



## Inner South Canberra Community Council

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### **DRAFT VARIATION 369 - LIVING INFRASTRUCTURE IN RESIDENTIAL ZONES**

#### **Summary**

The Inner South Canberra Community Council (ISCCC) welcomes the opportunity to comment on Draft Variation 369 (DV 369) to the Territory Plan.

The ISCCC is pleased that the ACT Government has adopted “Canberra’s Living Infrastructure Plan: Cooling the City” with 15 ‘Actions’ aiming, inter alia, “to conserve and enhance Canberra’s biodiversity and landscape function, quality of life and sustainability...”

The ISCCC believes that DV 369 as it currently stands is a step in the right direction but needs to be redrafted to simplify it and provide a framework for implementing other important actions in the Living Infrastructure Plan. This would help ensure the protection and enhancement of vegetation in existing and newly developing areas.

In summary, the ISCCC:

- Calls for DV369 to be redrafted to simplify it – including by defining the planting area as a percentage of the total block size instead of as a percentage of private open space.
- Calls for DV369 be redrafted to incorporate other requirements referred to in the Living Infrastructure Plan such as landscape plans.
- Supports expansion of the definition of ‘planting area’ to clarify that elements that impact permeability of the ground (i.e. terraces, pergolas, patios or decks) are not considered to be planting area.
- With respect to the space occupied by a new dwelling, supports expansion of the definition of ‘site coverage’ to clarify that elements that impact permeability of the ground (i.e. terraces, pergolas, patios, decks or balconies) are considered to be site coverage.

- Supports the reinforcement of criteria for planting area, site coverage, water infiltration, landscape quality, deep root planting area, and tree canopy, but questions whether mandating a particular number and size of trees on residential blocks will achieve the 30 percent canopy objectives without a clear strategy for ensuring compliance.
- Considers that a possible way of ensuring compliance with the 30 percent planting area may be to require certification at the time of the grant of the certificate of occupancy and perhaps at the time of future resale of the property.
- Calls for reinstatement of the requirement for a Development Application, including consultation with neighbours, in the case of “knockdowns and rebuilds.”
- Proposes amendment of the Estate Development Code to include tree canopy provisions, as it is important that this requirement be embedded at the subdivision stage of new estate development.
- To complement the DV369 requirements, proposes that the ACT Government investigate possible incentives for the planting of living green infrastructure on existing and future buildings, and for the planting of trees on permeable surfaces on private open space generally in the ACT.

## **Background**

The ISCCC endorses the comments made in the various submissions from community groups within the Inner South area, in particular that additional controls by DV 369 to respond to Action 2 of the ACT Government’s Living Infrastructure Plan have increased the volume and complexity of controls in the Residential Codes, rather than rationalising and simplifying them to make them easier to comprehend and apply by applicants, assessors and interested members of the community.

In addition, the ISCCC’s online survey of 555 inner south residents in 2019/20 found that 85 percent want to have a say on what is built next door or nearby, 64 percent would like to have a say about the amount of green space on a neighbouring block, and about 50 percent would like a say on the number of trees on a nearby block. In other words, a far larger percentage want to have a say about the amount of green space but are less prescriptive about the type and number of trees or other vegetation on a block.

The issues they are most interested in being consulted about with respect to neighbouring redevelopments are those that will have an impact on their access to sunlight/natural light (83%), building height (75%), and zoning changes (70%). This means that good landscaping plans will be needed to ensure that vegetation such as trees are placed on blocks in such a way that they do not reduce access to sunlight/natural light, especially in winter, to both the dwelling being constructed and neighbouring properties. However, we note that:

- While Action 5 of the Living Infrastructure Plan calls for a Climate-wise Landscape Guide for development, DV 369 does not appear to deal with this requirement.
- While Action 6 of the Living Infrastructure Plan requires “multi-dwelling, mixed use and commercial development applications (DA) to have landscape plans that demonstrate how surface treatments and tree canopy targets will be met,” DV 369 is silent on this requirement.

DV 369 aims to ‘respond’ to Action 2 of the Plan: “Achieve 30% tree canopy cover (or equivalent) and 30% permeable surfaces in Canberra’s urban footprint by 2045.”

The targets, and other associated issues, raise several questions of concern to the ISCCC:

1. Action 2 says “some cities around Australia have adopted canopy cover targets, generally in the range of 30-40%.” For example, both Greater Sydney<sup>1</sup> and the City of Melbourne<sup>2</sup> have adopted canopy targets of 40 percent. While we understand the ACT Government has already decided on the 30 percent target, and that achieving that target will be a major challenge (as acknowledged in our point 9 below), we need to ensure the target is reviewed over time in the light of evidence about what canopy cover will be sufficient to address the heat island effect as Canberra faces an ever-increasing number of 40 plus degree days in summer. The Government’s own Living Infrastructure Plan advised that:

“Canberra had only reached 40°C nine times in total in the first 94 years of observations from 1913 to 2006 (and did not reach 40°C at all between 1973 and 1998). In the 12 years from 2007 to February 2019, there have been 16, and the January 2019 heatwave was the first recorded period of more than 4 consecutive days over 40°C.”<sup>3</sup>

2. The canopy cover target can apparently be met by ‘equivalent’ measures, including “green roofs and walls, wetlands and rain gardens, water features and fountains, watered grass, shrub beds, and climbers on structures.” The ISCCC questions whether these devices are truly ‘equivalents’ to tree canopy cover and in any event DV 369 does not appear to deal with these ‘equivalents’.

3. Under Action 2 the Plan states: “where 30% canopy cover cannot be easily achieved through tree and vegetation plantings, alternative locality-specific solutions will be used based on assessment of microclimate and built environment conditions.” DV 369 does not appear to deal with this issue.

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<sup>1</sup> <https://www.greater.sydney/central-city-district-plan/sustainability/city-its-landscape/increasing-urban-tree-canopy-cover-and>

<sup>2</sup> <https://www.melbourne.vic.gov.au/SiteCollectionDocuments/urban-forest-strategy.pdf>

<sup>3</sup> [https://www.environment.act.gov.au/\\_data/assets/pdf\\_file/0005/1413770/Canberras-Living-Infrastructure-Plan.pdf](https://www.environment.act.gov.au/_data/assets/pdf_file/0005/1413770/Canberras-Living-Infrastructure-Plan.pdf), p.12, accessed 6 May 2020

5. Actions 3 & 4 of the Plan call for a Microclimate Assessment Guide and Program for significant developments. DV 369 does not appear to deal with this matter.
6. Action 5 of the Plan calls for a Climate-wise Landscape Guide for development. DV 369 does not appear to deal with this requirement.
7. Action 6 of the Plan requires “multi-dwelling, mixed use and commercial development applications (DA) to have landscape plans that demonstrate how surface treatments and tree canopy targets will be met”. DV 369 is silent on this requirement.
8. Action 15 of the Plan is to “investigate ways to encourage and incentivise living infrastructure on existing and future buildings in Canberra”. This issue of identifying appropriate incentives is relevant to the planting of trees on permeable surfaces across private open space generally. What is the ACT Government doing about this?
9. What steps is the Government taking to meet its share of the target? The ISCCC notes that the Government will need to plant 330,000 trees on public land to meet the target. The ISCCC looks forward to participating in community engagement about development of the Urban Forest Strategy, which we understand will address this issue (Action 9 in the Living Infrastructure Plan). In the absence of firm committed funding and a realistic public plan with provision for regular reviews of progress then the Government will almost certainly fall behind in achieving its share of the target it has set itself, and this will undermine the rationale for DV369 and make it unenforceable.
- [DV369 has been introduced to ensure that private leaseholders assist in increasing Canberra’s tree canopy cover from the existing 21% to 30% by 2045. Canberra’s urban forest is estimated to currently consist of about 1.54m trees. Increasing the canopy cover to the (rather low) target will therefore require the planting and nurture of a further 660,000 trees, about half of which will have to be grown on privately leased land.]
10. It is not clear to the ISCCC that attempts to compel property owners to grow trees is the best or most effective way to encourage increased tree planting in Canberra. More consideration of the basic strategic approach to meeting the tree canopy targets would have been desirable before the development of a plethora of complicated, highly specific, new Rules and Criteria. The ISCCC urges EPSDD management to step back and think more deeply about what it wants to do, and how it wants to achieve its objectives, before requiring staff to prepare regulation that it cannot see any way of enforcing.

11. Even if the approach embodied in DV369 is correct, the ISCCC has some doubts about the applicability of the Variation. This has two limbs, firstly can private leaseholders be compelled to plant particular types of trees, and can leaseholders be compelled to maintain such trees for years until maturity. The ISCCC notes that EPSDD has deferred resolution of this latter issue to the ACT Planning Review, suggesting that it has no idea how the Variation might be enforced.

In relation to the ability to compel the planting of particular trees, some have argued that “Existing Use” rules mean that the new provision cannot be enforced on single dwelling redevelopments on existing blocks. Others have expressed doubts that the Government can specify the type or size of tree to be planted on private blocks. Either of these objections if correct would undermine the effectiveness of the Variation.

In light of these concerns, the ISCCC urges that DV369 be redrafted and simplified to focus on planting areas and site coverage. Any redrafted Variation should only be released after the necessary policy considerations have been fully undertaken, and plausible strategies to overcome obvious difficulties have been developed.

Thank you again for the opportunity to comment on DV369.



Marea Fatseas  
Chairperson, ISCCC  
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