



Comments on Draft Variation to the Territory Plan 354

November 2018

The Conservation Council ACT region is the peak non-government environment organisation for the Canberra Region. We have been the community's voice for the environment in the Canberra region since 1979.

Our mission is to influence government, business and community through effective public policy and engagement to protect nature.

We represent more than 45 member groups who in turn represent over 15,000 supporters. We harness the collective expertise and experience of our member groups and networks. We work collaboratively with Government, business and the community to achieve the highest quality environment for Canberra and its region.

The Conservation Council is active in a number of campaign areas. Our current focus includes:

- **Biodiversity Conservation** – protecting our unique ecological communities and the Bush Capital
- **Climate Change** – a regional, national and global challenge
- **Planning** – the right things in the right places
- **Transport** – connecting people and places
- **Waste** – being efficient through closed-loop systems
- **Water** – smart use of a scarce resource
- **Governance** – for a Smarter, Sustainable Canberra

If you have any queries regarding this submission please contact: Larry O'Loughlin Executive Director on 6229 3202 or director@conservationcouncil.org.au.

1. Overview

The Conservation Council welcomes the opportunity to comment on the Draft Variation to the Territory Plan 354.

The Conservation Council regards water as a major environmental issue and has maintained interest and involvement in the ACT's water activities for some decades.

The Conservation Council Board has a water sub-committee and the Board includes as a member Professor Ian Falconer, Water Quality Consultant.

Conservation Council comments and input over recent years on water and water issues including runoff and the need for water sensitive urban design include the following¹:

- 23 March 2018 – **Comments on Molonglo River Reserve Draft Reserve Management Plan 2018** (*submission*)
- 23 February 2018 – **Comments on ICRC Draft report Regulated water and sewerage services prices 2018–23** (*submission*)
- 3 October 2017 – **Icon Water proposals for water and sewerage tariffs 2018-2023**(*submission*)
- 25 July 2016 – **A 2016 ACT Election Agenda – Our Future, Our Environment** (*policy*)
- 23 March 2016 – **Briefing paper: Suburb concept “Thompson” west Tuggeranong**(*submission*)
- 18 January 2016 – **DA 2015-28681 Watson Section 64, Block 9 Watson Estate Development Plan**
- 26 August 2015 – **Dargues Reef Mine – Modification 3** (*submission*)
- 19 June 2015 – **ACT Budget 2015-16 Weeds Briefing Paper**
- 20 December 2013 – **Managing the Urban Edge Discussion Paper December 2013**
- 30 August 2013 – **Draft Water Strategy** (*submission*)
- 30 September 2012 – **Jerrabomberra Wetlands Draft Master Plan** (*submission*)
- 16 April 2012 – **Murray Darling Basin Draft Plan** (*submission*)
- 9 March 2012 – **Weathering the Change Draft Action Plan#2** (*submission*)

2. Water saving urban design offsets

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’

¹ See <https://conservationcouncil.org.au/publications/submissions/>

Or

'a mechanism 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.

Recommendation 1.
The ACT Government should not allow any offset arrangements for water sensitive urban design until such time as clear and transparent policies and arrangements for offsets have been consulted and established.

Recommendation 2.
There should be consideration to changing the ACT policy for dealing with infringements from 'to inform and educate' to application of a substantial fine.

3. 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.

Recommendation 3.

The definitions of suitably qualified persons need to be described and enforced, and 'suitably qualified persons' should require authorisation 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.

Recommendation 4.

The ACT Government should make further efforts to ensure that there is compliance with codes.