred to the Inner South District Specifications to provide a benchmark and guidance for addressing the assessment outcome relating to built form and building design in the Commercial Zones Policy for future development proposals in this location.

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023.

The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision. The change is consistent with other instances in the Territory Plan where storey limits for specific sites or locations are contained in the respective technical specifications.

3.5 Woden District Policy

Assessment Requirement 24

It is proposed to amend Assessment Requirement 24 to reinstate the provision contained in the previous precinct code allowing plant room elements set back a minimum of 3m from the building facade of the floor immediately below to be excluded from the number of storeys.

Assessment Requirement 33

The Phillip Precinct Map and Code in the Territory Plan 2008 contained provisions for the maximum height of buildings expressed in storeys for different parts of the Woden Town Centre. This has been translated into the Woden District Policy in the interim Territory Plan 2023 as mandatory assessment requirements. It now also includes a maximum height limit in metres associated with the maximum number of storeys.

The existing Phillip Swimming and Ice Skating Centre located on Block 2 Section 22 Phillip falls within area ‘c’ on Figure 13, and is limited to 41m (approximately 12 storeys) in height.

There are specific requirements in the Territory Plan for the redevelopment of the site, to include a publicly available, indoor swimming facility. The ground floor of the building containing the pool will require a greater floor to ceiling height than

the typical commercial or residential floor, therefore it is considered reasonable to allow additional building height for the building containing the pool.

It is proposed to amend Assessment Requirement 33 to include a provision permitting an additional 3m in height for the building containing the pool.

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023. The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision.

3.6 Residential Zones Policy

Assessment Requirement 1

The interim Territory Plan 2023 introduced policy changes to support opportunities for appropriate redevelopment in the residential zones. One of these changes is to allow a block in the RZ2 to RZ5 zones to be subdivided without being required to construct the new dwellings first. This means that an application for subdivision would need to demonstrate that the blocks are able to accommodate compliant dwellings (such as complying with mandatory site coverage requirements) but will not need to have a constructed dwelling on site to be approved.

Site coverage provisions are a mandatory assessment requirement in the Residential Zones Policy. The maximum site coverage permitted for multi-unit development in the RZ1-RZ2 zones is 45% and in the RZ3-RZ5 zones is 50%.

Where large blocks are subdivided into two or more single dwelling blocks, the policy intent is that the large block site coverage requirement will apply to the newly created blocks to ensure the site coverage is consistent with the surrounding blocks.

The change proposed by this minor amendment is to standardise the site coverage requirement for single dwellings on subdivided blocks in the RZ2-RZ5 zones to align with the site coverage requirement for multi unit housing in the RZ2-RZ5 zones – so that the site coverage provision is equitable for which ever type of redevelopment pathway is selected.

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023.

The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision.

Assessment Requirement 22

Assessment Requirement 22 pertains to the planning controls for redevelopment where a lawfully constructed building already exceeds the maximum set by another assessment requirement (such as site coverage, building height or

number of storeys). This minor amendment clarifies that the control also applies to new alterations to an existing building, and not just to a new building. A new building and alterations to an existing building may be permitted to the same maximum as the existing building provided there are no additional adverse impacts on adjoining properties including, but not limited to, solar access.

Assessment Requirement 23

This planning control relates to limits on housing density for blocks other than standard blocks in RZ1 where the crown lease explicitly permits 2 dwellings. This is not readily evident as it does not have a standalone control heading, and could be misinterpreted to apply to the above redevelopment control (Assessment Requirement 22). It is proposed to make it clear that Assessment Requirement 23 relates to limits on housing density by added the appropriate heading for this requirement under the Control column in the Assessment Requirements table at Section 5 of the Residential Zones Policy.

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023. The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision.

3.7 Commercial Zones Policy

Under the Territory Plan 2008, a data centre was not a defined use, but could be considered in any zone where 'store', 'telecommunications facility' or 'light industry' was permitted. This included the Commercial Zones.

The interim Territory Plan 2023 includes a stand-alone definition for 'data centre' and this was included in the land use tables of certain zones. It was included in the Commercial CZ3 Services Zone in the consultation version of the Territory Plan however it was inadvertently excluded in the interim plan.

The exclusion of 'data centre' from the Commercial CZ3 Services Zone is considered an oversight and this minor amendment rectifies this omission.

The proposed changes are not inconsistent with section 84 (1) (a) of the Planning Act 2023. The amendment would not adversely affect anyone's rights if approved; and has as its only object the correction of a formal error in the plan.

3.8 Non-Urban Zones Policy

Under the Territory Plan 2008, a data centre was not a defined use, but could be considered in any zone where 'store', 'telecommunications facility' or 'light industry' was permitted. This included the Commercial Zones and the Non-Urban NUZ1 Broadacre Zone.

The interim Territory Plan 2023 introduced a new stand-alone definition for 'data centre' and this was included in the land use tables of certain zones. It was included in the NUZ1 Zone in the consultation version of the Territory Plan however it was not included in the interim plan as it was considered that the use was not consistent with the non-urban land uses under the National Capital Plan. The National Capital Authority has since clarified that as a data centre would be considered within the definition of 'Public Utility' under the National Capital Plan (which is a permitted use in all zones in the National Capital Plan) a date centre in the NUZ1 Zone would be consistent with the National Capital Plan.

This minor amendment adds 'data centre' as permissible use to the NUZ1 Broadacre Zone in line with permitted uses in the National Capital Plan.

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023. The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision.

3.9 Dictionary definitions

Definition of 'community use'

In the previous Territory Plan 2008, 'veterinary day clinic' was listed under Some Common Terminology for a 'health facility' in the Definitions of Development. A 'health facility' came under the Umbrella Term for 'COMMUNITY USE'.

With the introduction of the interim Territory Plan, 'veterinary clinic' has been separately defined. It is still considered to be a form of community use, however this is not readily evident in the Dictionary and has been raised as a matter to be clarified to avoid confusion and uncertainty when proponents apply for lease variations or lease advice. It is proposed to make this clear and include 'veterinary clinic' in the definition of 'community use'.

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023. The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision.

Definition of 'datum ground level'

The current definition of datum ground level includes that the level is determined by a survey at the time a subdivision is approved or at the date a lease is granted. Where these are not available, the definition allows it to be the best estimate of the surface ground level determined in a field survey. This definition has been problematic where surveyors use different approaches to determine the datum ground level.

The Office of the Surveyor-General has prepared a guideline that details what is required when determining datum ground level through a field survey to improve

the accuracy of the measurements. This guideline is the Surveyor-General Guideline No. 3: Estate Development Plans and Datum Ground Level'.

It is proposed to amend the definition to require that a field survey be undertaken in accordance with the guideline when determining datum ground level.

The proposed changes are not inconsistent with section 84 (2) (d) of the Planning Act 2023. The amendment to clarify the provision in the Territory Plan does not change the substance of the plan and is consistent with the policy intent of the provision.

4.0 TERRITORY PLAN AMENDMENT INSTRUCTIONS

This section provides the legal instructions for how MA2024-i amends the Territory Plan.

4.1 Part D – D1 – Gungahlin District Policy

2. Land Use Table

Insert

Locality	Zone	Additional assessable development	Additional prohibited development	Relevant parcel or figure
Nicholls	PRZ2	Early childhood education and care		Block 2 Section 84 Nicholls
Nicholls	PRZ2	Early childhood education and care		Block 2 Section 85 Nicholls
Nicholls	PRZ2	Early childhood education and care		Block 14 Section 86 Nicholls
Nicholls	PRZ2	Early childhood education and care		Block 11 Section 88 Nicholls
Nicholls	PRZ2	Early childhood education and care		Blocks 21-22 Section 89 Nicholls

5. Assessment Requirements

In the locality of Gungahlin (suburb) insert

7A Where community housing is provided on Block 4 Section 235 Gungahlin it is not required to be in association with a place of worship, religious associated use or supportive housing.

In the locality of Moncrieff insert

17A Where community housing is provided on Block 4 Section 23 Moncrieff it is not required to be in association with a place of worship, religious associated use or supportive housing.

4.2 Part D – D2 – Belconnen District Policy

2. Land Use Table

Insert

Locality	Zone	Additional assessable development	Additional prohibited development	Relevant parcel or figure
Hawker	PRZ2	Early childhood education and care		Block 9 Section 3

5. Assessment Requirements, Assessment Requirement 3

In the locality of Belconnen – Town Centre Assessment Requirement 3, insert after m)

Plant room set back a minimum of 3m from the building facade of the floor immediately below is not included in the number of storeys. Plant room screening and other non gross floor area rooftop architectural features are not included in building height.

4.3 Part D – D3 – Inner North and City District Policy

2. Land Use Table

Insert

Locality	Zone	Additional assessable development	Additional prohibited development	Relevant parcel or figure
Ainslie	PRZ2	Early childhood education and care		Section 26
Ainslie	TSZ2		Early childhood education and care	Blocks 9-10 Section 26
Lyneham	PRZ2	Early childhood education and care		Block 53 Section 59

4.4 Part D – D4 – Inner South District Policy

5. Assessment Requirements

Delete

7. The maximum number of storeys is:
   a) Section 68 – 3
   b) Blocks 2 and 28 Section 35 – 4
   c) On all other blocks 2

4.5 Part D – D7 – Woden District Policy

5. Assessment Requirements

Add a note at the end of Assessment Requirement 24

Note: for areas 'a', 'b', 'c', and 'd' plant room set back a minimum of 3m from the building facade of the floor immediately below is not included in the number of storeys.

Substitute:

33. Area 'A' on Figure 13 provides all the following:
   a) an ice-skating rink suitable for national competitions, unless otherwise agreed by the ACT Government.
   b) a 50m public swimming pool that operates all year with reasonable opening hours, similar to other ACT public swimming pools. If the site is redeveloped, a publicly available, indoor facility is provided that includes a minimum:
      i) 25m x 20m 8-lane swimming pool – water depth of 1.35m to 2.0m
      ii) warm water program pool – minimum dimensions of 20m x 10m
      iii) toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m^2
      iv) a transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities
      v) associated amenities to support the operation of the pool facilities.
   c) The design and inclusions for the indoor pool must be approved by the ACT Government.
   d) An additional 3m in height may be allowed for the building containing the pool facility to accommodate the increased floor to ceiling height required on the ground floor.

4.6 Part D – D8 - Tuggeranong District Policy

2. Land Use Table

Insert

Locality	Zone	Additional assessable development	Additional prohibited development	Relevant parcel or figure
Wanniassa	PRZ2	Early childhood education and care		Block 16 Section 126

4.7 Part E – E1 - Residential Zones Policy

5. Assessment Requirements

Substitute:

1. Site coverage for single dwellings (including a secondary residence) is a maximum of:
   a) For large blocks: 40% of the block area
   b) For mid-sized blocks: 60% of the block area
   c) For compact blocks: 70% of the block area.

   For single dwellings on blocks created through the subdivision of an original residential leased block, site coverage is a maximum of:

   a) In RZ1 and RZ2: 45% of the block area
   b) In RZ3, RZ4 and RZ5: 50% of the block area

   Note: Single dwelling includes all associated roofed Class 10 buildings.

Substitute:

22. Where a lawfully constructed building already exceeds the maximum set by an assessment requirement (such as site coverage, building height or number of storeys), a new building or additions/alterations may be permitted to the same maximum as the existing building provided there are no additional adverse impacts on adjoining properties including, but not limited to, solar access.

In the 'Control' column corresponding to Assessment Requirement 23 insert:

Housing Density

4.8 Commercial Zones Policy

2. Land Use Table

Insert

Land Use / Development Type	CZ1	CZ2	CZ3	CZ4	CZ5
data centre	-	-	Y	-	-

4.9 Non-Urban Zones Policy

2. Land Use Table

Insert

Development Type	NUZ1	NUZ2	NUZ3	NUZ4	NUZ5
data centre	Y	-	-	-	-

4.10 Part G – Dictionary

Table 1 – land use definitions

Substitute:

community use includes community activity centre, community theatre, cultural facility, educational establishment, early childhood education and care, health facility, hospital, place of worship, religious associated use and veterinary clinic.

Table 2 – terms and concept definitions

Substitute

datum ground level means the best estimate of the surface of the ground determined pursuant to Surveyor-General Guideline No. 3 – Estate Development Plans and Datum Ground Level Surveys.

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