

Draft Variation to the Territory Plan 354

Comment from Prof. Ian Falconer, Water Quality Consultant.

Water saving urban design is a positive benefit to the society through conserving water, and improving the quality of stormwater runoff. The ACT has extensive design regulations on developers to enhance water saving urban design. Draft variation 354 provides, to quote, 'A key feature of DV354 is the flexibility offered to developers to meet these important targets'.

Hence the flexibility requires attention, as the current guidelines are apparently not necessarily strictly observed at present and increasing flexibility will obviously allow less adherence to the present guidelines.

In particular the clause 3.2.5 'Offsetting WSUD requirements' is set up to allow developers to avoid 'on-site WSUD solutions'.

The alternative options to avoid WSUD guidelines for their developments are

'A contribution is paid and used to implement regional WSUD solutions'

Or

'a mechanisms whereby the developer can offset an equivalent volume of stormwater (for stormwater quantity management) or 'equivalent load of pollutants at an off-site location'

However 'No WSUD offset scheme is currently available in the ACT'

'in the interim the ACT Government must be consulted about any offset scheme proposal'

Offsets of any type are notoriously difficult to set up and to achieve actual results. NSW now has a land offset scheme that allows developers to pay a fee to the Government in lieu of an offset, and this new ACT proposal appears similar. Unless the utmost rigor is employed to implement a WSUD offset, the outcome is likely to be overall negative. The ACT policy for dealing with infringements in many cases is 'to inform and educate', whereas the application of a substantial fine would be far more effective.

Code Compliance

To quote

Note: Compliance with this rule is demonstrated through a report from a suitably qualified person consistent with the methods specified in the ACT Practice Guidelines for Water Sensitive Urban Design.

This provision, which regulates the compliance with the WSUD Code, allows unspecified employees of developers who can be argued to be (unspecified) 'suitably qualified' to sign off on the development meeting the WSDUD Code.

In other rules it specifies an 'independent suitably qualified person'.

How is suitability described? Appropriate degree? Industry qualification? Consulting practice?

Since the strength of the whole process is only as strong as 'suitability' the definitions need to be described and enforced, and 'suitably qualified persons' authorised by the authority to carry out the work.

There are significant costs associated with employing WSUD into new developments, and there will be an attraction to minimise them, which will make compliance more important to ensure that the Codes are followed.

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