****

*Australian Capital Territory (Planning and Land Management) Act 1988*

Draft Amendment 93

City and Gateway Urban Design Provisions Technical Changes

*July 2019*

**Introduction**

The National Capital Authority (NCA) is established under the *Australian Capital Territory (Planning and Land Management) Act 1988* (the Act). The National Capital Plan (the Plan) came into effect on 21 January 1990. In accordance with the Act, the NCA is required to keep the Plan under constant review and to propose amendments to it where necessary. The object of the Plan is *‘to ensure that Canberra and the Territory are planned and developed in accordance with their national significance’*.

The Plan identifies matters of national significance in the planning and development of Canberra and the Territory. These are:

* The pre-eminence of the role of Canberra and the Territory as the centre of National Capital functions, and as the symbol of Australian national life and values.
* Conservation and enhancement of the landscape features which give the National Capital its character and setting, and which contribute to the integration of natural and urban environments.
* Respect for the key elements of the Griffins’ formally adopted plan for Canberra.
* Creation, conservation and enhancement of fitting sites, approaches and backdrops for national institutions and ceremonies as well as National Capital uses.
* The development of a city which both respects environmental values and reflects national concerns with the sustainability of Australia’s urban areas.

Within the framework of this legislative object or goal, key objectives of the Plan are to:

* Recognise the pre-eminence of the role of Canberra and the Territory as Australia’s National Capital.
* Further develop and enhance a Central National Area which includes the National Triangle and its setting, Lake Burley Griffin and it foreshores and the diplomatic sites and national institutions, as the heart of the National Capital.
* Emphasise the national significance of the main avenues and approach routes.
* Respect the geometry and intent of the Griffins’ formally adopted plan for Canberra.
* Maintain and enhance the landscape character of Canberra and the Territory as the setting for the National Capital.
* Protect the undeveloped hill tops and the open spaces which divide and give form to Canberra’s urban area.
* Provide a plan offering flexibility and choice to enable the Territory government properly to fulfil its functions.
* Support and promote environmentally responsible urban development practices.

The purpose of Draft Amendment 93: City and Gateway Urban Design Provisions Technical Changes (DA93) is to:

1. introduce transitional provisions to address development applications submitted to the Territory planning authority prior to the commencement of Amendment 91 to the Plan
2. clarify the term ‘building length’ as it relates to building separation requirements
3. clarify design provisions concerning balconies and balustrades.

DA93 to the Plan (set out in Part 2: National Capital Plan Draft Amendment 93: City and Gateway Urban Design Provisions Technical Changes) has been prepared in accordance with section 23 of the Act.

# Part 1: Context

## Introduction

Amendment 91 to the Plan came into effect on 4 April 2019. The amendment introduced detailed conditions of planning and design for sites flanking the Federal Highway and Northbourne Avenue. The amendment was the outcome of the two year long ‘City and Gateway urban design’ joint project between the NCA and the ACT Government. The City and Gateway project resulted in a planning and design framework to guide urban development in the city centre and along the gateway corridor for the next 25 – 30 years. The outcome provides for greater density, higher quality and more sustainable living and working environments within a landscape setting, appropriate to the National Capital.

The NCA has monitored actions since the finalisation of Amendment 91 so as to understand if implementation of the amendment has enabled the intended development outcomes and to identify any unintended consequences.

The NCA has identified a handful of issues requiring immediate attention, including transitional arrangements for development applications, and uncertainty regarding the application of building length provisions and design requirements for balconies and balustrades. These matters are discussed in section 1.2 below, together with the proposed changes to the Plan to address them.

The NCA will continue to monitor outcomes along the city and gateway corridor to ensure that the planning and design provisions are producing the high quality design outcomes expected for this key approach route to the National Capital. DA93 does not preclude further amendment to the relevant planning and design provisions at a later date.

* 1. **Explanatory statement**

Detailed conditions of planning, design and development for the city and gateway corridor are set out in section 4.28 of the Plan. These conditions address such matters as building heights and setbacks, building design and architecture (such as design quality, façade and roof design), street address, landscape character, access and parking.

To address the matters identified through the monitoring of Amendment 91, the following changes are proposed to section 4.28 of the Plan:

***Transitional arrangements for development applications***

Approval of development applications along the corridor is the responsibility of the ACT Government. The timing and passage of Amendment 91 was intended to ensure that all applications subject to the provisions of the amendment were determined prior to its commencement.

DA93 proposes to introduce the following clause to clarify that development applications submitted to the Territory planning authority prior to the commencement of section 4.8 of the Plan (introduced through Amendment 91) are not subject to the provisions of that amendment:

*Development applications submitted to the Territory planning authority prior to 4 April 2019 are not subject to the provisions of section 4.28 of the National Capital Plan. Development applications lodged prior to this date are subject to the provisions of the National Capital Plan and the Territory Plan as in force at the time of the application being made.*

***Building length provisions***

Amendment 91 introduced a requirement that buildings are limited to a maximum of 55 metres. This limitation is intended to improve pedestrian permeability, allow views through sites, and encourage a finer grain of built form along the city and gateway corridor. Some flexibility is permitted where strong design justification is provided, such as the provisions of continuous, active street frontages.

Some uncertainty has arisen regarding the application of the maximum permitted building length in circumstances where a building consists of multiple elements above ground level that are connected by subterranean building elements such as a basement.

DA93 proposes to clarify building length provisions to ensure consistency in interpretation and that intended design outcomes are achieved, by amending the relevant section as follows:

*Long buildings that limit permeability, block views, and disrupt a pedestrian-scaled neighbourhood system should be avoided.*

*Buildings are limited to a maximum length of 55 metres. For the purpose of this clause, ‘building’ refers to an element or elements of a building above datum ground level. The application of the maximum length does not apply to basements.*

*Longer buildings may be permitted at lower building levels where strong design justifications is provided, such as provision of continuous, active street frontages. Where this is the case, pedestrian mid-block links between 5 and 10 metres wide must be provided at least once every 55 metres through the built form. Longer buildings may also be permitted at the intersection of Northbourne Avenue with Macarthur/Wakefield Avenues, where the buildings run perpendicular to the Northbourne Avenue.*

***Balcony and balustrade design provisions***

Amendment 91 introduced design provisions regarding balconies and balustrades, including the heights at which particular styles of balustrade are permitted (for example, the provisions require solid balustrades to 12 metres above ground floor level). A minor drafting error has resulted in uncertainty concerning the application of these provisions. DA93 proposes to clarify the intent of the design requirements for balconies and balustrades by amending the relevant provision to read:

*Balconies must be designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Balconies must be designed in accordance with the following:*

* *Balustrades to balconies up to 12 metres above datum ground ~~floor~~ level must be solid.*
* *Full width and full height glass balustrades are not permitted below 20 metres above datum ground level.*
* *~~Balustrades 12- 20 metres above ground floor level must be solid.~~ Between 12-20 metres above datum ground level, balustrades must be solid for a minimum of 50 per cent of the balustrade height, commencing at the level of the balcony. Glass elements may be used above the solid component of the balustrade.*

This change will clarify the heights at which particular forms of balustrade may be constructed, and provides a common point of measurement for these heights.

* 1. **Draft Amendment process**

The process for making an amendment to the Plan is outlined in Figure 1.

Figure 1: Outline of the National Capital Plan draft amendment process

|  |
| --- |
| **WHAT HAS BEEN DONE** |
| Proposal by the NCA of a Draft Amendment to the Plan |
| **CURRENT STATUS** |
| Public consultation on a Draft Amendment |
| **WHAT IS NEXT** |
| Submission to Minister |
| Action by Minister |
| Parliamentary scrutiny |
| Expiration of disallowance period |

* 1. **Public consultation**

The NCA welcomes written comments on DA93 from interested parties as part of the consultation process. All responses received will be considered before DA93 is submitted to the Assistant Minister for Regional Development and Territories in accordance with the provisions of the Act.

Hard copies of DA93 are available on request by contacting:

National Capital Authority
Ground Floor, Treasury Building
King Edward Terrace
PARKES ACT 2600

02 6271 2888

Between 9am and 5pm Monday to Friday

draft.amendment@nca.gov.au

Interested parties may request to meet with NCA officers to discuss DA93. Requests can be made via email draft.amendment@nca.gov.au.

**Submissions**

Submissions to DA93 can be:

* emailed to draft.amendment@nca.gov.au
* mailed to Chief Planner, National Capital Authority, GPO Box 373, Canberra, ACT 2601
* delivered to National Capital Authority, Ground Floor Treasury Building, King Edward Terrace, Parkes ACT 2600.

**Submissions are invited until close of business on 4 September 2019**.

Further information on DA93 is available by telephone on 02 6271 2888 or email draft.amendment@nca.gov.au.

**Permission to disclose name and address**

The NCA seeks an open and transparent draft amendment process. Following public consultation on the draft amendment, the NCA will prepare a Consultation Report which will be published on the NCA website. This report will include a summary of each submission. The NCA intends to publish the name of each person making the submission, but will not publish contact details (such as physical address, email or phone number).

If you have a concern about having your name published on the internet or wish to make a confidential submission, you must make this clear when submitting your comments. Say why you want your submission to be kept confidential.

The NCA will consider requests for confidentiality, but cannot make promises in advance. If you have concerns about confidentiality, please contact the NCA to discuss before making a submission.

# Part 2: National Capital Plan Amendment 93 – City and Gateway Urban Design Provisions Technical Changes

The National Capital Plan is amended by the following:

## Section 4.28 City and Gateway Corridor

1. Following the section titled ‘Land use’, insert the following section:

### Transitional arrangements for development applications

Development applications submitted to the Territory planning authority prior to 4 April 2019 are not subject to the provisions of section 4.28 of the National Capital Plan. Development applications lodged prior to this date are subject to the provisions of the National Capital Plan and the Territory Plan as in force at the time of the application being made*.*

1. Delete the fifth paragraph under the section titled ‘Building design and architecture; Private open space’ and replace with:

Balconies must be designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Balconies must be designed in accordance with the following:

* Balustrades to balconies up to 12 metres above datum ground level must be solid.
* Full width and full height glass balustrades are not permitted below 20 metres above datum ground level.
* Between 12-20 metres above datum ground level, balustrades must be solid for a minimum of 50 per cent of the balustrade height, commencing at the level of the balcony. Glass elements may be used above the solid component of the balustrade.
1. Delete the section titled ‘Length of buildings’ and replace with:

Long buildings that limit permeability, block views, and disrupt a pedestrian-scaled neighbourhood system should be avoided.

Buildings are limited to a maximum length of 55 metres. For the purpose of this clause, ‘building’ refers to an element or elements of a building above datum ground level. The application of the maximum length does not apply to basements.

Longer buildings may be permitted at lower building levels where strong design justifications is provided, such as provision of continuous, active street frontages. Where this is the case, pedestrian mid-block links between 5 and 10 metres wide must be provided at least once every 55 metres through the built form. Longer buildings may also be permitted at the intersection of Northbourne Avenue with Macarthur/Wakefield Avenues, where the buildings run perpendicular to the Northbourne Avenue.