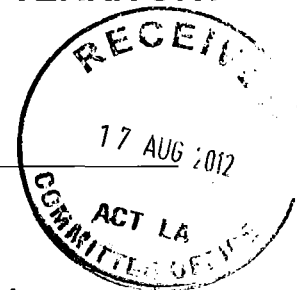




LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING, PUBLIC WORKS AND TERRITORY AND MUNICIPAL SERVICES



ANSWER TO QUESTION ON NOTICE

DV306 Residential development, estate development and leasing codes Questions on Notice.

1. The ISCCC in its submission (p.2) contends that it would have been more efficient and effective to engage with the community on the draft ACT Planning Strategy and Transport Plan before consulting on DV306?
 - a. What is driving the timing of consultations on the policy reviews of the Territory Plan that are currently being undertaken?
 - b. How are draft variation consultation processes integrated with those taking place on other important planning issues?
2. A number of submissions have expressed concern at the apparent lack of justification for the changes being proposed, other than in relation to solar access provisions.
 - a. Can you provide the Committee with a table showing each policy change against the proposed change in the draft variation, including how the change is intended to achieve the policy objective?
3. In relation to the solar access provisions:
 - a. What modelling was done prior to the drafting of the solar access provisions to determine whether the solar access and built form outcomes would meet the policy's objectives?
4. In relation to secondary residences, what was the rationale for choosing the maximum GFA, and would the objectives for reaching this decision be compromised if the area were to be increased to 90m²?
5. Do you consider that DV306 complies with national planning system principles and what is your response to those who have argued that it doesn't? (11 July hearing, ISCCC)
6. Do you have any plans to develop a Development Application Guide and, if so, when would you envisage that coming out?
7. Why were the ramifications of a sliding plot ratio control for single dwelling blocks not assessed as part of the development of DV306?
8. In relation to basement car parking, the ESDD indicated in the DV306 Consultation Report that 'the draft codes rely on the current definition of GFA, which excludes basement car parking but includes basement floor area used for other purposes' and that there are 'presently no plans to review this definition'.

What is the rationale for allowing a basement under a two storey dwelling but not a basement car park?

9. What is the rationale for preventing the building of a secondary residence at the same time as a knockdown/rebuild of a primary residence?

SIMON CORBELL MLA: The answers to the Committee's questions are as follows:—

- 1a. The timing of consultation on the residential zones review of the Territory Plan is largely driven by the statutory processes associated with full variations to the Territory Plan. Draft variation 306, and its precursors, DV301 and DV303 attracted considerable public interest, prompted to a significant extent by ESDD's policy of engaging with stakeholders in a number of ways, some of which go beyond the minimum statutory requirements. Consultation on DV301 and DV303 commenced in 2010 and included consultation with community groups, professional associations and industry groups. A similar pattern was followed for DV306. The relevant explanatory documents outlined the key consultations.
- 1b. The draft ACT planning strategy and the transport policy are essentially high level land use and infrastructure plans, in contrast to DV306 which is largely concerned with the fine tuning and delivery of detailed residential planning policies. Whilst there are some areas of overlap, notably in improvements to solar access and therefore sustainability, the city-wide plans are subject to different processes and are generally on a separate program to DV306 and other draft variations that may arise from the continuing policy review of the Territory Plan. To delay DV306 until the adoption of the ACT Planning Strategy was not considered an acceptable option given the imperative of delivering improved solar access and refined controls for multi unit redevelopment for the RZ2 zone.
- 2a. Most provisions in DV306 are carried over from the current Territory Plan albeit with some restructuring and rewording for clarity. The four key policies proposed by DV306 are:
- solar access
 - RZ2 redevelopment
 - Dwelling replacement
 - Secondary residences

These are summarised in the table at **Attachment 1**.

Attachment 2 summarises all policy changes proposed by DV306, major and minor. Part B of this attachment summarises the changes made to the exhibited version as a result of public submissions.

- 3a. A copy of The Expert Client's, *Territory Plan Solar Access Review*, 2009 has been provided to the standing committee. It includes modelling of the block compliance tables for subdivision and the solar fence policy in terms of block design and subsequent building design.
4. A limit of 75m² for a secondary residence was chosen to differentiate this form of accommodation from dual occupancy development. Dual occupancy development is permissible in all residential zones but is subject to additional controls that are suited to the larger dwellings that are typically involved. Increasing the size limit for secondary residences to 90m² would make them more like dual occupancies and bring with it the risk of making such developments more controversial. It should also be noted that the limit on the size of secondary residences was canvassed in a discussion paper *Special residential and non-residential uses in residential zones* that was released in 2010. This document is available on ESDD's website.

5. The proposed development tables and codes contained in DV306 comply with the national planning system principles as articulated in the Development Assessment Forum (DAF) model. The current Chair of DAF, Ms Kristin Brookfield, gave evidence to the standing committee on 18 July 2012 (p225 ff). She made no assertion that DV306 is contrary to the DAF model.
6. The current *Development applications – a quick guide* is at **Attachment 3**. This document and the embedded links to sources of further information is available on the ESDD website.
7. The introduction of a sliding plot ratio was not addressed in DV306 primarily because it had before now not been suggested as an option. Although such an approach may have merit, I do not believe it would be appropriate for it to be included in DV306 at this stage because the opportunity for public scrutiny has now passed. However, I do not rule out such an option and would welcome and consider any recommendations from the standing committee for a future draft variation particularly if it decided to hold an inquiry on the matter following the commencement of variation 306.
8. The restriction on basement car parks for RZ1 zones was introduced through variation 200 in 2003. The exclusion of basement car parking while allowing for other forms of basements stems from the fact that basement car parking typically requires a driveway to be cut into the site to enable vehicle access. Such driveways potentially have a significant impact on the streetscape, exacerbated where associated with two storeys above the basement entry. In this case the building typically presents a three storey facade to the street. Other forms of basement do not raise the same issues.
9. Nothing in the proposed controls for secondary residences in DV306 would prevent a secondary residence being constructed at the same time as the associated primary dwelling.

Approved for circulation to the Standing Committee on Planning, Public Works and Territory and Municipal Services

Signature:



Date: 16.7.12.

By Simon Corbell MLA, Minister for the Environment and Sustainable Development

Summary of key policy changes proposed by DV306:

- Solar access
- RZ2 redevelopment
- Dwelling replacement
- Secondary residences

	current provisions	DV306 (recommended final version March 2012)
Solar access – estate development	75% of blocks must achieve at least 3 star energy rating.	Residential blocks should be oriented and proportioned so that a house can have daytime living areas facing north and sunlit private open space, while limiting the overshadowing of adjoining residential blocks. Certain combinations of block size, slope and orientation are more likely to achieve solar efficient house design. Accordingly, the code requires compliance with tables found in the appendix . These tables are based on the principle that solar efficiency decreases as blocks: • narrow • tend towards an orientation 45° to the north-south axis • slope towards the south. Other factors also influenced the formulation of these tables, in addition to size, shape and orientation. Consideration was given to the likely upper level floor space yield taking account of building envelopes and boundary setbacks. A bias against blocks oriented at 45° to the north-south axis is evident because of the difficulty of properly orienting a house towards the sun, particularly on small blocks.

Solar access – residential development	The building envelope is lowered on the southern side of blocks from 3.5m to 2m.	To protect the solar access of neighbours, the draft code limits overshadowing of neighbouring blocks to not more than the shadow cast by a 1.8m fence on the boundary at noon on the winter solstice (21 June). At this time the sun angle in Canberra is at its lowest at 32° to the horizontal, and an east-west fence 1.8m high on a flat site will cast a 2.9m shadow. A fence at a different orientation on the same site will cast a shorter shadow. For example, a fence aligned north west to south east will cast a 2m shadow. This means that the “apparent” sun angle for this orientation is 42°, although the actual sun angle is still 32°. Table 1 of the code lists the apparent sun angle (angle X) according to boundary orientation. On other side and rear boundaries the building envelope is defined by planes at 45° from a line 3.5m above the boundary . In a departure from the current code, this approach does not distinguish between principal building zone and rear building zone (although this distinction remains for the purposes of boundary setbacks). The changed policy effectively allows for additional building bulk adjacent to boundaries other than the northern boundary of an adjoining residential block subject, of course, to boundary setback and building height controls. These provisions apply to • all large blocks (ie. Greater than 500m²) • all blocks in the Molonglo Valley • all mid-sized blocks approved on or after the commencement date of this variation • all compact blocks approved on or after the commencement date of this variation, but only in relation to the sun angle plane Current provisions applying to mid-sized blocks approved before the commencement date are retained. No building envelopes currently apply to compact blocks. This policy is retained in the new code except that the sun angle plane component of the building envelope will apply to compact blocks approved after the commencement date. This means that the owners of new compact blocks will have the same protection from overshadowing as mid sized and large blocks.
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RZ2 redevelopment	Under the current <i>Residential Zones – Multi Unit Housing Development Code</i>, the minimum block size for dual occupancy in RZ2 is 800m², and the minimum block size for triple occupancy is 1400m². Above 1400m² there is no restriction on the number of dwellings.	The proposed density controls will see this reduced to 700m², in keeping with the general approach to dwelling density in the RZ2 zone ie. a maximum of one dwelling for each 350m² of site area. Table 1: Maximum number of dwellings allowable on single dwelling blocks in RZ2 <table><tr><th>block size (m²)</th><th>maximum number of dwellings</th></tr><tr><td><700</td><td>1*</td></tr><tr><td>700 to <1050</td><td>2</td></tr><tr><td>1050 to <1400</td><td>3</td></tr><tr><td>1400 to <1750</td><td>4</td></tr><tr><td>1750 to <2100</td><td>5</td></tr><tr><td>2100 to <2350</td><td>6</td></tr><tr><td>over 2350</td><td>6 + 1 for every 250m²** of site area over 2350m²</td></tr></table> * not including a secondary residence ** not less than 250m² is required for every additional dwelling <i>Density controls for residential redevelopment in RZ2 – adaptable housing</i> R11 allows for slightly higher density where the dwellings are adaptable (under Australian Standard AS4299 class C). The maximum dwelling yield for this type of residential redevelopment in RZ2 is shown in table 2 below. It should be noted that, because all supportive housing must be adaptable, this provision also applies to supportive housing.	block size (m ²)	maximum number of dwellings	<700	1*	700 to <1050	2	1050 to <1400	3	1400 to <1750	4	1750 to <2100	5	2100 to <2350	6	over 2350	6 + 1 for every 250m ² ** of site area over 2350m ²
block size (m ²)	maximum number of dwellings																	
<700	1*																	
700 to <1050	2																	
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1750 to <2100	5																	
2100 to <2350	6																	
over 2350	6 + 1 for every 250m ² ** of site area over 2350m ²																	

		Table 2: Maximum number of dwellings for adaptable housing allowable on single dwelling blocks in RZ2 <table><tr><th>block size (m²)</th><th>maximum number of dwellings***</th></tr><tr><td><600</td><td>1*</td></tr><tr><td>600 to <850</td><td>2</td></tr><tr><td>850 to <1100</td><td>3</td></tr><tr><td>1100 to <1350</td><td>4</td></tr><tr><td>over 1350</td><td>4 + 1 for every 250m^{2**} of site area over 1350m²</td></tr></table> * not including a secondary residence ** not less than 250m² is required for every additional dwelling *** all dwellings must be for supportive or adaptable housing <i>Other new controls on residential redevelopment in RZ2.</i> In addition to the proposed residential density controls element 3 of the draft Multi Unit Housing Development Code also contains the following provisions for multi unit residential redevelopment in RZ2: • no building can contain more than four dwellings (R15) • buildings containing 2 or more dwellings on the same block must be separated by at least 4m (R32). The draft Residential Zones Development Code also limits the consolidation of blocks for residential redevelopment in RZ2 to blocks that, following consolidation, have a continuous street frontage. The current rule restricting multi unit housing redevelopment with 3 or more dwellings to blocks (or the consolidation of blocks) with a frontage of more than 20m is retained. This restriction has the effect of excluding many blocks in culs-de-sac, whether consolidated or not, from multi unit redevelopment.	block size (m ²)	maximum number of dwellings***	<600	1*	600 to <850	2	850 to <1100	3	1100 to <1350	4	over 1350	4 + 1 for every 250m ^{2**} of site area over 1350m ²
block size (m ²)	maximum number of dwellings***													
<600	1*													
600 to <850	2													
850 to <1100	3													
1100 to <1350	4													
over 1350	4 + 1 for every 250m ^{2**} of site area over 1350m ²													
Dwelling replacement	No policy currently applies.	The proposed housing replacement policy requires the provision of at least one large dwelling for each block comprising the multi unit (ie. 2 or more dwellings) redevelopment parcel. If, for example, three blocks were consolidated, any multi unit redevelopment of the site must have at least												

		three dwellings with three or more bedrooms. This policy applies to redevelopment in all residential zones, but it is likely to have its greatest effect in RZ2, RZ3 and RZ4. This policy does not apply to single houses or to supportive housing.
Secondary residences	Provisions are made for <i>relocatable units</i> and <i>habitable suites</i> .	"Secondary residences" are a new form of residential development replacing the current "relocatable units" and "habitable suites". A secondary residence can only be associated with an existing single dwelling. It is restricted to a gross floor area of 75m², to large blocks (ie. over 500m²), cannot be further subdivided (including subdivision under the <i>Unit Titles Act</i>), and must be adaptable (under AS4299 class C). There is no restriction on the type of occupant of a secondary residence. A resident does not need to be a relative of the residents of the principal dwelling, nor does the resident need to be under any particular type of care. Following a review of this provision, the current draft increases the maximum allowable GFA from 70m² to 75m², to better accommodate adaptable features.

A. Summary of policy changes proposed by DV306 – public consultation version – June 2011

Zone objectives	
	Residential zone objectives, as found in section 3 of the Territory Plan, are revised to better differentiate between zones, to more fully describe the “desired character” of urban development in each zone, and to recognise the importance of good solar access. The objectives for RZ1, for example, seek to convey that the nature of initial development is low rise and predominantly low density. The objectives go on to indicate that, once established, the pattern of urban development should be protected. Protection of the established pattern is an indication of “desired character”, which is defined under this draft variation as: <i>desired character</i> means the form of development in terms of siting, building bulk and scale, and the nature of the resulting <i>streetscape</i> that is consistent with the relevant zone objectives Many of the criteria found in the draft residential development codes list “consistency with the desired character” as a matter to be considered when determining whether that criterion is achieved. Because “desired character” relates to the zone objectives, it is important that these objectives make a clear statement of the “desired character” of each zone. In some zones, notably RZ1, the desired character will ordinarily be a continuation of the current pattern of development. By contrast, the desired character in other zones, such as RZ4, may reflect quite different forms of urban development, such as higher density housing. The objective of promoting good solar access is proposed to apply to all residential zones. The key draft zone objectives are: <i>RZ1 – suburban zone</i> a) Provide for the establishment and maintenance of residential areas where the housing is low rise (maximum two storeys) and predominantly single dwelling and low density in character b) Protect the character of established single dwelling housing areas by limiting the extent of change that can occur particularly with regard to the pattern of subdivision and the density of dwellings. <i>RZ2 – suburban core zone</i> a) Provide for the establishment and maintenance of residential areas where the housing is low rise (maximum two storeys) and contains a mix

	<i>of single dwelling and multi unit development that is low to medium density in character particularly in areas close to facilities and services in commercial centres</i> <i>b) Provide opportunities for redevelopment by enabling a limited extent of change with regard to the pattern of subdivision and the density of dwellings.</i> <i>RZ3 - urban low rise zone</i> <i>a) Provide for the establishment and maintenance of residential areas where the housing is low rise (maximum two storeys) and predominantly medium density in character and particularly in areas that have good access to facilities and services and/ or frequent public transport services</i> <i>b) Provide opportunities for redevelopment by enabling changes to the pattern of subdivision and the density of dwellings.</i>
Development tables	
	It is proposed to replace the current development tables. The layout of the draft tables is similar to the current, but with the following key changes. Code track The list of development under the code track is expanded to include the following types of lease variations • expressing the number of units (dwellings) • removing easements (with the relevant approvals) • authorising a secondary residence Assessment is to be made under the proposed lease variation general code, which is part of this draft variation. Merit track An updated list of development in the merit track takes account of changes in development definitions associated with this draft variation. For example, the list reflects the proposal to replace the terms “relocatable unit” and “habitable suite” with “secondary residence”, as described in section 2.5.1 below. Prohibited development Development and use listed under prohibited development in the development table cannot be added to a lease as a permitted use or, in the

	case of unleased territory land, a development application cannot be lodged for a prohibited use or development. Two items are proposed to be removed from the list of prohibited development – “MAJOR UTILITY INSTALLATION” (an umbrella term) and “playing field”. Whilst unusual in a residential zone, major utility installations are not inconsistent with zone objectives. By removing this use from prohibited development and not adding it to the merit track list (as proposed), any development application will be considered under the impact track and thus subject to an environmental impact statement. Playing field is removed because it is a type of “outdoor recreation facility” which is already listed as a prohibited use. Leasehold The draft development tables seek to acknowledge the role of leases in the regulation of land use in the Territory. The current tables might give the impression that an assessable development (ie. a development in either the code, merit or impact track) is permitted, subject to a development application. In fact, a development is permitted only where it is authorised by a lease. A note has been added under the “Assessable Development” heading to this effect. Conversely, all development not authorised by a lease is prohibited. Accordingly a note has been added to the “Prohibited Development” list advising that the uses listed cannot be added to a lease. This is a more accurate reflection of the role of leases in authorising development. Code relevant to a particular development proposal For the purpose of specifying the codes relevant to a specific development proposal, the proposed development tables refer to the Residential Zones Development Code. As outlined in the next section, this code contains rules and criteria relevant to certain development proposals or refers to other codes such as the Multi Unit Housing Development Code or Single Dwelling Housing Development Code.
Residential Zones Development Code	
	The proposed Residential Zones Development Code is intended to be the overarching code for all development in residential zones. Following an introduction and a list of relevant codes, the draft code contains the following parts: - Part A - Residential Housing Development - Part B – Other Forms of Residential Development - Part C – Demolition - Part D – Subdivision Contains provisions relating to residential subdivisions that do not involve the provision of public infrastructure. - Part E – Non-Residential Development

	Includes controls applicable to forms of non-residential development located in residential zones, such as home business. The draft code largely contains provisions transferred from other codes, notably from part D of the current Multi Unit Housing Development Code. In many cases these provisions have been reworded for clarity and consistency, without significantly altering the underlying policy. There are, however, some new provisions as well as provisions that have been refined in response to submissions on DV303. Part B - Other Forms of Residential Development "Secondary residences" are a new form of residential development replacing the current "relocatable units" and "habitable suites". A secondary residence can only be associated with an existing single dwelling. It is restricted to a gross floor area of 75m², to large blocks (ie. over 500m²), cannot be further subdivided (including subdivision under the Unit Titles Act), and must be adaptable (under AS4299 class C). There is no restriction on the type of occupant of a secondary residence. A resident does not need to be a relative of the residents of the principal dwelling, nor does the resident need to be under any particular type of care. Following a review of this provision, the current draft increases the maximum allowable GFA from 70m² to 75m², to better accommodate adaptable features. "Student accommodation" was part of the Residential Zones Development Code under DV303, but is not part of the current draft. It was deleted because the proposed housing policies for residential zones, including dual occupancy development and secondary residences, adequately cater for this type of accommodation. Student accommodation is likely to be more suited to commercial zones, and will be considered in this context as part of the future commercial zones review. Part D - Subdivision As part of the package of refinements related to redevelopment in RZ2 zones, rule 40 requires that consolidation of blocks is only permitted where the resulting block has a continuous street frontage, ie without gaps made by other blocks. The number of streets to which the consolidated block has frontage is not relevant.
Single Dwelling Housing Development Code	
	A new Single Dwelling Housing Development Code is proposed to replace the current Residential Zones - Single Dwelling Housing Development Code. All rules and criteria have been reviewed and many re-worded for clarity and consistency. The major policy change is the introduction of solar access provisions that limit overshadowing of neighbouring residential properties. In addition, amendments to the Building Code of Australia from 1 July 2010 will require all new single dwelling houses to achieve an energy rating equivalent to at least a 6 star energy rating. This will strongly encourage passive solar design because direct access to sunlight is a cost effective pathway to achieving this level of energy efficiency. Provisions in the draft code that limit the overshadowing of residential blocks will facilitate passive solar design (see the discussion under "building envelopes" below).

Draft provisions with major or notable policy implications are outlined below.

Element 1: Building and site controls

These controls seek to achieve a built form that is compatible with the desired character (as explained in section 2.4.1 above), with reasonable access to sunlight, reasonable privacy and limited overshadowing of neighbouring residential properties.

Plot ratio

R1 retains a maximum 50% plot ratio for large (over 500m²) single dwelling blocks in RZ1. The term single dwelling block replaces the term standard block but, because single dwelling block encompasses all blocks originally leased or used for single residential purposes, rather than just those over 500m², the rule now contains a reference to large blocks.

The relevant new definitions are -

- Large block means a block with an area greater than 500m²
- Mid-sized block means a block with an area greater than 250m² but less than or equal to 500m²
- Compact block means a block with an area of 250m² or less

Single dwelling block means a block with one of the following characteristics

- a) originally leased or used for the purpose of single dwelling housing
- b) created by a consolidation of blocks, at least one of which was originally leased or used for the purpose of single dwelling housing

Plot ratios for single dwelling houses in RZ3, RZ4 and RZ5

A maximum plot ratio of 50% is proposed for single dwelling houses on large single dwelling blocks in RZ3, RZ4 and RZ5. Currently there is no specified plot ratio for such development. This proposal is designed to bring consistency to single dwelling housing in all residential zones. It should be noted that this form of development is unusual in these zones.

A comparison of current and proposed plot ratio provisions is given in tables 3 and 4 below.

Building envelopes

To protect the solar access of neighbours, R7 and table 1 limit overshadowing of neighbouring blocks to not more than the shadow cast by a

1.8m fence on the boundary at noon on the winter solstice (21 June). At this time the sun angle in Canberra is at its lowest at 32° to the horizontal, and an east-west fence 1.8m high on a flat site will cast a 2.9m shadow. A fence at a different orientation on the same site will cast a shorter shadow. For example, a fence aligned north west to south east will cast a 2m shadow. This means that the "apparent" sun angle for this orientation is 42°, although the actual sun angle is still 32°.

Table 1 of the code lists the apparent sun angle (angle X) according to boundary orientation.

On other side and rear boundaries the building envelope is defined by planes at 45° from a line 3.5m above the boundary (R6). In a departure from the current code, this approach does not distinguish between principal building zone and rear building zone (although this distinction remains for the purposes of boundary setbacks). The changed policy effectively allows for additional building bulk adjacent to boundaries other than the northern boundary of an adjoining residential block subject, of course, to boundary setback and building height controls.

These provisions apply to

- all large blocks (ie. Greater than 500m²)
- all blocks in the Molonglo Valley
- all mid-sized blocks approved on or after the commencement date of this variation
- all compact blocks approved on or after the commencement date of this variation, but only in relation to the sun angle plane

Current provisions applying to mid-sized blocks approved before the commencement date are retained.

No building envelopes currently apply to compact blocks. This policy is retained in the new code except that the sun angle plane component of the building envelope will apply to compact blocks approved after the commencement date. This means that the owners of new compact blocks will have the same protection from overshadowing as mid sized and large blocks.

Setbacks

R13 and the associated tables largely retain current front boundary setbacks except that the upper level front boundary setback for blocks approved before 18 October 1993 is reduced from 7.5m to 6m. This is consistent with upper level front boundary setbacks applying to all other residential blocks.

Similarly R14 and its associated tables retain most current side boundary setbacks. Among the major change is a nil setback for garages to one side boundary for large blocks, provided that the total length of the garage wall on the boundary does not exceed 8m. Garages at nil setbacks are commonly approved, but currently only as departures from the current 1.5m minimum setback. This change will allow for complying proposals with nil setbacks to garages to be exempt from development approval.

	On mid-sized and compact blocks a nil upper floor level side boundary setback is permitted where specifically allowed under a precinct code and where the block is part of an integrated housing development. Similarly, a nil rear boundary setback is permitted on mid-sized and compact blocks at both lower and upper floor levels where specifically allowed under a precinct code and where the block is part of an integrated housing development. These provisions are designed to allow for innovative housing design where the proposed built form is determined at the time of subdivision. Integrated housing development is discussed in the section on the draft Estate Development Code (section 2.6 below). Setbacks to unscreened elements Provisions applying to the separation of unscreened elements (see definition below) are currently not consistent across the Territory Plan. For example, the minimum separation for buildings with 4 storeys is 12m while the upper floor level separation for smaller buildings is 18m. The new provisions will introduce a more consistent approach. Side and rear boundary setbacks associated with R14 are based on a 12m separation between unscreened elements at upper floor levels, ie. a 6m boundary setback. Unscreened element means unscreened windows, decks, balconies and external stairs Upper floor level (UFL) means a finished floor level, which is greater than 1.8 metres above datum ground level at any point General Other elements largely retain previous provisions, with some amendments to improve clarity and consistency.
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Multi Unit Housing Development Code

The current Multi Unit Housing Development Code is proposed to be replaced by a new code of the same name. As a result of a thorough review of the code, and in response to public submissions on DV303 in 2010, significant policy refinements are proposed, not least in the areas of solar access and residential redevelopment in RZ2. Many other rules and criteria have not changed significantly from a policy perspective, but been re-crafted to improve clarity and consistency.

The following elements contain provisions with major or notable policy implications.

Part A – General controls

Element 1: Restrictions on use

Minimum block size for dual occupancy in RZ1

In response to submissions received on DV303 in 2010, the draft code makes no change to the minimum size of a single dwelling block for dual occupancy in RZ1. R1 retains the minimum area of 800m².

Element 3: Building and site controls

Housing replacement

In recent years the redevelopment of RZ3 and RZ4 areas in the Inner North and RZ2 areas across Canberra has been largely characterised by the replacement of single dwelling housing with multiple 1 and 2 bedroom dwellings. This has led to a polarisation of housing supply in these areas between multi unit development and large detached houses.

These dwellings, particularly single bedroom units, are not ordinarily suitable for families with children. Limited housing choice in this way may have social implications, not least in the character of the local school community. As the number of families in a neighbourhood declines, the proportion of children from the neighbourhood at local schools tends to decline. A similar affect on other community facilities may also accompany a decline in the number of local families with children.

The proposed housing replacement policy requires the provision of at least one large dwelling for each block comprising the multi unit (ie. 2 or more dwellings) redevelopment parcel. If, for example, three blocks were consolidated, any multi unit redevelopment of the site must have at least three dwellings with three or more bedrooms.

This policy applies to redevelopment in all residential zones, but it is likely to have its greatest effect in RZ2, RZ3 and RZ4. This policy does not apply to single houses or to supportive housing.

Density controls for residential redevelopment in RZ2

About one third of submissions on the draft Multi Unit Housing Development Code under DV303 were concerned with residential redevelopment in the suburban core zone (RZ2). The consistent theme of these submissions was that the bulk and scale of development in RZ2 should be more in keeping with existing development. In response, the draft code introduces new density controls for residential redevelopment in RZ2, in concert with plot ratio controls. These density controls are shown in table 1.

Under the current Residential Zones – Multi Unit Housing Development Code, the minimum block size for dual occupancy in RZ2 is 800m². The proposed density controls will see this reduced to 700m², in keeping with the general approach to dwelling density in the RZ2 zone ie. a maximum of one dwelling for each 350m² of site area.

Table 1: Maximum number of dwellings allowable on single dwelling blocks in RZ2

block size (m ²)	maximum number of dwellings
<700	1*
700 to <1050	2
1050 to <1400	3
1400 to <1750	4
1750 to <2100	5
2100 to <2350	6
over 2350	6 + 1 for every 250m ² ** of site area over 2350m ²

* not including a secondary residence

** not less than 250m² is required for every additional dwelling

Density controls for residential redevelopment in RZ2 – adaptable housing

R11 allows for slightly higher density where the dwellings are adaptable (under Australian Standard AS4299 class C). The maximum dwelling yield for this type of residential redevelopment in RZ2 is shown in table 2 below. It should be noted that, because all supportive housing must be adaptable, this provision also applies to supportive housing.

Table 2: Maximum number of dwellings for adaptable housing allowable on single dwelling blocks in RZ2

block size (m2)	maximum number of dwellings***
<600	1*
600 to <850	2
850 to <1100	3
1100 to <1350	4
over 1350	4 + 1 for every 250m2** of site area over 1350m2

* not including a secondary residence

** not less than 250m2 is required for every additional dwelling

*** all dwellings must be for supportive or adaptable housing

Other new controls on residential redevelopment in RZ2.

In addition to the proposed residential density controls element 3 of the draft Multi Unit Housing Development Code also contains the following provisions for multi unit residential redevelopment in RZ2:

- no building can contain more than four dwellings (R15)
- buildings containing 2 or more dwellings on the same block must be separated by at least 4m (R32).

The draft Residential Zones Development Code also limits the consolidation of blocks for residential redevelopment in RZ2 to blocks that, following consolidation, have a continuous street frontage (see section 2.5.1 above).

R13 retains the current rule restricting multi unit housing redevelopment with 3 or more dwellings to blocks (or the consolidation of blocks) with a frontage of more than 20m. This restriction has the effect of excluding many blocks in culs-de-sac, whether consolidated or not, from multi unit redevelopment.

Plot ratio – RZ1

R9 introduces a plot ratio of 65% for multi unit housing in RZ1 on large blocks that are not single dwelling blocks (ie. blocks originally set aside for multi unit development rather than for single houses). Currently, instead of plot ratio controls, the bulk and scale of buildings on such blocks are determined by a combination of building height and setback controls. These controls are to be retained but, in keeping with the objectives and desired character of the RZ1 zone, the draft code proposes a 65% plot ratio for these blocks. This will bring consistency to development in RZ1 in keeping with its stated objectives, with a plot ratio appropriate for two storey multi unit housing. RZ3, which is also limited to two storeys, currently has a 65% plot ratio.

The equivalent provision in DV303 provided for a 50% plot ratio. This limit is considered to be too restrictive, bearing in mind that this only applies to blocks specifically identified for multi unit housing at the estate development stage, and not to the redevelopment of single dwelling blocks in established areas. A plot ratio of 65% has been associated with two storey multi unit residential development since the inception of the inner north Canberra B12 land use policy in the 1990s. In concert with a two storey height limitation, boundary setbacks, parking and open space requirements, a 65% plot ratio has been shown to provide a good balance between dwelling yield on the one hand, and residential amenity and streetscape value on the other.

This provision applies only to blocks approved after the commencement date of DV306.

Triple occupancy housing – RZ2

Special plot ratio provisions apply to triple occupancy housing under the current Residential Zones - Multi Unit Housing Development Code. This form of housing is limited to a 50% plot ratio, except where one or more of the proposed dwellings do not front a public road. In this case the overall maximum plot ratio is 35%. This imposes an unreasonable restriction on multi unit development containing three dwellings compared with similar development containing 4 or more. Under the proposed density controls outlined above, a site area of 1050m² is required for three dwellings. Applying a 35% plot ratio (as would apply in most cases), the maximum gross floor area (GFA) of the total development would be 368m², at an average of 122.5m² per dwelling. In contrast 1400m² is required for four dwellings. At 50% plot ratio the total GFA would be 700m² or 175m² per dwelling. This is a significant difference that cannot be easily justified. It is therefore proposed that no special plot ratio provision apply to triple occupancy development. This will mean that all multi unit housing in RZ2, with the exception of dual occupancy housing, will be limited to a plot ratio of 50%.

The consequence of this policy change is that triple occupancy housing no longer needs to be defined under the Territory Plan. Accordingly, its deletion is proposed.

Comparison of plot ratio controls

Tables 3 and 4 summarise current and proposed plot ratio provisions for residential housing development.

Table 3 - Current plot ratio provisions

	block type	plot ratio (%)				
		RZ1	RZ2	RZ3	RZ4	RZ5
single house	sdb 500m2 or greater	50	50	none	none	none
	other	none	none	none	none	none
dual occupancy	sdb 500m2 or greater	up to 35	50 or 35*	65	80	none
	other	n/a	50	65	80	none
multi unit	sdb 500m2 or greater	none	50 or 35#	65	80	none
	other	none	none	65	80	none

sdb – single dwelling block

n/a – not applicable

* where at least one dwelling does not address the street

where at least one dwelling in a triple occupancy does not address the street

Table 4 - Proposed plot ratio provisions – DV306

	block type	plot ratio (%)
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		RZ1	RZ2	RZ3	RZ4	RZ5
single house	sdb greater than 500m2	50	50	50	50	50
	other	none	none	none	none	none
dual occupancy	sdb greater than 500m2	up to 35	50 or 35*	65	80	none
	other	n/a	50	65	80	none
multi unit	sdb greater than 500m2	n/a	50	65	80	none
	other	65	65	65	80	none

changes from Table 3 are shown in bold

sdb – single dwelling block

n/a – not applicable

* where at least one dwelling does not address the street

Building height

The current approach of using limitations on the number of storeys in conjunction with an overall height of building is to be retained, but with some significant changes for RZ3, RZ4 and RZ5. Under R16 and R17 buildings in RZ1 and RZ2 are limited to 2 storeys, with additional restrictions on attics and basements for single dwelling blocks in RZ1. These are mandatory controls. Under R22 overall building height in RZ1 and RZ2 is limited to 8.5m but, as under current codes, departures can be approved where the relevant criterion is satisfied.

R19, R20 and R21 limit the number of storeys in RZ3 to 2, RZ4 to 3, and RZ5 to between 3 and 6 (depending on adjoining land use). In contrast to the current code where the limitations on storeys are mandatory, the draft code allows for departures if the associated criterion is satisfied. Two mechanisms are proposed to limit such departures. Firstly, additional storeys will be approved only if any additional storey is not apparent from the street. C19, for example, applies to RZ3 as follows.

Buildings achieve all of the following:

consistency with the desired character

a) the appearance of not more than two storeys for that part of the building facing the street

b) reasonable solar access to dwellings on adjoining residential blocks and their associated private open space.

Consistency with the desired character and reasonable solar access to adjoining blocks also need to be established before a departure is approved.

The second mechanism relies on establishing a mandatory overall building height limitation for RZ3, RZ4 and RZ5 through R23.

Table 5 summarises the proposed approach to building height control in residential zones.

Table 5: Building height controls

zone	number of storeys		height of building	
	limit in rule	criterion	limit in rule	criterion
RZ1	2	no	8.5m	yes
RZ2	2	no	8.5m	yes
RZ3	2	yes	9.5m	no
RZ4	3	yes	12.5m	no
RZ5*	3#, 4# or 6	yes	21.5m	no

*precinct codes may specify building height requirements for certain blocks

determined by adjoining land use

Building envelopes

R24 to R27 introduce building envelopes for multi unit housing with three storeys or less similar to building envelopes applying to single residential housing described above.

Access to sunlight

From 1 July 2010, the Building Code of Australia requires all new multi unit housing projects to achieve, on average, at least the equivalent of a 6 star energy rating, with no dwelling achieving an energy efficiency of less than the equivalent of 5 stars. This will strongly encourage passive solar design because direct access to sunlight is a cost effective pathway to achieving this level of energy efficiency. Provisions in the draft code that limit the overshadowing of residential blocks will facilitate passive solar design (see the discussion under “building envelopes” above).

As a consequence current provisions requiring 3 hours access to sunlight on the winter solstice have been deleted.

Privacy

The consistent approach to the separation of unscreened elements (such as windows to living areas and balconies), described in 2.3.4 above, is applied in the draft multi unit code. R53 and R54 apply the principle of a 12m separation of unscreened elements across boundaries to dwellings on the same block.

In a departure from the current approach, the measurement of separation for privacy is based on a person’s standing vantage point (ie. an eye height of 1.5m). This allows for a variety of vantage points to be assessed, including balconies. It also allows for lines of sight away from the horizontal (eg. from an upper floor balcony to another dwelling’s principal private open space).

Principal private open space

R55 and the associated table A9 prescribe minimum areas of private open space based on the principle that private open space should increase with dwelling size (number of bedrooms) and should be larger in lower density residential zones (eg. RZ1 and RZ2).

Principal private open space means private open space that is directly accessible from a habitable room other than a bedroom.

Approaches to basement car parking

R73 is a new rule that seeks to avoid vehicle conflicts at combined entrance/exits to basement car parking by requiring waiting areas and/or traffic signals.

Delivery and removalist vans

Compared with the current rule, R77 reduces the threshold from 50 dwelling to 40 dwellings in relation to requirements for short stay parking of delivery and removalist vans.

Part B – Additional controls for multi unit housing with 4 or more storeys

As the name suggests, this part contains additional controls that apply to residential buildings with 4 or more storeys in any zone. The

introduction to this part advises that where there is an inconsistency between part A and part B, the provision in part B shall prevail to the extent of that inconsistency.

Element 10: Building and site design

R87 and the associated table B1 specify side and rear boundary setbacks based on the building interface provisions of the current code. The revised side and rear boundary setbacks retain the principle that side and rear boundary setbacks should increase with building height for buildings with 4 or more storeys. The new setbacks also assume that there is no need to distinguish between external walls and unscreened elements at setbacks of 6m or more, consistent with other similar provisions in the draft code requiring a minimum 12m separation of unscreened elements.

Unscreened element means unscreened windows, decks, balconies and external stairs

External wall means an external wall that may also incorporate any of the following

- a) windows with sill heights at or above 1.7m from the floor
- b) screened decks
- c) fixed pane windows with obscure glass
- d) awning sashes with obscure glass and with an opening of not more than 30cm to the horizontal
- e) obscure glass bricks.

Part C – Additional controls for multi unit housing in commercial zones

Part C contains additional controls that apply to residential buildings in commercial zones. It contains only one provision relating to ground floor commercial use. It is consistent with current R178.

Broadly, there are two options for the regulation of building setbacks for residential development in commercial zones. The first, which is adopted by the draft Multi Unit Housing Development Code, is to nominate setbacks to residential buildings in commercial zones that would ordinarily apply in residential zones. Setbacks more typical of commercial zones, including nil front and side boundary setbacks could be applied through precinct codes.

The second option is to make no provision in the draft code for residential buildings in commercial zones. This approach would see residential buildings in commercial zones built to commercial building setbacks, unless overridden by a precinct code.

Block and area specific provisions

	Parts of the current <i>Residential Zones - Multi Unit Housing Development Code</i> and the <i>Residential Zones – Single Dwelling Housing Development Code</i> include site or area specific provisions for various suburbs in Canberra that differ from those applicable to the rest of Canberra. Typically, these provisions relate to building heights and front setbacks. The review of these provisions identified that some are no longer relevant due to the development that has occurred on the site. Other specific provisions are no longer relevant because they are superseded by the introduction of subsequent planning policies (eg. maximum heights in parts of Deakin and Forrest have been superseded by the introduction of building envelopes in the current single and multi unit development codes). Parts C(1) – C(5) of the multi unit code contain particular planning provisions for various parts of Canberra. These provisions were developed at different times and, because of a commitment to policy neutrality there was no opportunity to rationalise them in the formulation of the current Territory Plan. The relevant general provisions are now incorporated in the draft single and multi unit development codes, but those with particular block or area specific application are intended to be incorporated into suburban precinct codes. For example, the maximum building height of ten storeys applicable to part of Section 69 Lyons is intended to be incorporated into the Lyons Precinct Code, through a separate technical variation to the Territory Plan. Considering the hierarchy of codes in the Territory Plan (ie. precinct codes, development codes and general codes), a precinct code is the most appropriate home for area or site specific provisions.
Estate Development Code	
	The current <i>Residential Subdivision Development Code</i> is proposed to be replaced by a new Estate Development Code. It differs from the current code in format and some key policies, not least being new block compliance tables designed to achieve improved solar performance for residential subdivisions. <i>Code format</i> In a departure from the draft Estate Development Code publicly released in 2010 as part of DV301, the provisions relating to entity endorsement are now in a separate part of the code (part D). Parts A, B and C now contain only estate planning provisions. "Entities" in this context are government agencies (eg. TAMS) or service providers (eg. ActewAGL). There is a rule for each component of an estate development plan that requires endorsement. It simply states that endorsement by the relevant entity is a mandatory requirement – there is no associated criterion. A note associated with the rule contains details of the actual endorsement. This gives a measure of certainty to the applicant, by indicating that endorsement will be given if certain published standards are met. It also allows for departures to be considered through negotiation between the proponent and the relevant entity. Under this approach it is possible for an entity to endorse a particular component under part D, but for ACTPLA to refuse the EDP on the grounds that the component does not meet planning requirements, under the relevant rule and criteria in parts A, B or C. The reverse is also possible.
	Proposed provisions with major or notable policy implications are outlined below. Part A – Estate planning in all zones

Element 3: Street network

Under the Estate Development Code released with DV301, rear lanes in any zone are permitted only where the block's address street has a current or projected traffic volume of more than 3000 vehicles per day. This policy has at least two important implications. A rear lane meeting this requirement could not be used to access blocks on the other side of the lane unless their address street is also a busy road. Further, rear lanes can only be used to access blocks less than 8m wide. This effectively rules out rear lanes in RZ1 because, under other provisions, blocks in this zone must be more than 8m wide.

R53 is a significant departure from the previously exhibited policy.

Firstly, it essentially mandates the use of rear lanes to serve blocks less than 8m wide (mostly compact blocks) that address a busy road. The draft code does not carry over the previous code's restriction on block widths in RZ1.

Secondly, it essentially mandates rear lane access for compact north-south blocks with an address street to the north. Its purpose is to allow good solar access to the front of the building, by allowing garages to be located at the rear and serviced from a rear lane.

In contrast to the previously released version, the proposed Estate Development Code does not restrict the use of rear lanes, even in RZ1. In some cases it mandates them. Further, it does not carry over the previous code's restriction on block widths in RZ1, thereby allowing both blocks narrower than 8m (mostly compact blocks) and rear lanes.

Part B – Estate planning in residential zones and CZ5

Element 8: Block layout and orientation

Block compliance

The ACT Government is committed to improving the energy efficiency of homes and by doing so minimise energy consumption and reduce greenhouse gas emissions. Homes that integrate sound environmental design such as proper insulation, northerly orientation and shading of windows and walls in summer, are more likely to achieve this target.

Canberra has hot summers and cool winters. Houses designed with environmental design principals in mind provide comfortable living conditions throughout the year and reduce energy consumption and greenhouse gas emissions. Energy efficient options cost little to implement at the design and construction stage, yet offer significant long-term benefits both to the homeowner and to the environment.

Residential blocks should be oriented and proportioned so that a house can have daytime living areas facing north and sunlit private open space, while limiting the overshadowing of adjoining residential blocks.

Certain combinations of block size, slope and orientation are more likely to achieve solar efficient house design. Accordingly, R41 requires compliance with tables found in the appendix to the code. These tables are based on the principle that solar efficiency decreases as blocks:

- narrow
- tend towards an orientation 45° to the north-south axis
- slope towards the south.

Other factors also influenced the formulation of these tables, in addition to size, shape and orientation. Consideration was given to the likely upper level floor space yield taking account of building envelopes and boundary setbacks. A bias against blocks oriented at 45° to the north-south axis is evident because of the difficulty of properly orienting a house towards the sun, particularly on small blocks.

This provision is intended to have interim effect, as explained in section 2.10 below.

Disclosure of non-complying blocks

R41 requires full compliance with the compliance tables, but has an associated criterion to allow for departures, if justified. This approach contrasts with the approach taken in the Estate Development Code released in 2010 (DV301) which required at least 95% compliance with no prospect of departures (ie. no associated criterion). To balance this additional flexibility R42 requires that any approved, non-complying blocks must be identified in the estate development plan. This will alert prospective purchasers that there may be limitations on the development of non-complying blocks as they are still required to comply fully with the Single Dwelling Housing Development Code.

This provision is intended to have interim effect, as explained in section 2.10 below.

Integrated housing development

The draft Estate Development Code released under DV301 in 2010 recognised two types of land parcels: single dwelling blocks and multi unit blocks. Single dwelling blocks are assessed against the block compliance tables which, as outlined above, place an emphasis on maintaining sunlight access to adjoining blocks. Multi unit housing blocks are assessed against a development intentions plan lodged for approval with an EDP, again with emphasis on solar access to adjoining blocks.

In response to submissions received, and the recommendations of the 2010 Territory Plan Code Review Reference Group, it is proposed to introduce a third category of land parcel to be assessed at EDP stage - "integrated housing development parcel".

Integrated housing development parcel means a parcel of land that is intended to be

- a) subdivided into 2 or more single dwelling blocks, and
- b) used or intended to be used for integrated housing development.

Under element 8 an integrated housing development parcel is subject to the block compliance tables in the same way as a single dwelling block, but the subsequent single dwelling blocks would not necessarily need to comply. In all cases the applicant must demonstrate, through an integrated housing development plan lodged for approval with an EDP, that the resulting houses provide reasonable levels of residential amenity and solar access, comparable with the relevant provisions of the Single Dwelling Housing Development Code.

Essentially the applicant must demonstrate that each dwelling in the parcel has access to sunlit private open space, as required by the Single Dwelling Housing Development Code.

The mandatory components of an approved integrated design will be subsequently uplifted to the relevant suburb precinct code, taking the form of specific and quite detailed building envelope controls, including mandatory boundary or "party" walls. These provisions would be mandatory to ensure a high level of consistency in development within an integrated housing development parcel.

Lease Variation General Code	
	The draft Lease Variation General Code seeks to provide a regulatory framework for the assessment of applications to vary leases. Currently such applications are predominantly considered in the merit track and assessed only against the matters listed in s120 of the P&D Act, as follows 120 Merit track—considerations when deciding development approval In deciding a development application for a development proposal in the merit track, the decision-maker must consider the following: (a) the objectives for the zone in which the development is proposed to take place; (b) the suitability of the land where the development is proposed to take place for a development of the kind proposed; (c) each representation received by the authority in relation to the application that has not been withdrawn; (d) if an entity gave advice on the application in accordance with section 149 (Requirement to give advice in relation to development applications)—the entity's advice; <i>Note</i> Advice on an application is given in accordance with section 149 if the advice is given by an entity not later than 15 working days (or shorter prescribed period) after the day the application is given to the entity. If the entity gives no response, the entity is taken to have given advice that supported the application (see s 150). (e) if the proposed development relates to land that is public land—the plan of management for the land; (f) the probable impact of the proposed development, including the nature, extent and significance of probable environmental impacts. The draft code introduces more specific matters for consideration for particular variations including the provision of car parking, traffic generation, waste management and disposal, and noise generation. It also provides rules by which the following lease variations can be assessed under the code track • expressing the number of units • removing easements • authorising a secondary residence
Other matters	

Precinct codes	Both the current Multi Unit Housing Development Code and Single Dwelling Housing Development Code make reference at various places to precinct codes. For example, R61 of the Multi Unit Housing Development Code refers to blocks identified in a precinct code as “potentially affected by noise from external sources”. Since the release of DV303 a number of suburban precinct codes have been added to the Territory Plan through DV302 in association with the adoption of the Community Facility Zone Development Code. Other suburban precinct codes will be added to the plan as required. The draft codes under DV306 propose the expanded use of suburban precinct codes through, for example, identifying approved non-complying blocks and building form provisions associated with integrated housing development parcels (see section 2.6 above). Suburban precinct codes are ordinarily added to the Territory Plan through a technical variation associated with lifting the future urban area overlay following approval of the relevant estate development plan. Alternatively a full plan variation may be employed.
Definitions	The draft variation seeks to introduce new definitions arising from the proposed codes, delete redundant definitions and modify some current definitions. Among the new definitions is a definition for <i>datum ground level</i>. <i>Datum ground level</i> means the level of the surface of the ground as defined in a field survey and authorised by a qualified surveyor at the time of operational acceptance for greenfield development or prior to any new earthworks having occurred after that time. This is intended to eventually replace <i>natural ground level</i> throughout the Territory Plan. The new definition establishes a datum at the conclusion of greenfield development in an effort to more accurately reflect the surface condition. This means that the height of building, for example, will henceforth be measured from the surface level immediately following estate development, and will not be affected by subsequent filling or excavation. ACTPLA is currently exploring mechanisms by which datum ground levels can be made publicly available.

B. Summary of key policy changes proposed by DV306 – changes to public consultation version prompted by public submissions – March 2012

Zone objectives	
	To avoid any doubt over the nature of the pattern of subdivision referred to in the proposed residential zone objectives, the word “original” has been added to the relevant objective for each zone. References to numerical building heights have also been removed. The codes provide specific, and in many cases mandatory, limits on building heights. It is not necessary for these controls to be repeated in the zone objectives. The key draft zone objectives, as recommended, are: <i>RZ1 – suburban zone</i> <i>a) Provide for the establishment and maintenance of residential areas where the housing is low rise and predominantly single dwelling and low density in character</i> <i>b) Protect the character of established single dwelling housing areas by limiting the extent of change that can occur particularly with regard to the original pattern of subdivision and the density of dwellings.</i> <i>RZ2 – suburban core zone</i> <i>a) Provide for the establishment and maintenance of residential areas where the housing is low rise and contains a mix of single dwelling and multi unit development that is low to medium density in character particularly in areas close to facilities and services in commercial centres</i> <i>b) Provide opportunities for redevelopment by enabling a limited extent of change with regard to the original pattern of subdivision and the density of dwellings.</i> <i>RZ3 – low medium density residential zone</i> <i>a) Provide for the establishment and maintenance of residential areas where the housing is low rise and predominantly medium density in</i>

character and particularly in areas that have good access to facilities and services and/ or frequent public transport services

b) Provide opportunities for redevelopment by enabling changes to the original pattern of subdivision and the density of dwellings.

RZ4 – medium density residential zone

a) Provide for the establishment and maintenance of residential areas where the housing is medium rise and predominantly medium density in character and particularly in areas that have good access to facilities and services and/ or frequent public transport services

b) Provide opportunities for redevelopment by enabling changes to the original pattern of subdivision and the density of dwellings.

RZ5 – high density residential zone

a) Provide for the establishment and maintenance of residential areas where the housing is generally high density in character particularly in areas that have good access to facilities and services and/ or frequent public transport services

b) Provide opportunities for redevelopment by enabling changes to the original pattern of subdivision and the density of dwellings.

The inclusion of “original” in relation to subdivision pattern will assist in the determination of “desired character”, a term used in many criteria in the proposed residential codes.

The definition found in the exhibited draft is:

desired character means the form of development in terms of siting, building bulk and scale, and the nature of the resulting *streetscape* that is consistent with the relevant zone objectives.

In response to a number of submissions, particularly those arguing for the recognition of neighbourhood plans in the Territory Plan, an amended definition is proposed which opens the way for statements of desired character to be applied to specified parts of the city. The amended definition is:

desired character means the form of development in terms of siting, building bulk and scale, and the nature of the resulting *streetscape* that is consistent with the relevant zone objectives and any statement of desired character in a relevant precinct code.

The amended definition anticipates the inclusion of statements of desired character in precinct codes. These could draw on similar statements in neighbourhood plans or arise from the preparation of suburban precinct codes.

The assessment of a proposal against the “desired character” is a requirement of many criteria found in the proposed residential development codes and, to a lesser extent, in the proposed Estate Development Code. Such an assessment is made by ESDD most often when a proponent seeks a departure from the associated rule. The onus is always on the application to justify such a departure, to the satisfaction of ESDD.

Development tables

Development in the code track

A development proposal listed in the code track for a particular zone must be approved if it complies with all relevant rules in the respective code. The exhibited development tables for the five residential zones proposed the inclusion of the following in the code track:

varying a lease to do one or more of the following:

1. express the number of units
2. remove easements
3. authorise a secondary residence

In response to submissions the final version removes reference to lease variations for the purpose of authorising a secondary residence, and restricts lease variations to express the number of dwelling units to circumstances where the units involved are either approved or erected.

The following item has also been added to the code track:

Development specified as additional code track development in a suburb precinct code for land shown on the relevant suburb precinct map.

This allows for precinct codes to list development that could be approved under the code track, subject to it complying with all rules specified in the precinct code and any other relevant code. Development proposed to be listed as code track assessable in a precinct code would be the subject of community consultation.

Development in the impact track

The item allowing otherwise prohibited development that is permitted by the National Capital Plan (NCP) to be assessed under impact track has been deleted. If retained this provision could potentially be used to argue for a wide range of uses in residential zones, albeit only after the lodgement of an environmental impact statement. For example, shops are permissible in urban areas under the NCP, but are not permitted in residential zones under the Territory Plan.

Site specific additional merit track development and additional prohibitions

Provisions currently found in the development tables that add certain developments on specified sites to the merit track or impact track have been moved to the respective suburb precinct code. It is intended that these changes will be implemented primarily through a technical variation to the Territory Plan before the commencement of V306, if approved.

Ancillary and minor use

In response to the recommendations of the Legislative Assembly's Standing Committee on Planning, Public Works and Territory and Municipal Services on DV302 (community facilities zone review) the following note has been added to each residential zone development table.

NOTE ABOUT ANCILLARY AND MINOR USE

Some development that would otherwise be prohibited may be assessed under the merit track if they can be defined as *ancillary* or *minor use*. For example, a *car park* alone is prohibited, but could be considered if it is ancillary to a *child care centre* which is an assessable development under the merit track.

Minor editorial changes

Minor editorial changes have been made to the development tables.

Residential Zones Development Code

Subdivision and consolidation

The provisions about subdivision and consolidation of all residential blocks in element 10 have been clarified and consolidated into R38.

Secondary residences

The addition of a *secondary residence* to a single dwelling house creates multi unit housing. It is not appropriate, however, for such development to fall under the Multi Unit Housing Development Code. Instead it should be regulated by the relevant section of the Residential Zones Development Code and element 1 of the Single Dwelling Housing Development Code. A note to element 5 of the Residential Zones Development Code specifies the primacy of element 5 over element 1 of the Single Dwelling Housing Development Code should an inconsistency arise.

A new provision has been inserted to ensure the external walls of two residences on a residential block are separated by at least 1m. For walls with unscreened elements (such as windows), the minimum separation is 3m.

Home business

The Home Business General Code regulates home business. It is therefore not necessary to duplicate these provisions in the Residential Zones Development Code. These provisions have been omitted and a cross reference to the general code inserted.

Matters for consideration

A new provision has been inserted to provide a framework for the assessment of development that is not otherwise referred to in the draft code.

Minor editorial changes

Minor editorial changes have been made to the draft code.

Single Dwelling Housing Development Code	
	<i>Northern boundary of adjoining residential blocks with battle axe handles</i> R7 has been modified to ensure that the sun angle building envelope does not apply to the battle axe handle of an adjoining residential block. There is no need to protect a battle axe handle from overshadowing. The default building envelopes applies in this case. <i>Table 1 Apparent sun angle at noon on the winter solstice</i> The apparent sun angles contained in the relevant table have been revised in response to submissions. The changes are minor, but more accurately represent the sun angle in Canberra at noon on the winter solstice. <i>Front boundary setbacks</i> C11 (formerly C13) has been revised to enable a proposed encroachment into the front boundary setback to be assessed on the basis of the efficient use of the site. <i>Figure 2 – Typical building envelope – mid sized blocks approved before (commencement date) – except in Molonglo Valley</i> Additional notes have been added to figure 2 in response to submissions. One explains that the 2m dimension for the building envelope applies to the northern boundary of the adjoining residential block. The other refers to permissible encroachments under R9. <i>Setbacks</i> Flexibility has been introduced to the setback location of external walls where it is permitted within 900mm of a boundary. In response to submissions, a wall up to 180mm from the boundary is deemed to be “on the boundary”. (R13 - formerly R15). <i>Garage walls on or near side and rear boundaries – large blocks</i> A criterion has been included to allow the consideration of garage walls longer than 8m on the boundary, as provided by R14 (formerly R16). <i>Side boundary setbacks – mid sized blocks</i> Tables 6A, 6B and 6C have been altered to associate the northern boundary of the adjoining residential block with side boundary 2 rather than side boundary 1 as in the exhibited code. These changes are consistent with the provisions of the current code. <i>Figure 2 – nominated side boundaries for mid sized blocks approved after 2 October 2009 and before the future commencement date of this code.</i> Figure 2 has been deleted because the definitions of <i>northern boundary</i> and <i>residential block</i>, and their use in tables 6A, 6B and 6C are sufficient to identify the appropriate boundary. <i>Allowable encroachments – setback and building envelope</i> Rule 18 of the exhibited draft, which covered the encroachments into both boundary setbacks and outside of the building envelope, has been split into two. Provisions applying to encroachments to boundary setbacks are now separate to provisions relating to encroachments to building

	envelopes. <i>On block car parking</i> R32 (formerly R33) has been amended to allow for uncovered car parking spaces forwards of the <i>front building line</i> but only on the driveway. This reflects the provisions of the current code. <i>Solar access</i> The requirement for dwellings to receive a minimum of 3 hours sunlight between the hours of 9am and 3pm on the winter solstice has been reinstated. <i>Private open space</i> The provisions for private open space for compact blocks have been simplified. Not less than 20% of the block area is required for private open space, half of which must be for planting. The provision requiring a certain area of principle private open space (R40) is retained. This will ensure that the private open space for a compact block will have a minimum dimension according to the number of bedrooms in the dwelling proposed. <i>Heritage</i> R43 better reflects the statutory provisions surrounding referrals of certain applications to the Heritage Council and the use by the determining authority of any advice received. The rule is simply that a referral be made. The wording of this rule has been endorsed by the Heritage Unit. <i>Tree protection</i> R44 better reflects the statutory provisions surrounding referrals of certain applications involving protected trees or declared sites to the Conservator of Flora and Fauna and the use by the determining authority of any advice received. The wording of this rule has been endorsed by the Conservator of Flora and Fauna. <i>Minor editorial changes</i> Minor editorial changes, which included revisions of various tables and figures to correctly identify side boundary 2, have been made to the draft code.
Multi Unit Housing Development Code	
	<i>Introduction - Application</i> The application statement in the introduction now advises that this code does not apply fully to <i>residential care accommodation</i> and to <i>secondary residences</i>. <i>Residential care accommodation</i> is regulated though the Residential Zones Development Code, but calls up certain provisions of the Multi Unit

Housing Development Code.

Secondary residences fall under element 5 of the Residential Zones Development Code and element 1 of the Single Dwelling Housing Development Code.

Additional dwellings on single dwelling blocks in RZ1 zone

R10 has been modified to ensure that the limit of two dwellings on a single dwelling block in RZ1 does not apply to supportive housing.

Northern boundary of adjoining residential blocks with battle axe handles

R26 and R28 have been modified to ensure that the sun angle building envelope does not apply to the battle axe handle of an adjoining residential block. There is no need to protect a battle axe handle from overshadowing. The default building envelopes apply instead.

Table A4 Apparent sun angle at noon on the winter solstice

The apparent sun angles contained in the relevant table have been revised in response to submissions. The changes are minor, but more accurately specify the sun angle in Canberra at noon on the winter solstice.

Table A8 Minimum number of dwellings designed to meet standards for adaptable housing

There have been minor adjustments to the ranges of dwelling numbers in table A8 to more accurately reflect the application of existing provisions.

Solar access provisions

The requirement for dwellings to receive a minimum of 3 hours sunlight between the hours of 9am and 3pm on the winter solstice has been reintroduced. This applies to all multi unit dwellings with the exemption of apartment developments where at least 70% of units are required to comply.

Separation between external walls

The reference to a nil separation of external walls in R63 (formerly R58) has been deleted to reflect the fact that dwellings on the same block should either be attached (with no separation, as part of the same building) or separated by at least 1m.

Balustrades

In response to submissions R64 (formerly R59) has been revised to clarify that transparent glass is considered an opening in the balustrade. A definition of "obscure glass" has also been added.

Heritage

R90 (formerly R83) better reflects the statutory provisions surrounding referrals of certain applications to the Heritage Council and the use by the determining authority of any advice received. The rule is simply that a referral be made.

The wording of this rule has been endorsed by the Heritage Unit.

	<i>Tree protection</i> Rule 91 (formerly R84) better reflects the statutory provisions surrounding referrals of certain applications involving protected trees or declared sites to the Conservator of Flora and Fauna and the use by the determining authority of any advice received. The wording of this rule has been endorsed by the Conservator of Flora and Fauna. <i>Minor editorial changes</i> Minor editorial changes, which include the rearrangement of various provisions, have been made to the draft code.
Estate Development Code	
	<i>Shared path design</i> Specific widths of shared paths at particular locations listed in R10 have been removed because dimensions of paths will be determined by TAMS. <i>Sediment and erosion control</i> R34 (formerly R115) requires development in estates greater than 3000m² to comply with an environmental assessment report endorsed by the Environment Protection Authority (EPA). <i>Tree protection</i> R37 (formerly R112) better reflects the statutory provisions surrounding referrals of certain applications involving protected trees or declared sites to the Conservator of Flora and Fauna and the use by the determining authority of any advice received. The wording of this rule has been endorsed by the Conservator of Flora and Fauna. <i>Heritage</i> R38 and R39 (formerly R113 and R114) better reflect the statutory provisions surrounding referrals of certain applications to the Heritage Council and the use by the determining authority of any advice received. The wording of this rule has been endorsed by the Heritage Unit. <i>Contamination</i> R40 (formerly R116) better reflects the statutory provisions surrounding referrals of certain applications to the EPA and the use by the determining authority of any advice received. The rule requires the compliance of development with an environmental assessment report endorsed by the EPA. The wording of this rule has been endorsed by the EPA.

Block size slope and orientation

The reference in C48 (formerly C43) to a provision in the Multi Unit Housing Development code relating to building design has been replaced with two, more specific sub-elements that require consideration of the separation between two buildings on the same or adjoining blocks.

Block compliance

A notional “test block” has been defined for the purpose of testing proposed blocks in an estate development plan against the compliance tables referred to in R46 (formerly R41) and appendix A. It is defined as follows in appendix A.

For this appendix a *test block* means a rectangular block that fits entirely within the boundaries of a proposed block of the same type, as shown in table A1. See also figure A2.

Table A1 – minimum dimensions of test block

block type	compact block	mid size block	large block
minimum dimensions of test block	width: 6m depth: 17m	width: 10m depth: 25m	width: 14m depth: 28m

The application of this approach means that, irrespective of its shape and orientation, a proposed block will comply if a complying “test block” of the same type fits entirely within its boundaries.

Minor editorial changes

Minor editorial changes have been made to the draft code.

Entity comments

The specifications in various tables in part D of the Estate Development Code have been revised on advice from the Territory and Municipal Services Directorate.

Lease Variation General Code

Minor editorial changes

Minor editorial changes have been made to the draft code.

Definitions

The definitions proposed to be amended have been omitted from the document. It is proposed to make these changes by way of a separate technical amendment.

The proposed definitions of *datum ground level* and *supportive housing* have been omitted because comparable definitions have been added to the Territory Plan since the public consultation period on DV306.

Changes to specific definitions are proposed, as follows:

Desired character

The definition of desired character has been revised to include 'any statement of desired character in a relevant precinct code.' The reasons for this change were discussed above .

Residential block

Land that is intended to remain as either unleased Territory land or public open space have been specifically excluded from this definition.

Minor editorial changes

Minor editorial changes to improve clarity and reflect recent changes to definitions in the Territory Plan have been made to the draft code.



Development applications - a quick guide

Understanding development applications

What is a development application?

If you are building or undertaking some types of renovation you may need to submit a development application (DA) to the ACT Planning and Land Authority (ACTPLA) for approval.

Often people are assisted in this process by industry professionals such as architects, draftspeople and building certifiers.

Development applications are lodged online using eDevelopment.

What developments require approval?

Not all developments need to be approved. Houses, extensions and alterations, and many smaller projects like pergolas, carports and fences are exempt as long as they meet certain requirements.

How do I work out what I can do on my land?

All land in the ACT is zoned for different uses. To find out about how your land is zoned you can go to ACTmap on the website. For information on which track to lodge your DA in click here.

Design and siting requirements for residences in the ACT are outlined in the Territory Plan's residential codes.

Note: applications for developments on unleased land (nature strips or verges in front of property) are managed by the Parks, Community and Land Volunteers. Contact Canberra Connect on **phone: 132281** for more information.

How are DAs assessed?

Before DAs are assessed they undergo a completeness check. ACTPLA staff check whether all the necessary information has been provided in your application. A checklist is at the bottom of all DA forms to help you ensure you give us all the information we need to proceed with lodging and assessing your DA.

When ACTPLA has all the necessary information we advise you of the fee that needs to be paid to lodge your DA. Once lodged, your DA is assessed against the relevant code of the Territory Plan, objectives of the zone the land is in and the suitability of land for the development. ACTPLA also takes into consideration all representations made during notification, advice from other entities like ActewAGL, a plan of management for any public land and the likely impact of the development, including any environmental impact.

Do I need to consult with my neighbours about my DA?

If your development is located in an established area you are strongly encouraged to consult with your neighbours during the design stage to ensure the development proposal considers all of the issues that might arise. Even though neighbour consultation is not statutory it is encouraged and should occur before a DA is lodged with ACTPLA.

Public notification of development applications

Some development applications need to be publically notified by ACTPLA. If your proposal requires minor notification, letters will be sent to the neighbours adjoining your property advising them of your

application. If your proposal requires major notification, letters will be sent to the adjoining neighbours, a sign placed on the site and an advertisement placed in the newspaper.

Notification is carried out by ACTPLA after a development application has been lodged in the merit track or impact track. There is no requirement to publicly notify a code track development application.

What about entity referrals?

For some development applications you will be required to get approvals from other ACT agencies such as ActewAGL and the Department of Territory and Municipal Services (TAMS).

ACTPLA has developed a publication which provides a list of approvals you may need to consider as part of your development application and who provides them.

How long does it take for ACTPLA to decide an application?

Processing time for an application depends on what track it is in and whether or not anyone comments during public notification of the DA.

The statutory timeframe for assessing code track applications is 20 working days.

The timeframe for merit and impact tracks is 30 working days if no representations are received and 45 working days when representations are received.

What happens when a decision is made?

ACTPLA notifies the applicant of its decisions in writing. People who make a representation are also notified of ACTPLA's decision on an application.

For more information please on development applications please call ACTPLA's Customer Service Centre on **phone: (02) 6207 1923** or [email us](#).

Last updated: 13 June 2012