



Planning and Development Act 2007

REPORT ON CONSULTATION

**Proposed Technical Amendment to the
Territory Plan**

**Code Variation
V2008-10**

November 2008

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1. INTRODUCTION

This report outlines the issues raised in submissions received from the limited consultation process for proposed technical amendment V2008-10, in accordance with section 90 of the *Planning and Development Act 2007*.

Although there is no legislative requirement to prepare a consultation report, this document has been prepared to address the issues raised during the consultation period.

The final variation, taking into account the issues raised in this consultation report, came into effect on 21 November 2008 and can be accessed at www.legislation.act.gov.au/ni/2008-542/20081121-38163/pdf/2008-542.pdf.

2. REPRESENTATIONS

Proposed technical amendment V2008-10 was released for comment on 12 September 2008. The closing date for comments was 7 October 2008.

A total of 6 public submissions were received.

2.2 Discussion of Issues Raised

The main issue raised related to the proposed rewording of rules concerning apartments on consolidated standard blocks in the RZ2 zone, as outlined in item A of the consultation document.

Other issues related to the clarified setback diagram and the dimensioning of the primary building zone (item G of the consultation document) and waste management provisions for excavated material on single dwelling housing development sites (item K).

The issues are discussed in detail below:

1. Is the prohibition of apartments on consolidated standard blocks in RZ2 a change of policy (Multi-Unit Housing Development Code, R10).

Representations suggested that the proposed amendment is a change of policy, not a clarification of existing policy.

It was also submitted that apartments on consolidated standard blocks are consistent with item 1.21 of the Statement of Strategic Directions promoting affordable, adaptable and special needs housing throughout the city and modification and redevelopment of existing stock to meet emerging social needs.

Response:

In 2002-03, variation to the Territory Plan V200 brought in changes that restricted multi-unit development in suburban areas and amended the requirements for

multi-unit development in suburban core areas. In 2006-07, an evaluation of the Garden City provisions was undertaken which included consultation with the ACT community. The recommendations were included in the consultation process for the restructured Territory Plan and incorporated into the Territory Plan that came into effect on 31 March 2008.

The recommendations included a requirement for new dwellings in what are now the RZ1 and RZ2 zones to have direct access to ground level private open space. This effectively prevented apartment-style developments. The “no apartments in RZ1 and RZ2” policy was therefore established prior to this proposed technical variation.

The requirement was intended to apply to all land previously used for single dwelling purposes in RZ1 and RZ2. However, the original drafting of the 31 March 2008 version of the Territory Plan applied the restriction to all residential zones as well as all blocks. Technical Amendment V2008-02 addressed this issue by amending the wording so that it was only applicable to RZ1 and RZ2 zones and moved the restriction to the zone specific controls to make it clearer.

The definition of 'apartment' within the Territory Plan means 'a dwelling located within a building containing two or more dwellings and is not an attached house'. Following this, attached house means 'a dwelling within a building containing two or more dwellings where each dwelling has within its curtilage open space at ground level and private access for the exclusive use of the occupants of the dwelling'. Therefore attached houses are permitted in the RZ1 and RZ2 zones, but apartments are not.

The wording of R10 (b) introduced in V2008-02 is unclear as to whether the rule applies to consolidated standard blocks. This variation clarifies that the rule applies to both standard blocks and blocks resulting from the consolidation of standard blocks.

2. Transitional provisions ought to apply for currently lodged and recently approved development applications.

Some representations called for transitional provisions to cover current and recently approved applications for apartments on consolidated standard blocks lodged after 31 March 2008 and before commencement of the amendment.

Response:

Since the proposed changes do not represent any change in policy, but a clarification of policy that has been in the public domain since November 2007, it is not considered appropriate to provide transitional provisions.

3. The primary building zone shows the lower floor setback rather than the upper floor level, as per the previous Territory Plan.

Response:

The comments have been noted and are currently being considered with a view to addressing them in future amendments.

4. The clarified setbacks for corner blocks diagram includes a new indentation without a measurement and is not policy neutral (Single Dwelling Housing Development Code, Part C (1), Figure C3).

Response:

The purpose of the indented setback in the new diagram was to demonstrate the indicative position of the garage. Based on comments received, it is accepted that the diagram may be unclear and it has been amended.

5. The requirement for TAMS endorsement for single dwelling developments generating 20 cubic metres or greater of excavation material is too onerous and ought only to apply to multi-unit developments (Single Dwelling Housing Development Code, Part B, R26 and Multi-Unit Housing Development code, Part B, R50)

Response:

TAMS accepts the comments put forward and has agreed not to include this requirement for single dwelling developments.