

# ENVIRONMENT, PLANNING AND SUSTAINABLE DEVELOPMENT

## ASSEMBLY BRIEF

### ISSUE: Aerial photo and cadastre of 'standard' and 'non-standard' blocks in an RZ1 zone area

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#### Context

Example of single dwelling blocks (proposed new terminology is 'standard block') and non-single dwelling (non-standard) blocks from the RZ1 zone in the suburb of Hawker.

#### Talking Points

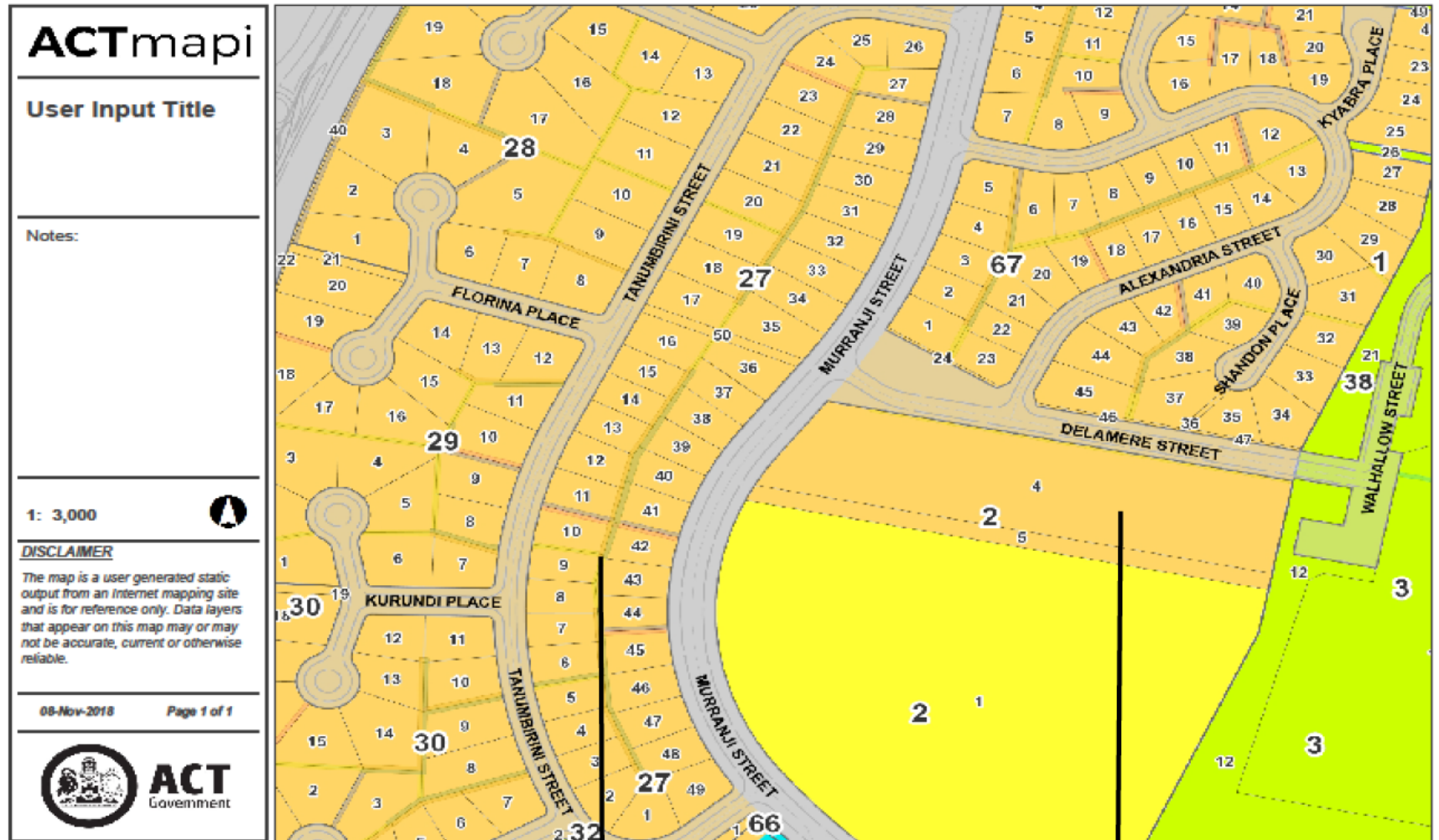
- The RZ1 zone objectives include:
  - Provide for the establishment and maintenance of residential areas where the housing is low rise and predominantly single dwelling and low density in character
  - Protect the character of established single dwelling housing areas by limiting the extent of change that can occur particularly with regard to the original pattern of subdivision and the density of dwellings
  - Provide for a wide range of affordable and sustainable housing choices that meet changing household and community needs
  - Ensure development respects valued features of the neighbourhood and landscape character of the area and does not have unreasonable negative impacts on neighbouring properties

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#### Background

This Territory Plan and aerial snapshot is an example of standard and non-standard blocks in a typical RZ1 zone in the older suburbs of Canberra and clearly differentiates the distinctive housing typologies envisaged for standard and non-standard blocks in these areas.

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Standard blocks (one or two dwellings)

Non-standard block (for multi-unit housing)



Single dwelling housing typology in RZ1 zone

Multi-unit housing typology in the RZ1 zone



Minister for the Environment and Heritage  
Minister for Planning and Land Management  
Minister for Police and Emergency Services  
Minister assisting the Chief Minister on  
Advanced Technology and Space Industries  
Manager of Government Business  
Member for Brindabella

Obj # 18/31329

Ms Caroline Le Couteur MLA  
Chair  
Standing Committee on Planning and Urban Renewal  
Legislative Assembly for the ACT  
London Circuit  
CANBERRA ACT 2602

Dear Ms Le Couteur

I would like to correct an answer that Mr Ben Ponton, Director-General of the Environment, Planning and Sustainable Development Directorate gave to the Committee on 12 December 2018 at the inquiry into *Draft Variation No 350: Changes to the definition of 'single dwelling block'*.

During the hearing Mr Ponton responded to a question regarding a block in Aranda that was purchased prior to Draft Variation No 350 (DV350) having interim effect. The block was noted as having an approved lease variation to allow up to 12 dwellings on the site and it was questioned whether the future development potential of the site was restricted by DV350.

While the block details weren't specifically provided, the Directorate undertook to check on this. I would like to clarify that although the lease applicable to the site permits a maximum of 12 dwellings, the requirements of the Territory Plan (in particular those amended with DV350) will apply to any proposal for development on the site. These provisions would limit the number of dwellings permitted on the site to four (or six if they were all adaptable dwellings), based on the size of the block.

I trust this information is of assistance.

Yours sincerely

Mick Gentleman MLA  
Minister for Planning and Land Management

19/12/18





**ACT**  
Government

Environment, Planning and  
Sustainable Development

## Minister for Planning and Land Management

### Planning and Urban Renewal Committee Hearing

#### Inquiry into Draft Variation No. 350 Changes to the definition of 'single dwelling block'

Wednesday 12 December 2018  
2.00pm to 3.00pm

Inquiry into Draft Variation No. 350 Changes to the definition of 'single dwelling block'	
1.	Opening statement for the Minister to Standing Committee
2.	Overview of proposed definition change and why the change is proposed
3.	Aerial photo and cadastre of 'standard' and 'non-standard' blocks in a RZ1 zone area
4.	Example of development applications that would be impacted by the proposed definition change (refused and approved DAs)
5.	Summary of issues raised in submissions to Standing Committee and responses
6.	Table of comparison - planning controls in MUHDC and RZDC codes for single dwelling (standard) blocks vs non-single dwelling (non-standard) blocks

#### Planning and Urban Renewal Committee

Ms Caroline Le Couteur MLA – Chair

Ms Suzanne Orr MLA – Deputy Chair

Ms Tara Cheyne MLA

Mr James Milligan MLA

Mr Mark Parton MLA

**2018**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**Planning and Urban Renewal Committee Inquiry into  
Draft Variation No. 350 - Changes to the definition of 'single  
dwelling block'**

**OPENING STATEMENT**

**Mick Gentleman MLA  
Minister for Planning and Land Management**

**RETURN TO INDEX**

Thank you for the opportunity to appear before the Committee today to discuss Draft Variation No 350 to amend the definition of single dwelling block.

I have supported DV 350 on the basis that it is responding to inappropriate multi-unit redevelopment occurring on certain blocks in some older Canberra suburbs. These blocks are not covered by the definition of 'single dwelling block' in the Territory Plan as they contained two dwellings (a house and a small flat) when they were originally developed in the late 1960s and early 1970s. As a result, some of the planning restrictions on multi-unit development that apply to neighbouring blocks in the same zone do not apply to multi-unit housing redevelopment on these particular blocks. This has led to development in these areas that is contrary to the existing low density suburban character.

Eight **submissions** were received during public consultation on the draft variation. The comments received included a range of issues, with both support and opposition to aspects of the variation. Particular comments received included:

- concerns that future development opportunities would be restricted on affected blocks;
- the changes would have a significant financial impact on lessees of affected blocks;
- the proposed changes are contrary to the policy shift to increased density in existing suburbs;
- selective planning policy was driven by concerns of individuals or small groups about particular projects in their suburbs;
- there was lack of prior consultation on proposed changes;

- a transitional period for current development projects should be allowed; and
- dual occupancies in new subdivisions will be adversely affected by the new definition.

The concerns raised were carefully considered in the review of DV 350, and responded to in the report on consultation. Changes were made to the proposed definition in the recommended draft variation in response to some of the matters that were raised.

I have in attendance with me, representatives of the Environment, Planning and Sustainable Development Directorate, who will be able to assist with technical input and answer any questions you may have on DV350.

Alongside my colleagues from the Directorate, I would be happy to take any questions that the Committee may have.

# ENVIRONMENT, PLANNING AND SUSTAINABLE DEVELOPMENT

## ASSEMBLY BRIEF

### ISSUE: Overview of proposed definition change and why the change is proposed

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#### Context

Draft Variation to the Territory Plan No 350 (DV350) was prepared in response to inappropriate multi-unit redevelopment occurring on certain blocks in some older Canberra suburbs.

#### Talking Points

- Certain residential blocks in some older Canberra suburbs are not covered by the definition of 'single dwelling block' in the Territory Plan as they contained two dwellings (a house and a small flat) when originally developed in the late 1960s and early 1970s.
- The current definition of 'single dwelling block' is "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."
- As a result, some of the provisions in the Multi-Unit Housing Development Code (MUHDC) in the Territory Plan such as restricting plot ratio, block size requirements, replacement dwellings, number of dwellings in each building, and restrictions on attics and basements do not apply if multi-unit residential redevelopment is proposed on these blocks in the RZ1 suburban and RZ2 suburban core zones.
- This has resulted in development proposals for multi-unit redevelopment on these blocks that are not complementary to the predominantly single dwelling character of the surrounding areas.
- DV350 proposes to address this situation by changing the title of the definition from 'single dwelling block' to 'standard block' and adjusting the wording in the definition to include blocks that were either originally leased or used for the purpose of one dwelling or were originally leased or used for the purpose of two dwellings on or before 18 October 1993<sup>1</sup> or if consolidated, at least one block is covered by either of these circumstances.
- This will capture instances where redevelopment is proposed on those blocks which originally contained the two dwellings as they will be subject to the relevant controls in the MUHDC.
- The proposed name change to 'standard block' is intended to avoid the confusion around the terminology where one or two dwellings can be permitted on a block which is intended for single dwelling housing.
- DV350 was released for public consultation with interim effect. The recommended version of DV350 was revised in response to consultation and has interim effect.
- The changes do not include original non-single dwelling blocks specifically reserved for lawful multi-unit development.

<sup>1</sup>This is the date when the Territory Plan came into effect and new terminology for 'single dwelling housing' was incorporated into lease purpose clauses.

## Background

- The purpose of the residential codes in the Territory Plan is to provide additional planning, design and environmental controls to support the objectives of the relevant residential zone.
  - Residential codes currently make reference to 'single dwelling block/s' which is a defined term in the Territory Plan.
  - These are blocks that were originally used or leased to be used for single dwelling housing, as distinct from blocks that were identified specifically for multi-unit housing.
  - The intent of this policy difference is to apply restrictions to dual occupancy redevelopment of single dwelling housing blocks for elements such as maximum plot ratio, maximum number of dwellings, minimum block size, restrictions on attics and basements.
  - The purpose of these provisions is to ensure that redevelopment of these blocks is limited; distinct from blocks that were specifically intended for the development of multi-unit housing.
  - The intent of DV350 is to prevent further inappropriate multi-unit redevelopment until such time as the Housing Choices project investigating housing options in the residential zones is completed and Territory Plan Variations to accommodate the Housing Choices project are in place.
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# ENVIRONMENT, PLANNING AND SUSTAINABLE DEVELOPMENT

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#### Talking Points

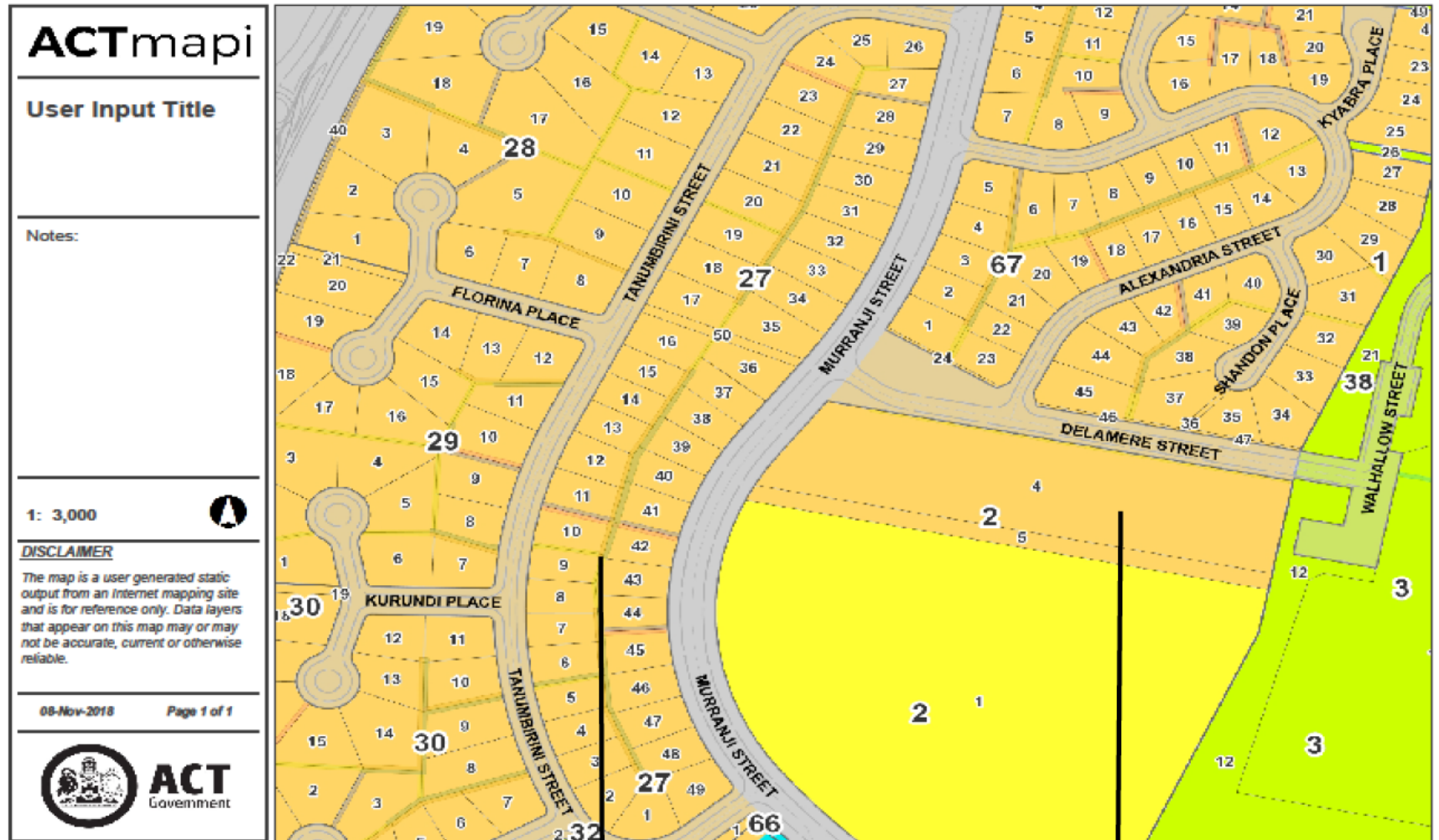
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Standard blocks (one or two dwellings)

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Single dwelling housing typology in RZ1 zone

Multi-unit housing typology in the RZ1 zone

## ENVIRONMENT, PLANNING AND SUSTAINABLE DEVELOPMENT ASSEMBLY BRIEF

### ISSUE: Example of development applications that would be impacted by the proposed definition change (refused and approved DAs)

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#### Context

Examples are provided of DAs that have previously been decided (approved and refused) on blocks which would be subject to DV350. All blocks used in these examples are non-single dwelling blocks based on the interpretation of the lease purpose clause and previous use that would have subsequently been captured by DV350.

#### Talking Points

- The DA for a development proposal of 6 two-storey townhouses on a 979.4m<sup>2</sup> block in the RZ1 zone for Block 42 Section 45 Scullin was refused by the planning and land authority as it was not consistent with the Multi Unit Housing Development Code (MUHDC) or the objectives of the residential RZ1 suburban zone. The decision was upheld by ACAT but was based on non-compliance with the MUHDC and did not take zone objectives into account. The DA was subsequently re-lodged for 5 townhouses and was approved on the basis that it complied with the MUHDC.
- The DA for a development proposal of 8 two-storey townhouses in the residential RZ2 suburban core zone on Blocks 17 and 18 Section 16 Aranda was refused by the planning and land authority. The proposed eight townhouses was assessed as not meeting some of the provisions in the MUHDC and considered to be overdevelopment for the block.
- The DA for a development proposal for a triple occupancy (three 4-bedroom dwellings in a two-storey building) in the RZ2 zone on Block 4 Section 20 Curtin was refused by the planning and land authority. The reasons included inconsistencies with the MUHDC and a substantial increase in the building bulk and scale of the building as viewed from adjoining properties, adversely impacting on these properties as well as reducing the amenity afforded to any future residents of the redevelopment.
- The DA for a development for five 2-storey townhouses in the RZ2 zone on 1075m<sup>2</sup> Block 12 Section 37 Page was approved by the planning and land authority. This development would not have been able to proceed if subject to the provisions in DV350 as it would have been classified as a 'standard block'.

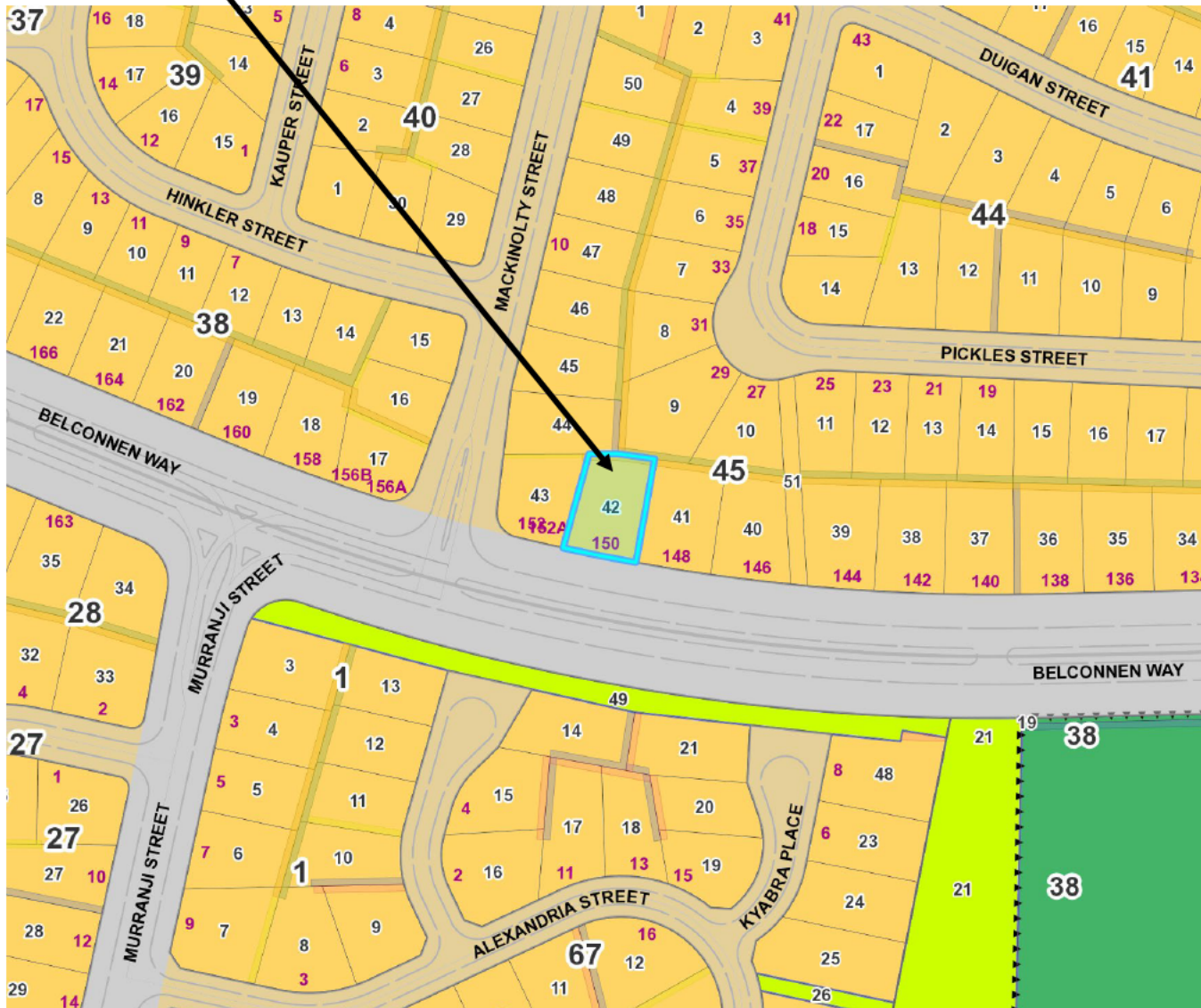
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#### Background

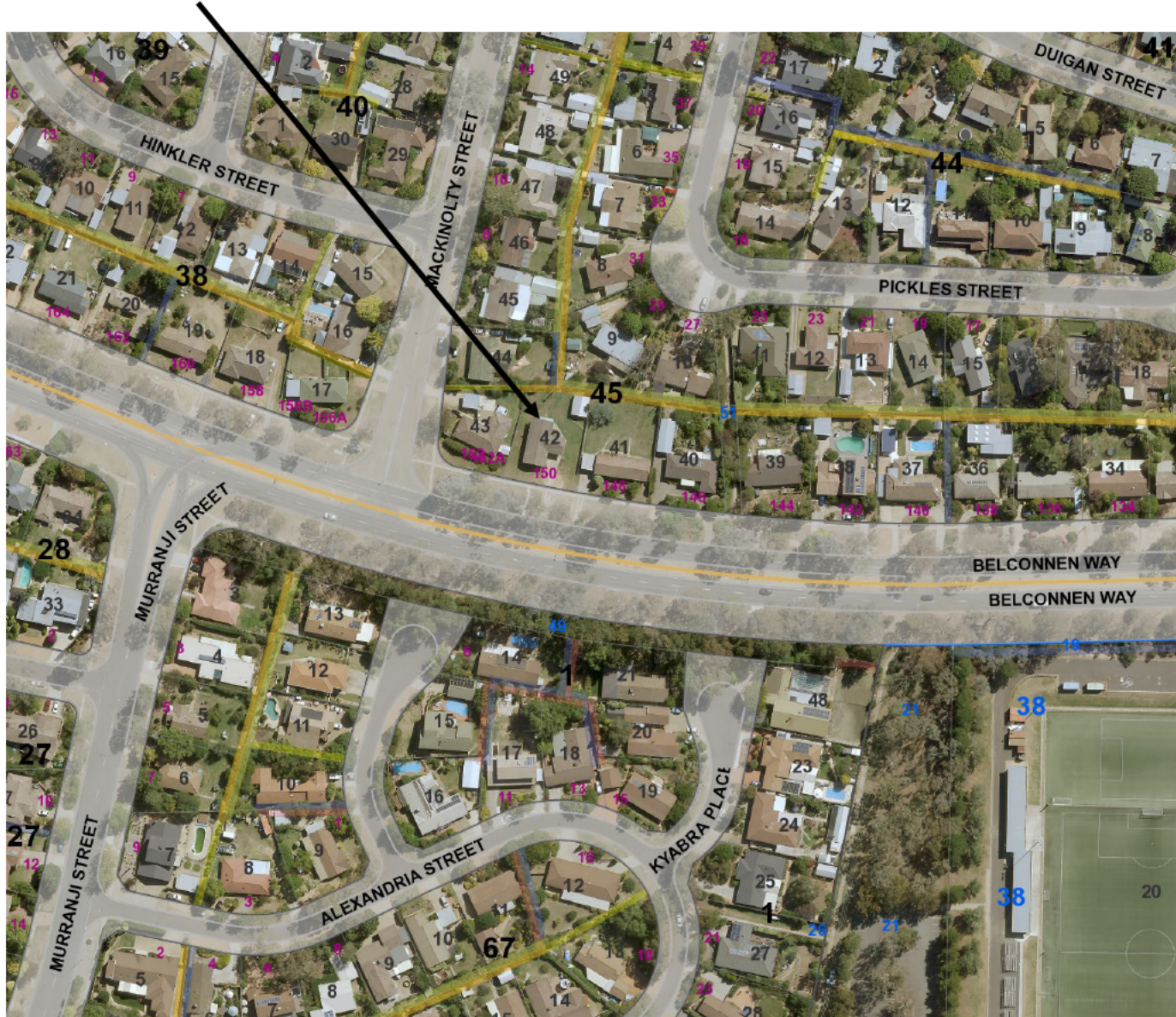
These are examples of DAs for multi-unit redevelopment of some of the blocks now subject to DV350 that are not in keeping with the objectives of the zones. These examples provide a snapshot of the type of unintended development that has occurred prior to DV350 being released with interim effect.

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### BLOCK 42 SECTION 45 SCULLIN (Territory Plan Map – location and zone)

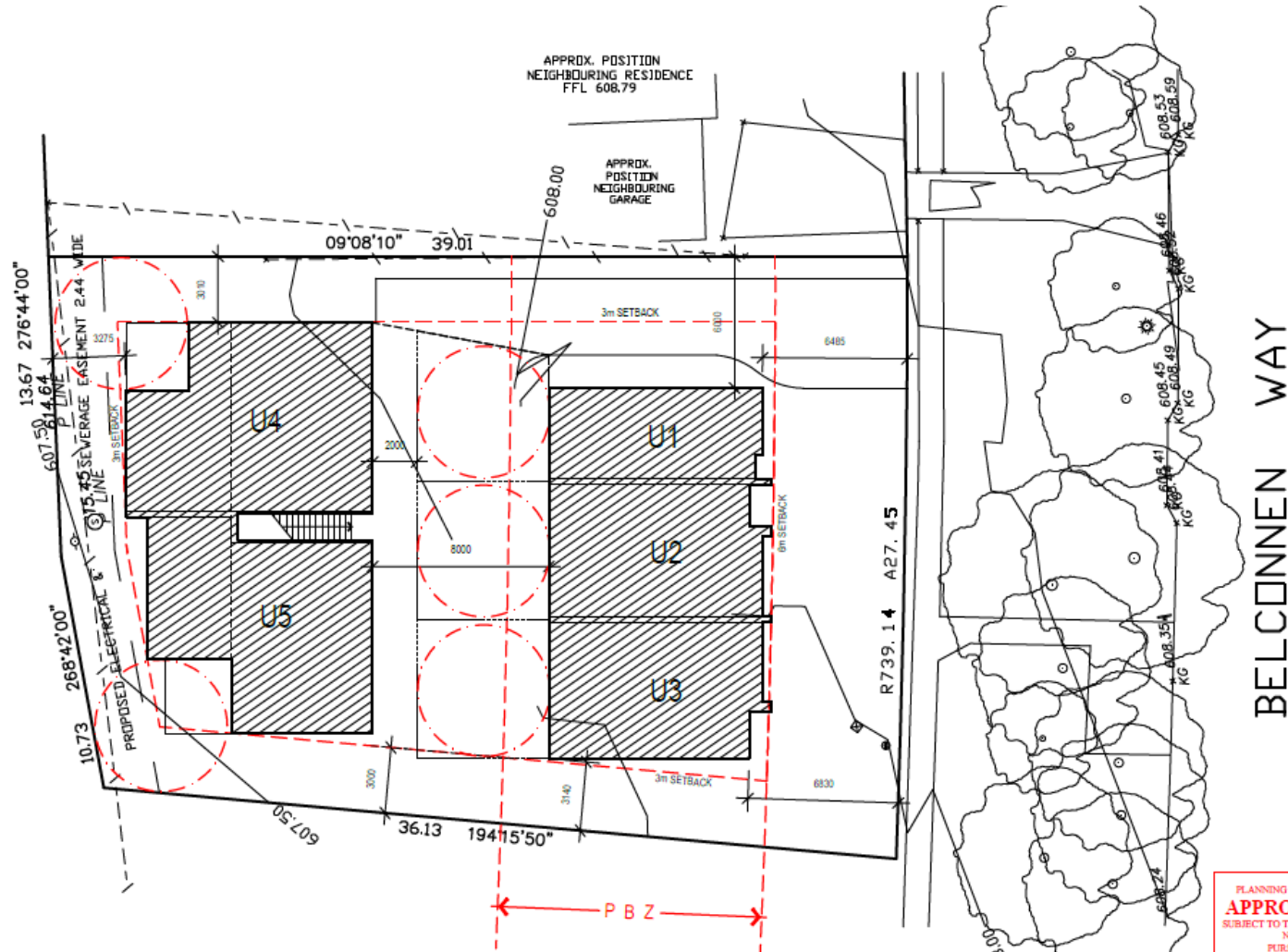


### BLOCK 42 SECTION 45 SCULLIN (aerial photograph)



### BLOCK 42 SECTION 45 SCULLIN (site layout and area schedule)

BLOCK 42 SECTION 45 SCULLIN AREA SCHEDULE:	
BLOCK AREA:	979.4m <sup>2</sup>
TOTAL BASEMENT AREA: (NOT IN GFA)	301.1m <sup>2</sup>
<b>UNIT 1:</b>	
TOTAL GROUND FLOOR GFA:	41.2m <sup>2</sup>
TOTAL UPPER FLOOR GFA:	44.9m <sup>2</sup>
BASEMENT STORAGE:	.5m <sup>2</sup>
BASEMENT GARAGE: (NOT IN GFA)	41.2m <sup>2</sup>
<b>UNIT 2:</b>	
TOTAL GROUND FLOOR GFA:	61.2m <sup>2</sup>
TOTAL UPPER FLOOR GFA:	59.7m <sup>2</sup>
BASEMENT STORAGE:	5.2m <sup>2</sup>
BASEMENT GARAGE: (NOT IN GFA)	65.8m <sup>2</sup>
<b>UNIT 3:</b>	
TOTAL GROUND FLOOR GFA:	61.2m <sup>2</sup>
TOTAL UPPER FLOOR GFA:	59.7m <sup>2</sup>
BASEMENT STORAGE:	5.2m <sup>2</sup>
BASEMENT GARAGE: (NOT IN GFA)	65.8m <sup>2</sup>
<b>UNIT 4:</b>	
TOTAL GROSS FLOOR AREA	88.0m <sup>2</sup>
BASEMENT GARAGE: (NOT IN GFA)	37.7m <sup>2</sup>
<b>UNIT 5:</b>	
TOTAL GROSS FLOOR AREA:	80.0m <sup>2</sup>
BASEMENT CAR SPACE: (NOT IN GFA)	15.4m <sup>2</sup>
<b>TOTALS (EXCLUDING BASEMENT GARAGING):</b>	
UNIT 1:	86.6m <sup>2</sup>
UNIT 2:	126.1m <sup>2</sup>
UNIT 3:	126.1m <sup>2</sup>
UNIT 4:	88.0m <sup>2</sup>
UNIT 5:	80.0m <sup>2</sup>
<b>TOTAL GFA:</b>	<b>506.8m<sup>2</sup></b>

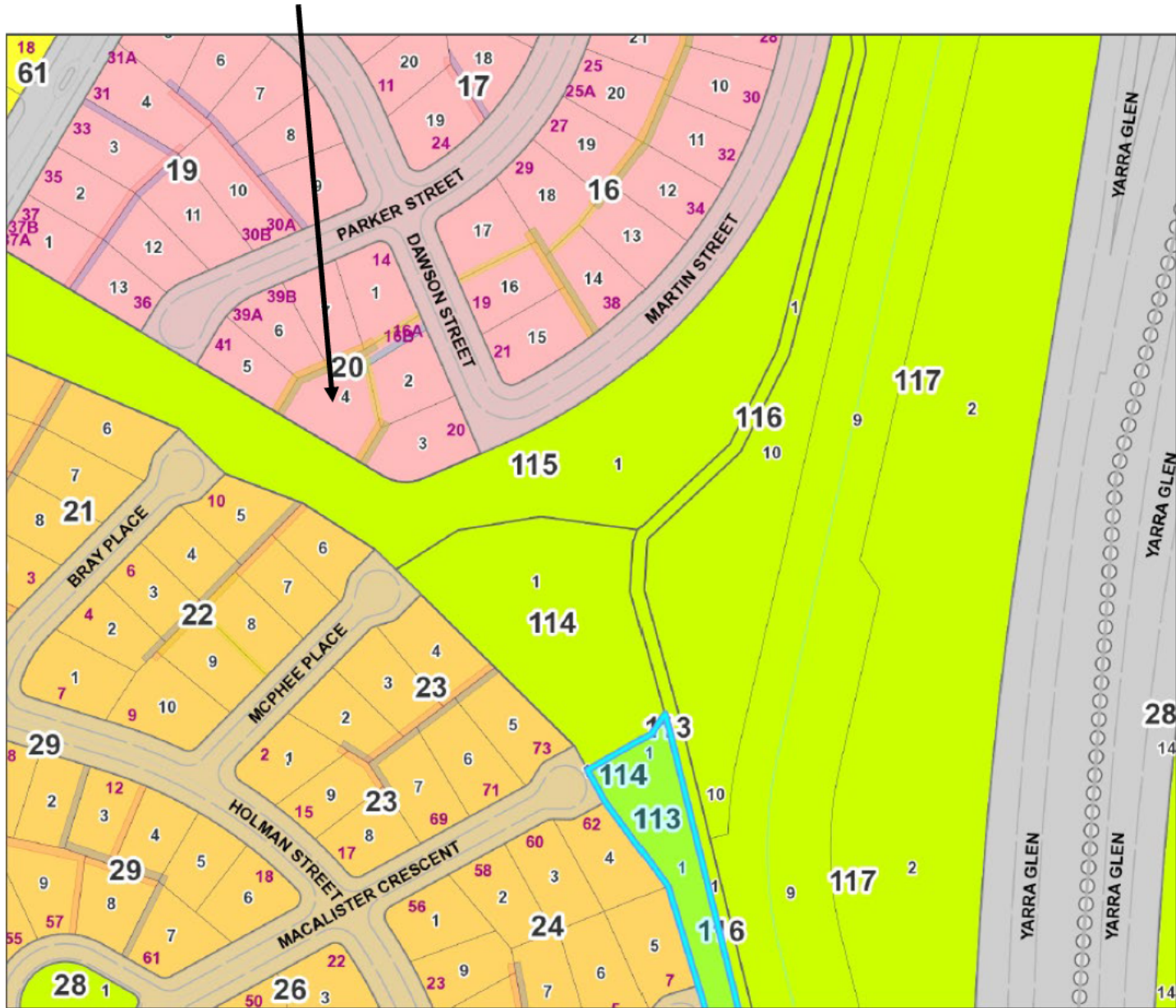


PLANNING AND DEVELOPMENT ACT 2007  
**APPROVAL GRANTED**  
 SUBJECT TO THE CONDITIONS SET OUT IN THE  
 NOTICE OF DECISION  
 PURSUANT TO SECTION 162

**BLOCKS 17 AND 18 SECTION 16 ARANDA (Proposed development – refused)**



### BLOCK 4 SECTION 20 CURTIN (Territory Plan Map and zones)



### BLOCK 4 SECTION 20 CURTIN (aerial photograph)



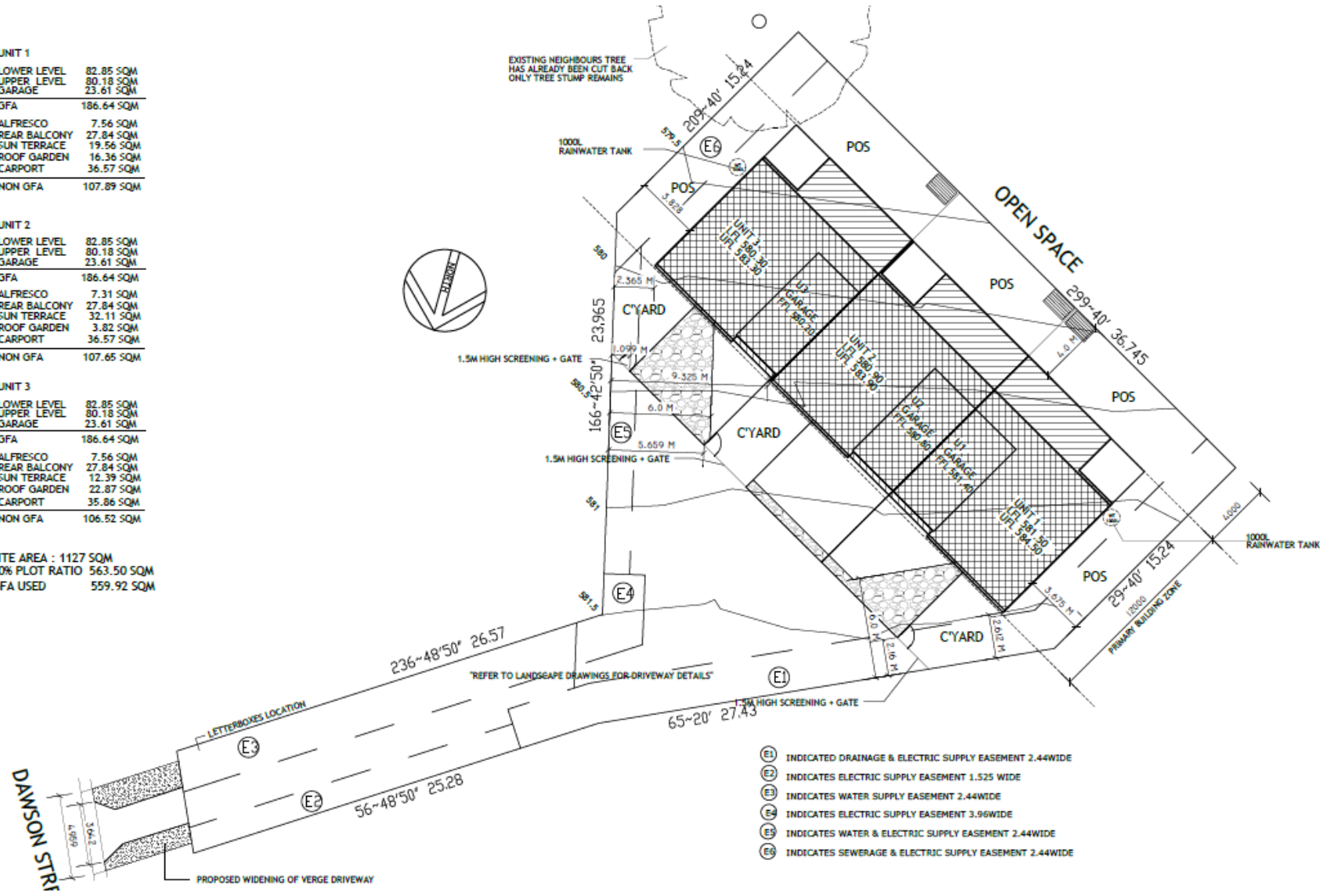
### BLOCK 4 SECTION 20 CURTIN (proposed site layout and area schedule)

UNIT 1	
LOWER LEVEL	82.85 SQM
UPPER LEVEL	80.18 SQM
GARAGE	23.61 SQM
GFA	186.64 SQM
ALFRESCO	7.56 SQM
REAR BALCONY	27.84 SQM
SUN TERRACE	19.56 SQM
ROOF GARDEN	16.36 SQM
CARPORT	36.57 SQM
NON GFA	107.89 SQM

UNIT 2	
LOWER LEVEL	82.85 SQM
UPPER LEVEL	80.18 SQM
GARAGE	23.61 SQM
GFA	186.64 SQM
ALFRESCO	7.31 SQM
REAR BALCONY	27.84 SQM
SUN TERRACE	32.11 SQM
ROOF GARDEN	3.82 SQM
CARPORT	36.57 SQM
NON GFA	107.65 SQM

UNIT 3	
LOWER LEVEL	82.85 SQM
UPPER LEVEL	80.18 SQM
GARAGE	23.61 SQM
GFA	186.64 SQM
ALFRESCO	7.56 SQM
REAR BALCONY	27.84 SQM
SUN TERRACE	12.39 SQM
ROOF GARDEN	22.87 SQM
CARPORT	35.86 SQM
NON GFA	106.52 SQM

SITE AREA : 1127 SQM  
 50% PLOT RATIO 563.50 SQM  
 GFA USED 559.92 SQM

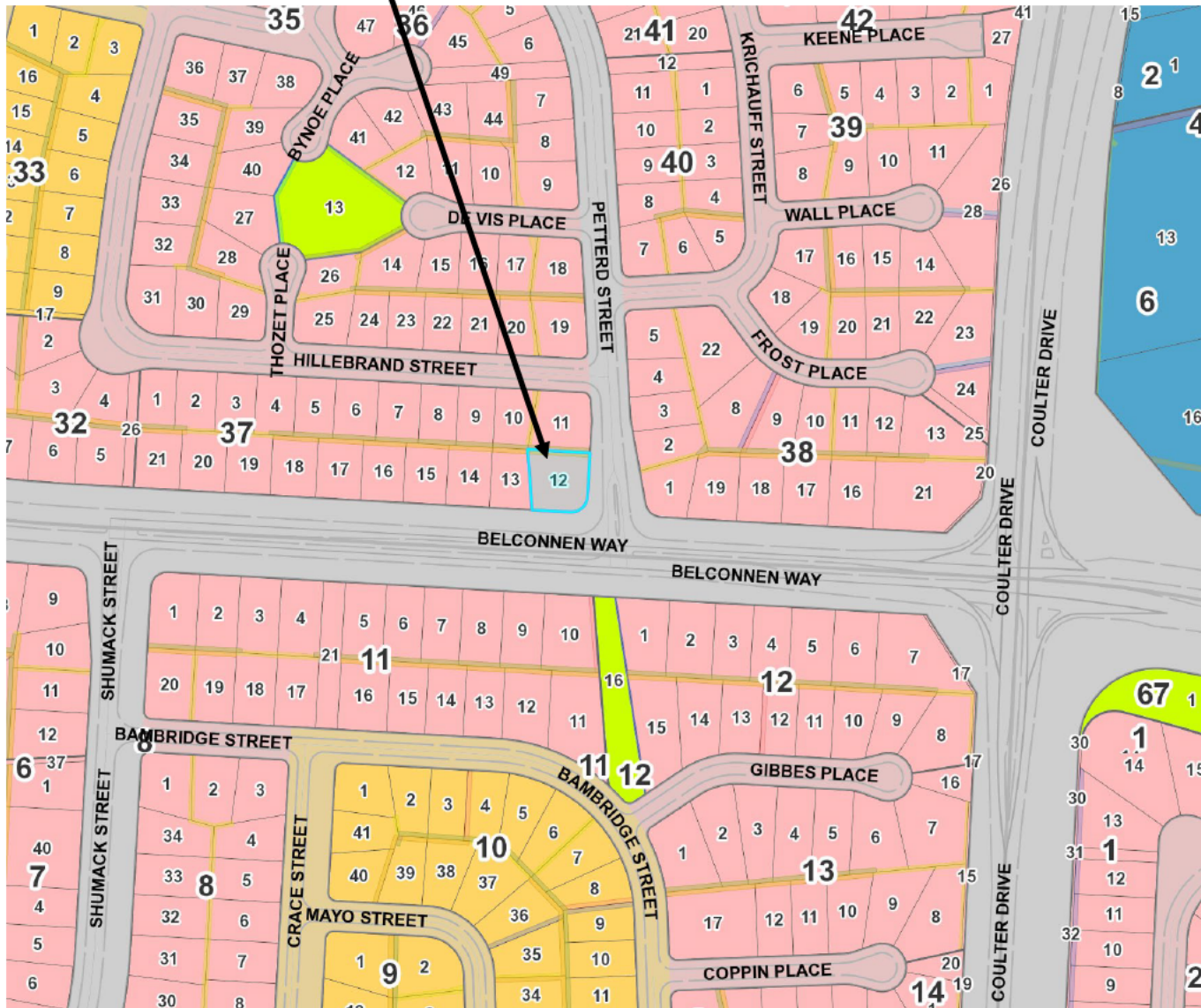


- (E1) INDICATED DRAINAGE & ELECTRIC SUPPLY EASEMENT 2.44WIDE
- (E2) INDICATES ELECTRIC SUPPLY EASEMENT 1.525 WIDE
- (E3) INDICATES WATER SUPPLY EASEMENT 2.44WIDE
- (E4) INDICATES ELECTRIC SUPPLY EASEMENT 3.96WIDE
- (E5) INDICATES WATER & ELECTRIC SUPPLY EASEMENT 2.44WIDE
- (E6) INDICATES SEWERAGE & ELECTRIC SUPPLY EASEMENT 2.44WIDE

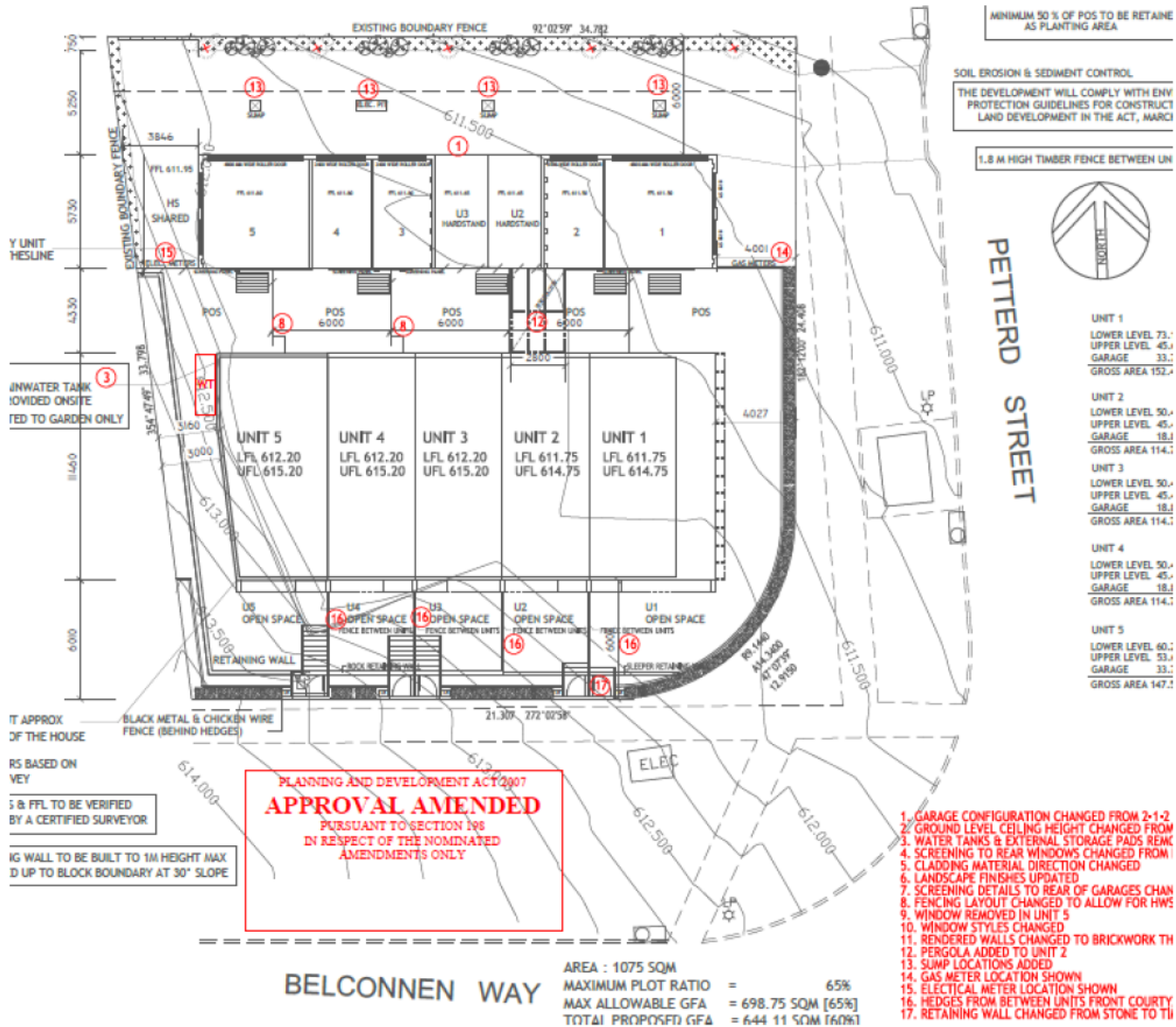
**BLOCK 12 SECTION 37 PAGE (Aerial photograph of completed development)**



### BLOCK 12 SECTION 37 PAGE (Territory Plan Map and zones)



# BLOCK 12 SECTION 37 PAGE (site layout)



# ENVIRONMENT, PLANNING AND SUSTAINABLE DEVELOPMENT

## ASSEMBLY BRIEF

### ISSUE: Summary of issues raised in submissions to Standing Committee and responses

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#### Context

The issues brought to the attention of the Standing Committee in submissions highlight the main comments and concerns that lessees and proponents have raised regarding the proposed changes to the definition of 'single dwelling block' in DV350.

#### Talking Points

- The proposed new definition of 'standard block' which is the subject of DV350 is:  
**Standard block** means a *block* with one of the following characteristics –
  - a) originally leased or used for the purpose of one *dwelling*
  - b) originally leased or used for the purpose of two *dwellings* on or before 18 October 1993
  - c) created by a *consolidation of blocks*, at least one of which is covered by a) or b)
- The key comments and concerns about DV350 arising from the submissions are:
  - The changes address the previous concerns made about the excessive redevelopment of random blocks in the RZ1 and RZ2 zones where these blocks were not envisaged or intended for multi-unit development.
  - The proposed new definition makes no allowance for leases that specifically allow 2 dwellings but have been used for a single dwelling since the lease was issued.
  - Lack of notification/awareness of changes for affected lessees.
  - The proposed new definition does not take into account cases where both conditions a) and b) are met and therefore would not be classified as a 'standard block'.
  - Changes in DV350 have pre-empted the outcome of the Housing Choices project.
  - Lack of public and stakeholder consultation before DV350 released with interim effect. Interim effect provisions have significant impact on people who have already started planning and design process and need to start again to comply with new requirements.
  - Transition period requested for proponents who can establish that they have been working towards lodging a DA prior to 25 May 2018 (when interim effect started) and can have the DA assessed based on pre-DV350 requirements.
  - Does ACAT have the resources to adequately respond to increased number of reviews?
- The responses to the concerns are:
  - It is not the intention for the revised definition to affect leases that legitimately allow for two dwellings, whether or not they have been originally used for 2 dwellings. EPSDD now recommends a minor revision to the proposed definition to ensure these types of leases are not being inadvertently captured in the new definition.
  - It is also not intended that if both conditions in the definition are met then the block in question is no longer a 'standard block'. EPSDD recommends a clarification of the proposed definition to ensure that this does not occur.
  - The intent of the Housing Choices project is to get the balance right between enabling development to meet the demand for choice, while respecting the existing character and amenity in the established suburban areas.

- DV350 intends to limit ad hoc and piecemeal redevelopment from occurring until the outcomes and recommendations of the Housing Choices project have been implemented. Any changes made to the Territory Plan in response to the Housing Choices project will likely apply to all dwellings in the relevant zone, irrespective of whether the block originally contained 1 or 2 dwellings.
- DV350 was released with interim effect without prior consultation to prevent development applications being received on these blocks for redevelopment that did not support or complement the existing density and character of the older suburbs in which they are located.
- The planning intent for the blocks covered by DV350 has been that they are required to comply with the same provisions in the MUHDC as their neighbouring blocks. Delaying the application of the changes in DV350 would enable more inappropriate redevelopment occurring in the RZ1 and RZ2 zones.
- ACAT reviews of decisions is a separate process –ACAT caseloads are not a matter of consideration for EPSDD when determining development outcomes.

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### **Background**

Four representations were received by the Standing Committee following the call for comments relating to the enquiry. The submitters were [REDACTED], MBA, Friends of Hawker Village Inc and [REDACTED].

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## Controls in MUHDC for single dwelling (standard) and non-single dwelling (non-std) blocks RZ1 and RZ2 zones

Controls MUHDC	Single dwelling (standard) block	Non-single dwelling (non-std) block
<p><b>1.1 Dual occupancy housing – single dwelling blocks – RZ1</b></p> <p><b>Rule R1</b> In RZ1, the minimum area of <i>single dwelling blocks for dual occupancy housing</i> is as follows: a) For a <i>surrendered residential block</i> - 700m<sup>2</sup> b) For all other blocks - 800m<sup>2</sup>.</p>	Applies	Minimum block size for dual occupancy does not apply.
<p><b>1.2 Dual occupancy housing – single dwelling blocks – RZ2</b></p> <p><b>Rule R2</b> In RZ2, the minimum area of <i>single dwelling blocks for dual occupancy housing</i> is 700m<sup>2</sup>.</p>	Applies	Minimum block size for dual occupancy does not apply.
<p><b>3.2 Plot ratio – dual occupancy – single dwelling blocks – RZ1 – except for surrendered residential blocks</b></p> <p><b>Rule R6</b> This rule applies to single dwelling blocks in RZ1 unless the block is a <i>surrendered residential block</i>. The maximum <i>plot ratio for dual occupancy housing</i> is determined by the formula: <math display="block">P = (140/B + 0.15) \times 100.</math> The maximum <i>plot ratio</i> for any additional new <i>dwelling</i> which is part of a <i>dual occupancy</i> and does not directly front a public road from which vehicular access is permitted is the lesser of: a) the <i>plot ratio</i> determined by the formula <math display="block">P = (140/B + 0.15) \times 50</math> and b) 17.5%. For the purpose of calculating <i>plot ratio</i> for this rule, the <i>gross floor area</i> includes 18m<sup>2</sup> for each roofed car space provided to meet Territory requirements for resident car parking, but does not include <i>basement</i> car parking.  For the formulae used in this rule: P is the maximum permissible <i>plot ratio</i> expressed as a percentage B is the <i>block area</i> in square metres.</p>	Applies	Plot ratio requirements for dual occupancy do not apply – see R9.

Controls MUHDC	Single dwelling (standard) block	Non-single dwelling (non-std) block
<p><b>3.3 Plot ratio – dual occupancy – single dwelling blocks – RZ2 and surrendered residential blocks – RZ1</b></p> <p><b>Rule R7</b>  This rule applies to the following:  a) <i>single dwelling blocks</i> in RZ2  b) blocks defined as a <i>surrendered residential block</i> in RZ1.</p> <p>The maximum <i>plot ratio</i> for <i>dual occupancy housing</i> is:  i) where at least one dwelling does not directly front a public road from which vehicular access is permitted – 35%  ii) in all other cases – 50%</p> <p>The maximum <i>plot ratio</i> for any additional new <i>dwelling</i> which is part of a <i>dual occupancy</i> and does not directly front a public road from which vehicular access is permitted is 17.5%.</p> <p>For the purpose of calculating <i>plot ratio</i> for this rule, the <i>gross floor area</i> includes 18m<sup>2</sup> for each roofed car space provided to meet Territory requirements for resident car parking, but does not include <i>basement</i> car parking.</p>	<p>Applies</p>	<p>Plot ratio requirements for dual occupancy does not apply.</p>
<p><b>3.4 Plot ratio – large single dwelling blocks – RZ2, RZ3 and RZ4</b></p> <p><b>Rule R8</b>  This rule applies to <i>large blocks</i> that are <i>single dwelling blocks</i> in RZ2, RZ3 and RZ4.  In RZ2 the maximum <i>plot ratio</i> is 50%.  In RZ3 the maximum <i>plot ratio</i> is 65%.  In RZ4 the maximum <i>plot ratio</i> is 80%.  For the purpose of calculating <i>plot ratio</i> for this rule, the <i>gross floor area</i> includes 18m<sup>2</sup> for each roofed car space provided to meet Territory requirements for resident car parking, but does not include <i>basement</i> car parking.</p>	<p>Applies</p>	<p>Plot ratio does not apply.</p>

Controls MUHDC	Single dwelling (standard) block	Non-single dwelling (non-std) block
<p><b>3.5 Plot ratio – other than single dwelling blocks – RZ1, RZ2, RZ3 and RZ4</b></p> <p><b>Rule R9</b>  This rule applies to blocks other than <i>single dwelling blocks</i> in RZ1, RZ2, RZ3 and RZ4  The maximum <i>plot ratio</i> is:  a) in RZ1, RZ2 and RZ3 – 65%  b) in RZ4 – 80%.</p> <p>This rule does not apply to:  a) blocks subject to a residential B1 or B8 area specific policy under the Territory Plan at 30 March 2008 with any of the following characteristics:  i) lawfully approved and constructed  ii) held under a holding lease at 30 March 2008  b) blocks in RZ1 approved before 5 July 2013</p> <p>For the purpose of calculating <i>plot ratio</i> for this rule, the <i>gross floor area</i> includes 18m<sup>2</sup> for each roofed car space provided to meet Territory requirements for resident car parking, but does not include <i>basement</i> car parking.</p>	Does not apply	<p>Plot ratio of 65% permitted if block approved after 5 July 2013.</p> <p>Non-single dwelling blocks in suburbs created before 2013 do not have to comply with a plot ratio control.</p>
<p><b>3.6 Additional dwellings – single dwelling blocks – RZ1</b></p> <p><b>Rule R10</b>  This rule applies to <i>single dwelling blocks</i> in RZ1 but not to <i>blocks</i> that are intended to be used for <i>supportive housing</i>.  The maximum number of <i>dwellings</i> permitted on a <i>single dwelling block</i> is 2.</p>	Applies	No maximum number of dwellings on an RZ1 non-single dwelling block.
<p><b>3.8 Residential density – single dwelling blocks – RZ2</b></p> <p><b>Rule R12</b>  This rule applies to <i>single dwelling blocks</i> in RZ2.</p> <p>The maximum number of <i>dwellings</i> is shown in table A2.</p>	Applies	No maximum number of dwellings on an RZ2 non-single dwelling block.
<p><b>3.9 Additional dwellings – single dwelling blocks – RZ2</b></p> <p><b>Rule R13</b>  This rule applies to <i>single dwelling blocks</i> in RZ2 where the length of the <i>front boundary</i> facing a public road that allows vehicular access is 20m or less.</p> <p>Despite any other rule in this element, the maximum number of <i>dwellings</i> is 3.</p>	Applies	Minimum frontage width to have more than 3 dwellings does not apply.

Controls MUHDC	Single dwelling (standard) block	Non-single dwelling (non-std) block
<p><b>3.10 Residential density – adaptable housing – single dwelling blocks - RZ2</b></p> <p><b>Rule R14</b>            This rule applies to <i>single dwelling blocks</i> in RZ2:            All <i>dwelling/s</i> are to be shown as capable of being adapted. The additional <i>dwelling/s</i> permitted for adaptable housing above those shown in Table A2 shall be built to an adapted standard in compliance with Australian Standard AS4299 <i>Adaptable Housing (Class C)</i>.</p> <p>Despite R2 and R12, the maximum number of <i>dwelling/s</i> is shown in table A3.</p>	Applies	Requirement for adaptable housing does not apply.
<p><b>3.11 Number of dwellings in each building – single dwelling blocks – RZ2</b></p> <p><b>R15</b>            In RZ2 on <i>single dwelling blocks</i> the maximum number of dwellings in any building is 4.</p> <p>For the purposes of this rule, <i>basements</i> are not part of a building.</p>	Applies	Does not apply

**Table A2 - Maximum number of dwellings allowable on single dwelling blocks in RZ2**

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

\* not including a secondary residence

\*\* not less than 250m<sup>2</sup> is required for every additional dwelling

## Controls in Residential Zones Development Code – Subdivision and Consolidation RZ1 and RZ2 zones

Controls RZDC	Single dwelling (std) block	Non-single dwelling (non-std) block
<p><b>Consolidation of single dwelling blocks – RZ1</b>  <b>R36</b>                      This rule applies to <i>consolidation of blocks</i> in RZ1, one or more of which is a <i>single dwelling block</i>, but does not apply to the consolidation of a <i>single dwelling block</i> with unleased territory land.  <i>Consolidation</i> complies with all of the following:</p> <ul style="list-style-type: none"> <li>a) the consolidated block is to be used only for the purpose of <i>supportive housing</i></li> <li>b) not more than 2 <i>blocks</i> are consolidated</li> <li>c) all <i>blocks</i> proposed to be consolidated have adjoining street frontages</li> <li>d) none of the <i>blocks</i> proposed to be consolidated has been previously consolidated.</li> </ul>	Applies	Does not apply
<p><b>Consolidation of single dwelling blocks – RZ2</b>  <b>R37</b>                      This rule applies to <i>consolidation of blocks</i> in RZ2, one or more of which is a <i>single dwelling block</i>.</p> <p>The consolidated <i>block</i> has a single continuous street frontage.</p>	Applies	Does not apply
<p><b>Subdivision of single dwelling blocks – RZ1</b>  <b>R38</b>                      This rule applies to <i>single dwelling blocks</i> in RZ1.  <i>Subdivision</i> (including subdivision under the <i>Unit Titles Act 2001</i>) is permitted only where all <i>dwellings</i> on the <i>block</i> comply with one of the following:</p> <ul style="list-style-type: none"> <li>a) were lawfully constructed on or before 1 September 2003</li> <li>b) were subject to <i>development approval</i> issued on or before 1 September 2003</li> <li>c) were the subject of a <i>development application</i> lodged on or before 1 September 2003 that was subsequently approved.</li> </ul> <p>This rule does not apply to <i>single dwelling blocks</i> in RZ1 that were subject to the A10 residential core area specific policy under Territory Plan 2002 at the time the development was approved.</p>	Applies	Does not apply

## Minister for Planning and Land Management

### Planning and Urban Renewal Committee Hearing

#### Inquiry into Draft Variation No. 350 Changes to the definition of 'single dwelling block'

Wednesday 12 December 2018  
2.00pm to 3.00pm

Inquiry into Draft Variation No. 350 Changes to the definition of 'single dwelling block'	
1.	Opening statement for the Minister to Standing Committee
2.	Overview of proposed definition change and why the change is proposed
3.	Aerial photo and cadastre of 'standard' and 'non-standard' blocks in a RZ1 zone area
4.	Example of development applications that would be impacted by the proposed definition change (refused and approved DAs)
5.	Summary of issues raised in submissions to Standing Committee and responses
6.	Table of comparison - planning controls in MUHDC and RZDC codes for single dwelling (standard) blocks vs non-single dwelling (non-standard) blocks

Planning and Urban Renewal Committee

Ms Caroline Le Couteur MLA – Chair  
Ms Suzanne Orr MLA – Deputy Chair  
Ms Tara Cheyne MLA  
Mr James Milligan MLA  
Mr Mark Parton MLA



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL**

(Reference: [Draft variation No 350: changes to the definition of “single dwelling block”](#))

**Members:**

**MS C LE COUTEUR (Chair)**

**MS S ORR (Deputy Chair)**

**MR M PARTON**

**PROOF TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 12 DECEMBER 2018**

This is a **PROOF TRANSCRIPT** that is subject to suggested corrections by members and witnesses. The **FINAL TRANSCRIPT** will replace this transcript within 20 working days from the hearing date, subject to the receipt of corrections from members and witnesses.

**Secretary to the committee:**

**Ms Annemieke Jongsma (Ph: 620 51253)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

## **WITNESSES**

<b>GENTLEMAN, MR MICK</b> , Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister assisting the Chief Minister on Advanced Technology and Space Industries .....	<b>20</b>
<b>JAMALY, MS RUMANA</b> , Manager, Residential, Estate Assessment, Planning Delivery Division, Environment, Planning and Sustainable Development Directorate.....	<b>20</b>
<b>KAUCZ, MS ALIX</b> , Senior Manager, Territory Plan Unit, Planning Policy Division, Environment, Planning and Sustainable Development Directorate .....	<b>20</b>
<b>PONTON, MR BEN</b> , Director-General, Environment, Planning and Sustainable Development Directorate .....	<b>20</b>

## **Privilege statement**

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 20 May 2013*

**The committee met at 2.02 pm.**

**GENTLEMAN, MR MICK**, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister assisting the Chief Minister on Advanced Technology and Space Industries

**PONTON, MR BEN**, Director-General, Environment, Planning and Sustainable Development Directorate

**KAUCZ, MS ALIX**, Senior Manager, Territory Plan Unit, Planning Policy Division, Environment, Planning and Sustainable Development Directorate

**JAMALY, MS RUMANA**, Manager, Residential, Estate Assessment, Planning Delivery Division, Environment, Planning and Sustainable Development Directorate

**THE CHAIR:** Good afternoon, everyone. Welcome to this public hearing of the Standing Committee on Planning and Urban Renewal inquiry into draft variation No 350: changes to the definition of “single dwelling block”. Today we will be hearing from the minister and directorate officials. Hansard is recording the hearing for transcription purposes. It will be webstreamed and broadcast live.

Can I draw your attention to the pink privilege statement? I am sure you have all seen it before. Can you confirm for the record that you understand the privilege implications of it?

**Mr Gentleman:** Yes, we do.

**THE CHAIR:** Great. Do you have an opening statement that you wish to make?

**Mr Gentleman:** Thank you, chair, and thanks for the opportunity to appear before the committee today to discuss draft variation No 350, as you said, to amend the definition of a “single dwelling block”. I have supported DV 350 on the basis that it is responding to inappropriate multi-use development, or redevelopment, occurring on certain blocks in some older Canberra suburbs.

These blocks are not covered by the definition of “single dwelling block” in the Territory Plan as they contained two dwellings, a house and a small flat when they were originally developed in the late 60s and early 1970s. As a result some of the planning restrictions on multi-unit development that apply to neighbouring blocks in the same zone do not apply to multi-unit housing redevelopment on these particular blocks. This has led to development of these areas that is contrary to the existing low-density suburban character.

Eight submissions were received during public consultation on the draft variation. The comments received included a range of issues both in support of and in opposition to aspects of the variation.

Particular comments received included concerns that future development opportunities would be restricted on affected blocks; that the changes would have a significant financial impact on lessees of affected blocks; that the proposed changes

are contrary to the policy shift to increase density in existing suburbs; that selective planning policy was driven by concerns of individuals or small groups about particular projects in their suburbs; also, that there was a lack of prior consultation on the proposed changes; that a transition period for current redevelopment projects should be allowed; and that dual occupancies in new subdivisions will be adversely affected by the new definition.

The concerns raised were carefully considered in the review of DV 350 and responded to in the report on the consultation. Changes were made to the proposed definition in the recommended draft variation in response to some of the matters that were raised.

I have in attendance with me representatives of the Environment, Planning and Sustainable Development Directorate, who will be able to assist with technical input and answer any questions you may have on DV 350. Of course, alongside my colleagues from the directorate, I will be happy to take any questions that the committee may have.

**THE CHAIR:** The first question is probably one of the most obvious ones: how many blocks are we talking about here? There is a different answer if it involves 10 from if it involves 10,000.

**Mr Gentleman:** We do not have a finite number on the number of blocks that would be affected under this.

**Mr Ponton:** It is challenging for us to identify the exact number. Of course, we know the time period within which these leases were granted. That gives us, certainly, an idea of where the particular provisions or the leases might occur. In terms of identifying the exact number, we would need to run through those suburbs and review each and every lease, to get a clearer picture of the exact number.

**Ms Kaucz:** We approximate that it is probably in the hundreds that can fall into this category across Canberra. So it is not in the tens or in the thousands. We think it is in that ballpark.

**THE CHAIR:** That is very interesting. Are we correct in thinking that the blocks in question are only ones that have a house and a flat development? There is nothing else that we are talking about?

**Ms Kaucz:** It is basically any block that had two dwellings on it. Commonly, they are the ones with the single dwelling house with the flat behind. It is technically two dwellings, but over time there could have been other variations of two dwellings on the block. There could be two next to each other, something like that. But the majority are in that category of one with a flat.

**THE CHAIR:** You changed your definition from the first iteration to the second. Can you talk us through the reasons why you changed it?

**Ms Kaucz:** Following the consultation period it was raised that, as new subdivisions are approved, often they will have a surveillance unit, or a multi-unit site on the corner of a block into a laneway or a rear lane, just for surveillance. In situations like

that, where they have two dwellings on the site, they were always allowed to have the two dwellings. It was brought to our attention that the definition had caught those ones, so they would not have been allowed to have the two dwellings. That was not the intention, so that is why we revised the wording to allow those blocks that were allowed to have two dwellings to have the two dwellings.

**MS ORR:** The position put to us by the MBA was that this seemed an unusual change to be occurring at the same time that housing choices was out there, and the government was looking to have a broader infill program. Can you clarify for me the response you have to that suggestion? How does this change fit within that broader agenda that the government has?

**Mr Ponton:** You would certainly be aware, Ms Orr, that the planning strategy was released by the minister last week. That certainly identifies the need to manage growth in a particular way. Part of the ongoing work is housing choices, so, yes, we do need to provide for housing choices.

The important thing here is that we need to manage growth in a considered manner. That is the issue here. Our concern is that, because of the nature of these leases under the current definitions, we can have proposals being submitted to the planning and land authority for assessment and that, essentially, because of—for want of a better term—the loophole, the relevant provisions in terms of managing multi-unit development do not apply. That means, in terms of things like site coverage, setbacks and the like, there is very little control that the planning authority has.

I will come back to the main point in response. It is about managing growth sensibly and respecting what we hear from the Canberra community over and over again. There are certain parts of the Canberra community that recognise that their particular locality has particular features, and that is important to them. The planning system is intended to protect that, to a large extent.

Where we are seeing these types of developments, it is within essentially the RZ1 zones. They are areas that are meant to be suburban in character. Where we want to manage growth is in centres and transport corridors, and within the existing urban area that is appropriately zoned for that type of development.

**MS ORR:** What are the implications for the urban amenity of these developments going ahead, if they are outside the multi-unit housing development code or they are not within the character of the area?

**Mr Ponton:** The first point that I would make is that, from an assessment perspective, it makes it very difficult for my team to assess the applications because the ordinary rules do not apply, which means that they need to rely very much on section 120 of the Planning and Development Act, which essentially talks about suitability of the site. If those are then appealed, that also creates other challenges in terms of arguing whether it should have been approved or refused. If we are seeking changes, it is also quite challenging.

In terms of the amenity, as I said, RZ1 zoning is about suburban development. The government has made the decision that in those zones we want to see a particular type

of development which is low scale. What we are seeing here is a standard block with five, six or seven townhouses being proposed. If you had only one of those leases and the others in the street did not have the provision, you are not going to see that uniformity develop over time which you tend to see in areas that are appropriately zoned. When you start to see an area redevelop, yes, there might be one or two developments that do not quite fit but, over time, because there are the planning provisions, you will start to see uniformity.

**MS ORR:** Mr Ponton, just playing devil's advocate, what is the importance of the uniformity?

**Mr Ponton:** Again it comes back to what it is that we are trying to achieve in particular zones. In this particular case, RZ1, it is about suburban character. That is what people are expecting. That is what the government is expecting. We are seeing the risk that you might have, sitting in the middle of all of that, something that does not meet expectations in terms of both what the government and the community are looking for.

**MS ORR:** Are there any practical considerations in that regard, if you suddenly have a seven-dwelling place put onto a street that has all single dwelling blocks everywhere else? Certainly, amenity is one side of it and expectations is another. What are the more practical aspects, as far as infrastructure provision and those sorts of things are concerned, in having densification in an area where it is not necessarily meant to be or is not necessarily articulated to be?

**Mr Ponton:** As part of the planning process, in identifying areas that are suitable for greater or increased density, a range of studies and analysis is done. If you are looking to change zoning, we would undertake an analysis of the capability of the infrastructure: water, sewer, stormwater and the like.

These areas are suburban, as I said, in character. That is the zoning. That is what is expected; so that work would not have been done in relation to the capacity. But in terms of whether that is the most significant issue, in terms of what we have been hearing from the community—and my colleagues might want to jump in at any point—the main concern that we are hearing is that RZ1 character, suburban character, is potentially being compromised.

**MS ORR:** Am I right in understanding, Mr Ponton, is that the way it falls at the moment, because of, to use your words, a loophole that is being applied to these areas, you have very few levers within the planning process to make sure that the outcomes that one would want to achieve are being achieved in these spots?

**Mr Ponton:** That is correct, yes.

**MR PARTON:** Mr Ponton, can I say with respect that I am astounded that you and your directorate cannot tell us how many blocks are affected by this change. This is a draft variation of the Territory Plan. We have had a consultation process. This is an inquiry into this DV. I just find it difficult to swallow that you cannot tell me actually how many blocks we are talking about. If you do not know where they are, who does?

**Mr Ponton:** I would not want you to be astounded. I think my colleague made it clear earlier that the estimate is in the hundreds. But in terms of an exact number, we could certainly do that. But in terms of getting that detail, we would have to go through and review all the leases.

Presumably what has happened—and Ms Kaucz may wish to elaborate—what I suspect is that we have taken a sample and extrapolated out of that sample what the total numbers might be, based on the time period for when those leases were granted. We have got an estimate. But if you are asking for the exact number then a lot more detailed work would need to be undertaken to do that. But ordinarily it is not at all uncommon, I would have thought, to take a sample and extrapolate out the numbers, which, as has been mentioned earlier, is in several hundreds.

**MR PARTON:** Can I get the minister or someone else to talk us through why DV 350 was announced with interim effect? What is the reasoning for that? Why did we go down that path?

**Mr Gentleman:** It is really to ensure that we have in place a planning control that ensures that those people who might be considering doing this in the future are aware of the change in planning so that we can do this straight away and ensure that we have the right controls for RZ1, to ensure that we have the amenity and original purpose for RZ1 that the community expects us to uphold. We have seen, as you heard, a number of these slip through, if you like, a loophole that was not expected previously and we have had to change the Territory Plan to ensure that that does not occur in the future.

**MR PARTON:** Would you concede that the interim effect provisions of this draft variation may well have had serious financial implications on individuals and companies who were genuinely planning to develop blocks under the old guidelines?

**Mr Gentleman:** We have certainly seen that, I think, in some of the comments made on the variation during the consultation process. But it is important, I think, that we send a message of what the community expects to see in planning regulation in the territory.

**MR PARTON:** What I am hearing from you is that your message to those people is, “It is not your fault, but tough luck. The law is changed from this date and you have missed out.”

**Mr Gentleman:** As I said, the controls are changing because that is what the community expects to see in their residential RZ1 zones. It was not expected that these particular developments would go ahead when the Territory Plan was drawn up. This is where you have two residences, if you like, on a single block and they are now morphing into perhaps up to seven residences on a single RZ1 block.

**Mr Ponton:** If I could just add, the Legislative Assembly has passed the legislation that provides for the minister to apply interim effect to particular variations. It is not always used. Presumably the Assembly did so in expectation that there would be times when it is important, because of the nature of potential changes or developments that are occurring, to make an immediate effect.

**MR PARTON:** I have got correspondence here which I am assuming actually went in as a part of the consultation. I am not going to mention which block it refers to but it basically says here that the lessee purchased the site on 10 May 2018 with the understanding and expectation that the approved lease variation development application to permit 12 units on the site, as per the information submitted with that application, would be able to be progressed.

The lease variation was accompanied with a concept design that demonstrated that 12 units could be positioned on the site within a plot ratio of 65 per cent. This was able to be considered at the time of this application. He understands that this is no longer the case. The changes in DV 350 reduce this opportunity to 50 per cent plot ratio and limit the unit yield and he goes on to say that this results in this project no longer being viable, with a direct and significant financial loss and hardship for the proponent.

I do not know. Irrespective of community views and irrespective of DV 350 as a lasting concept—I am really focusing on the interim effect scenario—does that strike you as being a little unfair?

**Mr Gentleman:** We do not take these decisions lightly, and you would not make a comment irrespective of community views. This is why we are having this hearing right now. The community wants to have their input into planning for the future of Canberra. And this is why most of our planning—indeed, almost all of it—has a community input to ensure that we have the views of the community as we move forward.

**Mr Ponton:** If I could just add, in that example you mentioned the lease was varied—is that correct?

**MR PARTON:** Yes.

**Mr Ponton:** If the lease was varied then—correct me if I am wrong, Ms Jamaly—my understanding is that the applicant could apply for a development that is consistent with the crown lease. And that is understanding the hierarchy in terms of the planning provisions, the legislation and the lease. That is correct, is it not? I will ask Ms Jamaly, who went through the Territory Plan on a daily basis, to just clarify if I said anything that was incorrect.

**Ms Jamaly:** If the lease had been varied it would have been based on some sort of supporting document where they would have to provide a design and siting, how 12 dwellings would fit on the block. If there was supporting documentation it may have been based on that, the lease variation component. I am not aware of which DA it is but I can find out whether the design and siting application was separate to the lease variation or whether it was a combined application consisting of both the lease variation plus the design and siting.

**Mr Ponton:** But importantly—and correct me if I am wrong, Ms Jamaly—if the lease was varied, my understanding is then: if the design siting has not yet been applied for, that can still occur?

**Ms Jamaly:** Yes.

**MR PARTON:** I might give that advice back to these people.

**THE CHAIR:** One of our more interesting submissions is from [REDACTED]. I assume that you heard his evidence that it should be “one or”, rather than “one”. Have you got any issues with his evidence, which seemed very persuasive?

**Mr Gentleman:** I have taken some advice from the directorate in regard to this. Ms Kaucz will give you the update on that but it appears that he could be correct in—

**THE CHAIR:** That is what we thought as well.

**Mr Gentleman:** maybe not in his terminology but it might need to take some effect there.

**Ms Kaucz:** With what [REDACTED] had suggested, we agreed with what he was saying. Yes, we just make sure that it is consistent with the terminology we generally use in the Territory Plan. But yes, it was a good suggestion for us.

**Mr Gentleman:** And that is why what we hear from the community on planning matters is very important.

**THE CHAIR:** I am sure he will be delighted to hear from you. The MBA submission gave an example from Aranda of the possible impacts the variation had. There has also been a bit of discussion about whether or not the Aranda example was in fact a typical example insofar as, given its location with respect to the shops, it almost certainly was in fact intended to be multi-unit. Do you have any comments on that? Was the MBA’s example reasonable?

**Ms Kaucz:** I suppose, as a bit of background on why we have the differentiation between what we are calling a standard block and a non-standard block, often in suburbs you get near the shops those multi-unit developments that occur. And when the provisions were developed to apply to a single dwelling block, a standard block—they had the zoning of RZ1 or now RZ2—the intention was for the plot ratio and other controls not to apply to those sorts of sites. That is the reason, I suppose, why we distinguish between the two. It is just that some of these blocks have then fallen into dual occupancy blocks and there is a bit of a loophole in that.

I am not familiar with the Aranda blocks. As far as I understood, what they were saying was that there was a duplex but they were on the same block?

**Mr Ponton:** And my understanding is that the delegate of the Planning and Land Authority considered the provisions in the multi-unit housing code to understand now what a reasonable approach to redevelopment of that scale is and determined that it would not have otherwise complied with the multi-unit housing development code. Therefore, they are using that as a guide as to what is reasonable development. It came down to what was being proposed for that particular site.

**THE CHAIR:** I am probably slightly verballing you but, basically, because it was

next to the shops and it clearly was always thought it could be multi-unit, you said, “Okay, this is the multi-unit code. Your proposal does not even fit the multi-unit code. We don’t have to go any further than that. It is too high.”

**Mr Ponton:** Correct.

**MS ORR:** Mr Ponton, is it correct, then, to understand that, in making these changes, what it is doing is actually making everyone subject to the same planning rules? Am I right in understanding that?

**Mr Ponton:** Yes. And it comes back to my earlier point about making sure that we manage growth appropriately.

**THE CHAIR:** We asked MBA about how many people were going to be affected. There were two people speaking there, one for the MBA, the other for town planning. They both talked about four or five possible people who had things in train. They were not sure. There may be some overlaps. I am not sure of the exact number but somewhere between four and 10.

I suppose a relevant question is, and Mr Parton may have more to say about this with transitional arrangements: would it be administratively possible to organise some sort of transitional arrangement for the people who are currently working on it and, if it was possible, would it be desirable, from your point of view?

**Mr Ponton:** The answer to the first part of your question is yes, and the answer to the second part is “unlikely”.

**THE CHAIR:** Would you like to expand on your answer, Mr Ponton?

**Mr Ponton:** It comes back to the reason why interim effect was applied in that. I suspect those proposals being developed for those four or five developments are in locations that are suburban in character and are being designed in a way that do not necessarily comply with the multi-unit housing code. Therefore we would end up potentially with developments being approved that do not meet community expectations, and, for that matter, do not meet government expectations, in that they do not comply with the multi-unit housing code. Yes, it is possible to apply transitional arrangements, but sometimes a hard decision needs to be made as to what is the outcome that we are looking for in our city.

**MR PARTON:** In regard to that last answer—it is probably more a question for the minister than for Mr Ponton—I hear this narrative about drawing a line in the sand and saying, “This is the change that we’re making and we’re making it now.” Does the minister concede that there will be a serious effect on a small number of proponents and that, despite the fact that we are calling this a loophole in planning, with those proponents, whether they be individuals or companies, it is highly possible and likely that they have purchased in good faith on the understanding that they could develop something along the lines of the guidelines that were in place when they purchased, and now they cannot do it? None of that was their fault. They were not doing anything outside the guidelines. They were operating well and truly within those guidelines and now they cannot. It is not their fault.

**Mr Gentleman:** It might be best to answer that by turning it around and saying that, for the other 5,000 residential blocks within that neighbourhood that are in RZ1, they purchased there with the view that this residential amenity would stay there, as RZ1. That is why I made my purchase. I may have changed my mind if I thought that a multi-unit development could go up where there were two previous residential units on the one block.

That is why I think it is really important that we take on board the community concerns on these matters and ensure that if there are, as you have just said, loopholes in the Territory Plan, those loopholes are repaired, so that the Canberra community can have confidence in the planning system and, of course, in the independent advice from the planning authority.

**MR PARTON:** Why is it important in these instances but it is not important, for argument's sake, for the people of Weston Creek, who are close to the old AFP site and who purchased not believing that an RZ5 would spring up next to them? That will, from their perspective, dramatically change the character and the vibe of their suburb. Why is it important for these individuals that you speak of but not important for them?

**Mr Gentleman:** No, it is important for all Canberrans, certainly, to be able to have a say in the planning system for the future of Canberra. The system needs to take into account the people who are here now that have purchased for those original purposes and those who will purchase in the future as well. Of course, that is why many of these planning opportunities are open for public consultation and that changes occur where the community feels changes are needed.

**Mr Ponton:** I think the example that you have referred to is somewhat different. On one hand we have an existing neighbourhood character: RZ1 zoning. The zoning has objectives. It talks about the particular character. The other is an area of land that has gone or is going through a proposal to vary the zoning for the neighbourhood. It will undergo precinct planning and it will go through or has gone through an extensive community engagement process. So there is a difference there.

**MS ORR:** I am getting confused by Mr Parton's line of questioning. Mr Parton is referring to blocks that have been purchased under a certain set of guidelines and why that cannot continue under those guidelines. Mr Ponton, in answer to one of my earlier lines of questioning, you said that essentially there were no guidelines for these blocks.

**Mr Ponton:** I was going to make that point, yes.

**MS ORR:** Can you please clarify it for me? We talk about guidelines, but my understanding is that there are no guidelines for these blocks.

**Mr Ponton:** That is the issue here. The provisions that would ordinarily apply to that type of development do not apply in this circumstance, and that is the issue.

**MR PARTON:** In the Northern Territory, my understanding is that there is still a bunch of roads which have no speed limit. Isn't this like changing the speed limit on

## PROOF

that road while there are cars on it; then, when some cars get to the end of it, saying, “Hang on a second. While you were driving on that road, we changed the speed limit to 100 and you’ve exceeded the speed limit, so we’re going to ping you”?

**Mr Gentleman:** I always like a motoring analogy, but I do not think it fits in this case.

**Mr Ponton:** I would have thought that we would have—as we have done—put the sign up immediately in front of the driver. We would not have waited until they got to the end, which is what has occurred here.

**MR PARTON:** What would the government lose if it chose to give a grace period to those who could display that, prior to the announcement of this draft variation, they had progressed to a certain stage in a development process? What would the government lose by granting them a concession to continue?

**Mr Gentleman:** It is not what the government would lose; it is what the community expects us to do: take a position on their behalf to ensure that they have the suburban amenity that they expect in those areas. I think it is hypothetical to say that the government would lose anything. Certainly, if we are to ensure that the Territory Plan is effective and that the community sees what they expect to see in the Territory Plan and in those residential zones, that is very important to us as a government.

**MR PARTON:** There are a number of different ways that I can ask those questions, but I have probably already asked them enough.

**THE CHAIR:** In that case, thank you all very much. That concludes the committee’s public hearing for today. On behalf of the committee, I want to thank you for attending the hearing today. I do not think there were any questions taken on notice. We will send you a copy of the proof transcript, for any corrections, as per standard arrangements. Thank you all very much. Happy Christmas, and the hearing is now adjourned.

**Hearing adjourned at 2.35 pm.**

## Minister for Planning and Land Management

### Planning and Urban Renewal Committee Hearing

#### Inquiry into Draft Variation No. 350 Changes to the definition of 'single dwelling block'

Wednesday 12 December 2018  
2.00pm to 3.00pm

Inquiry into Draft Variation No. 350 Changes to the definition of 'single dwelling block'	
1.	Opening statement for the Minister to Standing Committee
2.	Overview of proposed definition change and why the change is proposed
3.	Aerial photo and cadastre of 'standard' and 'non-standard' blocks in a RZ1 zone area
4.	Example of development applications that would be impacted by the proposed definition change (refused and approved DAs)
5.	Summary of issues raised in submissions to Standing Committee and responses
6.	Table of comparison - planning controls in MUHDC and RZDC codes for single dwelling (standard) blocks vs non-single dwelling (non-standard) blocks

Planning and Urban Renewal Committee

Ms Caroline Le Couteur MLA – Chair  
Ms Suzanne Orr MLA – Deputy Chair  
Ms Tara Cheyne MLA  
Mr James Milligan MLA  
Mr Mark Parton MLA



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

COMMITTEE SUPPORT OFFICE

**WITNESS LIST FOR COMMITTEE AND HANSARD**  
**INQUIRY INTO DRAFT VARIATION No. 350 CHANGES TO THE DEFINITION OF 'SINGLE DWELLING BLOCK'**

To assist the Committee with its records and Hansard in recording the appearance of all officers who are likely to give evidence to the Committee, you are requested to provide the following information. Please return this information electronically to the Committee Secretary.

<b>Committee Name: Planning, and Urban Renewal Committee</b>	
<b>Hearing Date &amp; Time: Wednesday 12 December 2018– 2.00 to 3.00pm</b>	
<b>Title / Full name / Position / Branch or Division / Department or Agency</b>	<b>Portfolio area</b>
Mr Ben Ponton, Director-General, EPSDD	EPSDD
Dr Erin Brady, Deputy Director-General, Land Strategy and Environment, EPSDD	EPSDD
Ms Kathy Cusack, Executive Director, Planning Policy, EPSDD	EPSDD
Ms Alix Kaucz, Senior Manager, Territory Plan Unit, EPSDD	EPSDD
Ms Rumana Jamaly, Manager, Residential, EPSDD	EPSDD

**From:** [GENTLEMAN](#)  
**To:** [LE COUTEUR](#)  
**Subject:** Correspondence from Mick Gentleman MLA [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 19 December 2018 2:55:14 PM  
**Attachments:** [20181219122416537.pdf](#)  
[image003.jpg](#)

---

Dear Ms Le Couteur,

Please find attached correspondence from Mick Gentleman MLA - Minister for Planning and Land Management.

Kind regards,

## **Natasha Apostoloski | Office Manager**

Office managers: Natasha Apostoloski (Mon-Wed), Eben Leifer (Thu-Fri)

### **Office of Mick Gentleman MLA**

Member for Brindabella

Minister for the Environment and Heritage

Minister for Planning and Land Management

Minister for Police and Emergency Services

Minister assisting the Chief Minister on Advanced Technology and Space Industries

Manager for Government Business

t: 620 50218 | e: [gentleman@act.gov.au](mailto:gentleman@act.gov.au)



**Please note that from 1 January 2018 ACT Government ministerial diaries are subject to publication on the ACT Government's open access website under section 23 of the *Freedom of Information Act 2016*.**



**ACT**  
Government

Environment, Planning and  
Sustainable Development

*Planning and Development Act 2007*

# Draft Variation to the Territory Plan No 350

Remove draft watermark prior to releasing for public consultation

Changes to definition of 'single dwelling  
block'

**Month 2018**

Draft variation for public consultation prepared  
under s60 of the *Planning and Development Act 2007*

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# 1. INTRODUCTION

## 1.1 Summary of the Proposal

Draft Variation to the Territory Plan No. 350 (DV350) has been prepared in response to an issue that has arisen relating to multi-unit redevelopment of certain residential blocks in some older Canberra suburbs. The residential leases on these original blocks do not specify or limit the number of dwellings permitted. During the late 1960s and early 1970s, two dwellings were allowed to be built on these blocks, provided the development presented as a single dwelling to the street. The aim at that time was to improve the availability of housing stock while maintaining the low density suburban character.

The current definition of 'single dwelling block' in the Territory Plan does not apply to these original dual occupancy blocks. As a consequence some of the provisions in the Multi Unit Housing Development Code (MUHDC) in the Territory Plan restricting plot ratio and dwelling numbers do not apply if multi-unit residential redevelopment is proposed for these blocks. This has resulted in a built form that is not sensitive to the residential streetscape character of these areas.

This draft variation proposes to address this situation by changing the title of the definition from '*single dwelling block*' to '*standard block*' and adjusting the wording in the definition to include blocks that were originally leased or used for the purpose of one or two dwellings (or where the result of consolidation, that at least one of the blocks was originally leased or used for the purpose of one or two dwellings). This change will compel redevelopment proposals for these original dual occupancy blocks to adhere to the relevant provisions in the MUHDC and ensure that the built form is appropriate and complementary to the streetscape.

## 1.2 Outline of the process

The Commonwealth's *Australian Capital Territory (Planning and Land Management) Act 1988* allows for the Legislative Assembly to make laws to establish a Territory Planning Authority and for that Authority to prepare and administer a Territory Plan. The *Planning and Development Act 2007* (the Act) establishes the planning and land authority as the Authority which prepares and administers the Territory Plan, including continually reviewing and proposing amendments as necessary. The functions of the planning and land authority are administered by the Environment, Planning and Sustainable Development Directorate (EPSDD).

The Territory Plan is comprised of a written statement and a map. The written statement contains a number of parts, namely governance; strategic directions; zones (including objectives and development tables and zone or centre development codes); precinct codes; general codes; overlays; definitions; structure plans, concept plans and development codes for future urban areas.

The Territory Plan Map graphically represents the applicable land use zones (under the categories of residential, commercial, industrial, community facility, urban parks and recreation, transport and services and non-urban), precincts and overlays. The zone, precinct and overlay requirements are detailed in the volumes of the Territory Plan.

Draft variations to the Territory Plan are prepared in accordance with the Act. Following the release of the draft variation under section 63 of the Act, submissions from the public are invited. At the conclusion of the consultation period the EPSDD submits a report on consultation and a recommended final variation to the Minister responsible for planning for referral to the Legislative Assembly standing committee responsible for planning. The Minister must consider the findings of the committee before deciding whether to approve the draft variation. If the Minister approves the variation, the variation and associated documents will be tabled in the Legislative Assembly. Unless disallowed by the Legislative Assembly within five sitting days, the variation commences on a day nominated by the Minister.

### **1.3 This document**

This document contains the background information in relation to the proposed variation. It comprises the following parts

- Part 1 This Introduction
- Part 2 An Explanatory Statement, which gives reasons for the proposed variation and describes its effect
- Part 3 The Draft Variation, which details the precise changes to the Territory Plan that are proposed.

## 1.4 Public Consultation

Written comments about the draft variation are invited from the public by **day Month 2018**.

Comments should include reference to the draft variation and be addressed to the Territory Plan Section. Please also provide your name and contact details to assist in the assessment of the comments provided, and to enable EPSDD to contact you in relation to your comments, if required. Your personal information will be managed in accordance with the *Information Privacy Act 2014* and the EPSDD Information Privacy Policy, which is available for viewing on EPSDD's website.

Comments can be:

- emailed to [terrplan@act.gov.au](mailto:terrplan@act.gov.au)
- mailed to Territory Plan Section, GPO Box 158, Canberra, ACT 2601
- delivered to the Access Canberra Customer Service Centre at 16 Challis Street, Dickson
- made on the 'Have Your Say' website: <https://www.yoursay.act.gov.au/>

Copies of written comments will be made available for public inspection for no less than 15 working days starting 10 working days after the closing date for comment. The comments will be available at the Access Canberra customer service centre in Dickson and may be published on EPSDD's website. Comments made available will not include personal contact details unless you request otherwise.

A request may be made for parts of a submission to be excluded under section 411 or 412 of the *Planning and Development Act 2007*. A request for exclusion under these sections must be in writing, clearly identifying what parts of your submission you are seeking to exclude and how the request satisfies the exclusion criteria.

### *Further Information*

The draft variation and background documents are available online at **[www.act.gov.au/draftvariations](http://www.act.gov.au/draftvariations)** until the closing date for written comments.

Printed copies of the draft variation (this document) and background documents are available for inspection and purchase at the Access Canberra Customer Service Centre, 16 Challis Street, Dickson, Monday to Friday (except public holidays) between 8:30am and 4:30pm. Please call 6207 1923 to arrange a copy for purchase.

## 2. EXPLANATORY STATEMENT

### 2.1 Background

The purpose of the residential development codes in the Territory Plan is to provide additional planning, design and environmental controls to support the objectives of the relevant residential zone. Residential codes currently make reference to 'single dwelling blocks' which is a defined term in the Territory Plan. These are blocks that were originally used or leased to be used for a single dwelling, as distinct from blocks that have always contained multi-unit development (i.e. more than one dwelling). The intent of this policy difference is to apply restrictions specific to single dwelling housing for elements such as plot ratio, number of dwellings, block subdivision and consolidation distinct from blocks originally developed or assigned for multi-unit housing.

Variation to the Territory Plan No 306 (V306) made a number of amendments to the residential codes and definitions in the Territory Plan that took effect in July 2013. One of the amendments was to change the term '*standard block*' to '*single dwelling block*' and revise the wording of the definition. The reason for the change was to introduce separate block definitions based on block size - that is: 'compact block' (250m<sup>2</sup> or less), 'medium block' (larger than 250m<sup>2</sup> and less than or equal to 500m<sup>2</sup>) and 'large block' (greater than 500m<sup>2</sup>). The previous definition of '*standard block*' was simply '...a block with an area greater than 500m<sup>2</sup> that was originally leased or used for the purpose of *single dwelling housing*.'

The current definition of '*single dwelling block*' post V306 is:

"...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."

A situation has since arisen concerning this definition and the application of the Multi-unit Housing Development Code for multi-unit redevelopment on particular blocks in the older suburbs. These particular blocks were originally leased or developed as dual occupancy housing. At the time housing in these suburbs was being constructed in the late 1960s and early 1970s, two dwellings were permitted to be built on a block, provided the development presented as a single dwelling to the street. The aim of this form of housing was to improve the availability of housing whilst maintaining the mainly single dwelling and low rise, low density residential suburban character. Furthermore residential leases for these blocks do not specify or limit the number of dwellings permitted on the blocks.

The concern is that this definition of 'single dwelling block' (and equally the previous definition of 'standard block') does not apply to these original dual occupancy blocks, and consequently some of the provisions in the Multi Unit Housing Development Code (MUHDC) that apply to the neighbouring blocks do not apply to them. For example, for residential leases granted before 5 July 2013, Rule R9 in the MUHDC pertaining to plot ratio restrictions does not apply. Maximum dwelling number restrictions for 'single dwelling blocks' in the RZ1 and RZ2 zones would also not apply to a proposed development, unlike the plot ratio or dwelling number restrictions on neighbouring blocks. This has led to multi-unit redevelopment proposals being lodged with the planning and land authority that are contrary to the existing streetscape density and character.

As this was not the intended purpose of the 'single dwelling block' definition (and neither that of the previous 'standard block' definition), this draft variation proposes to adjust the wording in the current 'single dwelling block' definition to clarify the number of dwellings that can be built on these blocks to recognise and include these original dual occupancy scenarios. It is also proposed to change the name of the definition to refer to a 'standard block' as this also avoids the confusion around the terminology where one or two dwellings can be permitted on a block that is used for single dwelling housing.

The proposed definition of 'standard block' is "...a block with one of the following characteristics –

- a) originally leased or used for the purpose of one or two dwellings.
- b) created by a consolidation of blocks, at least one of which was originally leased or used for the purpose of one or two dwellings."

These changes do not include original non-single dwelling blocks specifically reserved for lawful multi-unit development. The intention was for those blocks to be excluded from density restrictions (plot ratio and dwelling numbers) applying to single dwelling housing blocks.

This solution is being proposed to provide an interim measure to prevent further unconstrained multi-unit redevelopment occurring in the older established suburbs until the Housing Choices project has progressed and policy outcomes implemented. The Housing Choices Project is a broader policy review of housing options in the residential zones.

This change will require consequential amendments to all relevant provisions in the residential development codes in the Territory Plan to replace 'single dwelling block' with 'standard block'.

## 2.2 Current Territory Plan Provisions

The current Territory Plan definition for 'single dwelling block' is:

**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.

## 2.3 Proposed Changes to the Territory Plan

DV350 proposes to amend the definition of 'single dwelling block' as follows:

~~Single dwelling block~~ **Standard block** means a *block* with one of the following characteristics –

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

Consequential changes will be made throughout the Territory Plan to replace all references to '*single dwelling block*' with '*standard block*'.

## 2.4 Reasons for the Proposed Draft Variation

The reasons for the draft variation are as follows:

- To address concerns regarding the interpretation of the current definition of 'single dwelling blocks' relating to some residential leases in the older suburbs of Canberra
- To ensure that by changing the definition to include blocks that were originally allowed two dwellings on them, the relevant development controls in the Multi Unit Housing Development Code will apply to enable appropriate multi-unit redevelopment of these blocks.
- To provide an interim measure to prevent unrestricted multi-unit redevelopment occurring in the residential RZ1 and RZ2 areas until the Housing Choices Project has been completed.

## **2.5 Planning Context**

### **2.5.1 National Capital Plan**

The *Australian Capital Territory (Planning and Land Management) Act 1988* established the National Capital Authority (NCA) with two of its functions being to prepare and administer a National Capital Plan (NCP) and to keep the NCP under constant review and to propose amendments to it when necessary.

The NCP, which was published in the Commonwealth Gazette on 21 January 1990 is required to ensure that Canberra and the Territory are planned and developed in accordance with their national significance. The *Planning and Land Management Act 1988* also required that the Territory Plan is not inconsistent with the NCP.

### **2.5.2 ACT Planning Framework**

#### **Statement of Strategic Directions**

The Statement of Strategic Directions sets out the principles for giving effect to the main objective of the Territory Plan as required by the *Planning and Development Act 2007*. The proposal is consistent with the following Territory Plan - Statement of Strategic Directions in terms of environmental, economic and social sustainability and spatial planning and urban design principles:

**1.1** Planning processes and decisions will be focused on the combined achievement of economic vitality, community wellbeing, and environmental quality. Broad community involvement will be a key element in the pursuit of sustainable development, as will complementary regional strategies and agreements.

**2.5** A wide range of housing types will be permitted in identified residential areas close to commercial centres and some major transport routes to increase choice; maximise opportunities for affordable housing; and secure some intensification of development consistent with maintaining residential amenity. Outside of these areas, planning policies will protect the typically low density, garden city character of Canberra's suburban areas.

#### **ACT Planning Strategy 2012**

The draft variation is also consistent with the ACT Planning Strategy 2012 Strategy 6:

“Invest in design that will ensure urban change creates amenity, diversity, a more sustainable built form and adds to Canberra's landscape setting.”

## 2.6 Interim Effect

Section 65 of the *Planning and Development Act 2007* applies to the draft variation. This means that the provisions of Draft Variation No 350 have interim effect, and apply to development applications lodged on or after **day Month 2018**.

During the period of interim effect the ACT Government must not do or approve anything that would be inconsistent with the Territory Plan as if it were amended by the draft variation. Where there is an inconsistency between provisions in the current Territory Plan and provisions in the draft variation, then the draft variation takes precedence for the extent of the inconsistency.

Interim effect will end on the day the earliest of the following happens:

- i. the day the public availability notice under section 70 for the draft variation being recommended to the Minister is notified in accordance with the Legislation Act
- ii. the day the draft variation, or the corresponding variation, is withdrawn under section 68 (1)(b) or section 76 (3)(b)(v)
- iii. 1 year after the date of the consultation notice.

## 2.7 Consultation with Government Agencies

The EPSDD is required to, in preparing a draft variation under section 61(b) consult with each of the following in relation to the proposed draft variation:

- the National Capital Authority
- the Conservator of Flora and Fauna
- the Environment Protection Authority
- the Heritage Council
- the Land Custodian, if the draft variation would, if made, be likely to affect unleased land or leased public land – each custodian for the land likely to be affected

### National Capital Authority

The National Capital Authority provided the following comments on **DATE**

**[insert NCA comments please remember to direct quote and italicise]**

Response

### **Conservator of Flora and Fauna**

The Conservator of Flora and Fauna made the following comments on

**DATE**

[insert Conservator's comment please remember to direct quote and italicise]

Response

### **Environment Protection Authority**

The Environment Protection Authority provided the following comments on

**DATE**

[copy EPA comment please remember to direct quote and italicise]

Response

### **Heritage Council**

The Heritage Council provided the following comments on **DATE**

[copy heritage comment please remember to direct quote and italicise]

Response

### **Land Custodian**

There is no land custodian for this draft variation.

Response

### 3. DRAFT VARIATION

#### 3.1 Variation to the Territory Plan

The Territory Plan is varied in all of the following ways:

#### Variation to the Territory Plan Written Statement

##### 1. Single dwelling block / standard block

Replace all references to '*single dwelling block*' in the Territory Plan Written Statement with '*standard block*'

#### Variation to the Definitions of Terms

##### 2. Single dwelling block / standard block

Substitute 'single dwelling block' definition with 'standard block' definition as follows:

**Standard block** means a *block* with one of the following characteristics –

- a) originally leased or used for the purpose of one or two dwellings
- b) created by a consolidation of blocks, at least one of which was originally leased or used for the purpose of one or two dwellings.

## Interpretation service

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, ċempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefonirajte:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

### TRANSLATING AND INTERPRETING SERVICE

**131 450**

Canberra and District - 24 hours a day, seven days a week

DRAFT

**From:** [EPSD Government Services](#)  
**To:** [Ridsdale, Janine](#)  
**Cc:** [Kaucz, Alix](#); [EPD Ministerials - Strategic Planning](#)  
**Subject:** For information - Signed brief - 18/04484 - Ministerial-Information Brief - Change definition of single dwelling block to standard block and amend its meaning via a DV to the Territory Plan [DLM=For-Official-Use-Only]  
**Date:** Friday, 13 April 2018 12:46:00 PM  
**Attachments:** [20180413 - Signed brief.obr](#)

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Good afternoon Janine,

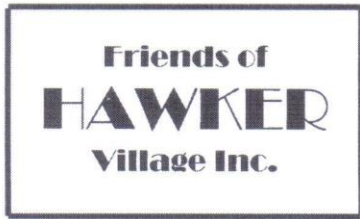
For your information, please see attached brief which has been signed by Minister Gentleman. Please advise Government Services if you would like the hard copy.

Thanks,  
Maeve

**Maeve Bannister** | Ministerial Liaison Officer | 📞 ext 51749

**Environment, Planning and Sustainable Development Directorate | ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson GPO Box 158 Canberra ACT 2601



PO Box 4082  
HAWKER ACT 2614  
[secretary@friendsofhawkervillage.com](mailto:secretary@friendsofhawkervillage.com)  
Ph. 0438 678 039

18 April 2016

Ms Dorte Ekelund,  
Director-General,  
Planning and Environment Directorate,  
GPO Box 158,  
CANBERRA CITY ACT 2601

By email: [environment@act.gov.au](mailto:environment@act.gov.au)

## TERRITORY PLAN ANOMALY

Dear Ms Ekelund,

Friends of Hawker Village are writing to you about an issue affecting only the suburbs of Page, Weetangera, Scullin and Higgins in south Belconnen, as far as we know. This issue arose from DA 201528466 in respect of Block 12 Section 37 Page which, when first leased, was approved for a particular type of development that occurred on random blocks in those suburbs being established around 1969-71. This type of development consisted of a 'residence with attached flat' within the footprint of a standard house, i.e. an area of 123 square metres in this case.

At that time, all residential leases stipulated that 'one building only' was to be erected on the site. The City Area Leases Act 1936 (formerly the City Area Leases Ordinance 1936) in sections 29 and 30, however, stipulated that any part of the building and adjoining portion of the leased block could be sublet. These provisions are similar to sections 306 and 307 of the current *Planning and Development Act 2008*.

These provisions applied to all residential blocks of land throughout Canberra which means that, in a strictly literal interpretation of the Territory Plan, no residential block leased before 1971 meets the definition of 'single dwelling block' in Part B – Definitions of Terms:

**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.

The underlining of 'or' in clause a) is our emphasis as the definition seems to be applied on the basis of examining both the lease and usage.

The wording of the standard residential lease was changed about 1971 with the words "erect one building only" being replaced by "erect one private single dwelling house building". This latter term is more precise and restrictive. No further buildings of this type containing a residence with flat appeared after this change.

Block 12 Section 37 Page, being in an RZ2 area, has been treated by ACTPLA as a multi-unit block because the original use of the block does not fit the current interpretation of the definition of a 'single dwelling block'. Five dwellings covering 65% of the block area were approved despite representations pointing out the anomalous history of development on the subject block. Treatment of this block as a single dwelling block would have permitted a maximum of three

dwelling and a plot ratio of 50%. This block is identical in physical nature to all adjacent blocks which fit the definition of single dwelling blocks and will be allowed to be intensified to a plot ratio of only 50%.

Our concern is that this approval will set a precedent for redevelopment of the other random blocks now in RZ2 zones that took advantage of being allowed to construct a building containing two small dwellings over a brief period of time. There is no evidence that these blocks were specifically designated for this type of development. They are not located in any coherent distribution as would be expected under normal good planning principles but are scattered throughout the suburbs on blocks of all sizes, the smallest identified so far being 602 square metres in Ross Smith Crescent, Scullin.

It is likely that very few people are aware of this type of development as the buildings do not stand out from neighbouring houses. As illustrated below, development of these blocks was constrained by rules that resulted in a building with the appearance of a single dwelling house.



This typical building at [redacted] contains a 1BR flat on the left, entered via the door visible in the recess. Opposite this door, in the recess but not visible, is another door entering a 2BR residence on the right. A double carport is on the left. The only sign of two dwellings is a double letter box.

It is extremely unlikely that this type of development was specifically considered when the definition of a 'single dwelling block' was drafted. Unless the definition of a single dwelling block is refined to include these anomalous blocks, the current uniform suburban landscape will become disjointed. There will be irregular redevelopment on neighbouring blocks and a higher level of density than was envisaged by residents for RZ2 areas in these suburbs. This will be most undesirable, in our opinion, and will have a negative impact on amenity of the neighbourhood.

We would welcome the opportunity to meet with you to discuss this issue.

Yours sincerely,



Colin Lyons,  
Convenor  
Friends of Hawker Village Incorporated

**From:** [Terrplan](#)  
**To:** [Ridsdale, Janine](#)  
**Subject:** FW: Draft Variation to the Territory Plan DV350 - for agency circulation [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]  
**Date:** Thursday, 19 April 2018 11:11:51 AM

---

Hi Janine,

I am forwarding you the following email from the Terrplan inbox.

Note: I have sent a response to Rumana, cc to you

Regards

Amanda Sullivan | Planning Officer

**Phone 02 6207 8308** | [amandac.sullivan@act.gov.au](mailto:amandac.sullivan@act.gov.au) (Mon-Thur)

**Territory Plan Section** | Environment, Planning and Sustainable Development Directorate | **ACT Government** |  
Third Floor North, Dame Pattie Menzies House, 16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 |  
[www.planning.act.gov.au](http://www.planning.act.gov.au)

---

**From:** Jamaly, Rumana  
**Sent:** Wednesday, 18 April 2018 4:32 PM  
**To:** Terrplan <[Terrplan@act.gov.au](mailto:Terrplan@act.gov.au)>  
**Cc:** Cilliers, George <[George.Cilliers@act.gov.au](mailto:George.Cilliers@act.gov.au)>  
**Subject:** RE: Draft Variation to the Territory Plan DV350 - for agency circulation [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]

Supported. When will this have interim effect? We are currently assessing the Scullin DA and the applicant is anxious for a decision.

Regards

Rumana

---

**From:** Terrplan  
**Sent:** Wednesday, 18 April 2018 2:53 PM  
**To:** EPD Strategic Planning Referrals <[EPDStrategicPlanningReferrals@act.gov.au](mailto:EPDStrategicPlanningReferrals@act.gov.au)>; Cilliers, George <[George.Cilliers@act.gov.au](mailto:George.Cilliers@act.gov.au)>; Jamaly, Rumana <[Rumana.Jamaly@act.gov.au](mailto:Rumana.Jamaly@act.gov.au)>; Heritage <[Heritage@act.gov.au](mailto:Heritage@act.gov.au)>; Johnson, Lisa <[Lisa.Johnson@act.gov.au](mailto:Lisa.Johnson@act.gov.au)>; Saad, Monica <[Monica.Saad@act.gov.au](mailto:Monica.Saad@act.gov.au)>; Teasdale, Jonathan <[Jonathan.Teasdale@act.gov.au](mailto:Jonathan.Teasdale@act.gov.au)>; EPSD Law Reform <[EPSDLawReform@act.gov.au](mailto:EPSDLawReform@act.gov.au)>; WorksApproval <[WorksApproval@natcap.gov.au](mailto:WorksApproval@natcap.gov.au)>; Blume, Kristin <[Kristin.Blume@act.gov.au](mailto:Kristin.Blume@act.gov.au)>; Nockels, Alexander <[Alexander.Nockels@act.gov.au](mailto:Alexander.Nockels@act.gov.au)>; MACC <[MACC@act.gov.au](mailto:MACC@act.gov.au)>; EPAPanningLiaison <[EPAPanningLiaison@act.gov.au](mailto:EPAPanningLiaison@act.gov.au)>; McKeown, Helen <[Helen.McKeown@act.gov.au](mailto:Helen.McKeown@act.gov.au)>; Weller, Craig <[Craig.Weller@act.gov.au](mailto:Craig.Weller@act.gov.au)>  
**Cc:** Terrplan <[Terrplan@act.gov.au](mailto:Terrplan@act.gov.au)>; Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>; Moore, AlisonM (ACTPLA) <[AlisonM.Moore@act.gov.au](mailto:AlisonM.Moore@act.gov.au)>; Elhassan, Walid <[Walid.Elhassan@act.gov.au](mailto:Walid.Elhassan@act.gov.au)>; Moroney, Anne <[Anne.Moroney@act.gov.au](mailto:Anne.Moroney@act.gov.au)>; Gianakis, Steven <[Steven.Gianakis@act.gov.au](mailto:Steven.Gianakis@act.gov.au)>; Oswald, Petra <[Petra.Oswald@act.gov.au](mailto:Petra.Oswald@act.gov.au)>; OConnell, Jennifer <[Jennifer.OConnell@act.gov.au](mailto:Jennifer.OConnell@act.gov.au)>; Russell, Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)>; Dunstan, David <[David.Dunstan@act.gov.au](mailto:David.Dunstan@act.gov.au)>; Rebecca Sorensen <[rebecca.sorensen@natcap.gov.au](mailto:rebecca.sorensen@natcap.gov.au)>; Dakin, Michael

<[Michael.Dakin@act.gov.au](mailto:Michael.Dakin@act.gov.au)>; Brown, Robin <[Robin.Brown@act.gov.au](mailto:Robin.Brown@act.gov.au)>

**Subject:** Draft Variation to the Territory Plan DV350 - for agency circulation [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]

DV 350 has been prepared in response to an issue that has arisen regarding multi-unit redevelopment of certain blocks in some of the older Canberra suburbs. Some of the original residential leases do not specify or limit the number of dwellings permitted. During the late 1960s and early 1970s, two dwellings were allowed to be built on these blocks, provided the development presented as a single dwelling to the street. The aim at the time was to improve the availability of housing stock while maintaining the low density suburban character.

The current definition of 'single dwelling block' does not apply to these original dual occupancy blocks. As a result some of the provisions in the Multi Unit Housing Development Code (MUHDC) restricting plot ratio and dwelling numbers do not apply if multi-unit residential redevelopment is proposed on these blocks. This has resulted in a built form that is not sensitive to the residential streetscape character of these areas.

DV350 proposes to address this situation by changing the title of the definition to 'standard block' and adjusting the wording to include blocks that were originally leased or used for the purpose of one or two dwellings. This change will require development proposals to comply with the relevant provisions of the MUHDC and ensure that multi-unit redevelopment is complementary to the existing suburban streetscape character.

Please review the attached draft document and provide comment by COB 2 May 2018 to [terrplan@act.gov.au](mailto:terrplan@act.gov.au)

Many thanks

**Territory Plan Section | General Enquiries Inbox**

Email: [terrplan@act.gov.au](mailto:terrplan@act.gov.au)

**Planning Policy | Environment, Planning and Sustainable Development Directorate | ACT Government**

Dame Pattie Menzies House, 16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | [www.planning.act.gov.au](http://www.planning.act.gov.au)

**From:** Terrplan  
**To:** [Ridsdale, Janine](mailto:Ridsdale_Janine)  
**Subject:** FW: Draft Variation to the Territory Plan DV350 - for agency circulation [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]  
**Date:** Thursday, 19 April 2018 9:47:37 AM  
**Attachments:** [Draft\\_variation\\_on\\_350\\_-\\_single\\_dwelling\\_blocks\\_-\\_change\\_to\\_definition.docx](#)  
[image001.png](#)  
[image003.png](#)

---

Hi Janine

I am forwarding you the following email from the Terrplan Inbox

Regards

Amanda Sullivan | Planning Officer  
**Phone 02 6207 8308** | [amandac.sullivan@act.gov.au](mailto:amandac.sullivan@act.gov.au) (Mon-Thur)  
**Territory Plan Section** | Environment, Planning and Sustainable Development Directorate | **ACT Government** |  
Third Floor North Dame Pattie Menzies House, 16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | [www.planning.act.gov.au](http://www.planning.act.gov.au)

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**From:** Boraiah Thara  
**Sent:** Wednesday 18 April 2018 5:01 PM  
**To:** Terrplan <[Terrplan@act.gov.au](mailto:Terrplan@act.gov.au)>  
**Cc:** Kaucz Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Subject:** FW: Draft Variation to the Territory Plan DV350 - for agency circulation [SEC UNCLASSIFIED DLM For-Official-Use-Only]

Dear Territory Plan section

I have made some minor changes for clarification. Please review.

Regards  
Thara

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**From:** Jamaly Rumana  
**Sent:** Wednesday 18 April 2018 4:30 PM  
**To:** Boraiah Thara <[Thara.Boraiah@act.gov.au](mailto:Thara.Boraiah@act.gov.au)>  
**Subject:** FW: Draft Variation to the Territory Plan DV350 - for agency circulation [SEC UNCLASSIFIED DLM For-Official-Use-Only]

FYI

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**From:** Terrplan  
**Sent:** Wednesday 18 April 2018 2:53 PM  
**To:** EPD Strategic Planning Referrals <[EPDStrategicPlanningReferrals@act.gov.au](mailto:EPDStrategicPlanningReferrals@act.gov.au)>; Cilliers George <[George.Cilliers@act.gov.au](mailto:George.Cilliers@act.gov.au)>; Jamaly Rumana <[Rumana.Jamaly@act.gov.au](mailto:Rumana.Jamaly@act.gov.au)>; Heritage <[Heritage@act.gov.au](mailto:Heritage@act.gov.au)>; Johnson Lisa <[Lisa.Johnson@act.gov.au](mailto:Lisa.Johnson@act.gov.au)>; Saad Monica <[Monica.Saad@act.gov.au](mailto:Monica.Saad@act.gov.au)>; Teasdale Jonathan <[Jonathan.Teasdale@act.gov.au](mailto:Jonathan.Teasdale@act.gov.au)>; EPSD Law Reform <[EPSDLawReform@act.gov.au](mailto:EPSDLawReform@act.gov.au)>; WorksApproval <[WorksApproval@natcap.gov.au](mailto:WorksApproval@natcap.gov.au)>; Blume Kristin <[Kristin.Blume@act.gov.au](mailto:Kristin.Blume@act.gov.au)>; Nockels Alexander <[Alexander.Nockels@act.gov.au](mailto:Alexander.Nockels@act.gov.au)>; MACC <[MACC@act.gov.au](mailto:MACC@act.gov.au)>; EPAPanningLiaison <[EPAPanningLiaison@act.gov.au](mailto:EPAPanningLiaison@act.gov.au)>; McKeown Helen <[Helen.McKeown@act.gov.au](mailto:Helen.McKeown@act.gov.au)>; Weller Craig <[Craig.Weller@act.gov.au](mailto:Craig.Weller@act.gov.au)>  
**Cc:** Terrplan <[Terrplan@act.gov.au](mailto:Terrplan@act.gov.au)>; Kaucz Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>; Moore AlisonM (ACTPLA) <[AlisonM.Moore@act.gov.au](mailto:AlisonM.Moore@act.gov.au)>; Elhassan Walid <[Walid.Elhassan@act.gov.au](mailto:Walid.Elhassan@act.gov.au)>; Moroney Anne <[Anne.Moroney@act.gov.au](mailto:Anne.Moroney@act.gov.au)>; Gianakis Steven <[Steven.Gianakis@act.gov.au](mailto:Steven.Gianakis@act.gov.au)>; Oswald Petra <[Petra.Oswald@act.gov.au](mailto:Petra.Oswald@act.gov.au)>; OConnell Jennifer <[Jennifer.OConnell@act.gov.au](mailto:Jennifer.OConnell@act.gov.au)>; Russell Meaghan <[Meaghan.Russell@act.gov.au](mailto:Meaghan.Russell@act.gov.au)>; Dunstan David <[David.Dunstan@act.gov.au](mailto:David.Dunstan@act.gov.au)>; Rebecca Sorensen <[rebecca.sorensen@natcap.gov.au](mailto:rebecca.sorensen@natcap.gov.au)>; Dakin Michael <[Michael.Dakin@act.gov.au](mailto:Michael.Dakin@act.gov.au)>; Brown Robin <[Robin.Brown@act.gov.au](mailto:Robin.Brown@act.gov.au)>  
**Subject:** Draft Variation to the Territory Plan DV350 - for agency circulation [SEC UNCLASSIFIED DLM For-Official-Use-Only]

DV 350 has been prepared in response to an issue that has arisen regarding multi-unit redevelopment of certain blocks in some of the older Canberra suburbs. Some of the original residential leases do not specify or limit the number of dwellings permitted. During the late 1960s and early 1970s, two dwellings (**one dwelling and one small flat**), were allowed to be built on these blocks provided the development presented as a single dwelling to the street. The aim at the time was to improve the availability of housing stock while maintaining the low density suburban character.

The current definition of 'single dwelling block' does not apply to these **blocks with an extra flat** original dual occupancy blocks. As a result some **many** of the provisions in the Multi Unit Housing Development Code (MUHDC) **such as restricting plot ratio, block size requirement, replacement dwellings, number of dwellings in each building, restrictions on attics and basement**, dwelling numbers do not apply if multi-unit residential redevelopment is proposed on these blocks. This has resulted in a built form that is not sensitive to the **surrounding neighbouring blocks and the single dwelling** streetscape character of these areas.

DV350 proposes to address this situation by changing the title of the definition to 'standard block' and adjusting the wording to include blocks that were originally (**date specification may be required say 'prior to ... 1990' or something appropriate so that the new approved dual occupancies is not included in the definition**) leased or used for the purpose of one or two dwellings. This change will require development proposals to comply with the relevant provisions of the MUHDC and ensure that multi-unit redevelopment is complementary to the existing suburban streetscape character.

Please review the attached draft document and provide comment by COB 2 May 2018 to [terrplan@act.gov.au](mailto:terrplan@act.gov.au)

Many thanks

**Territory Plan Section | General Enquiries Inbox**  
Email: [terrplan@act.gov.au](mailto:terrplan@act.gov.au)  
**Planning Policy | Environment, Planning and Sustainable Development Directorate | ACT Government**  
Dame Pattie Menzies House, 16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | [www.planning.act.gov.au](http://www.planning.act.gov.au)



ACT Heritage Council

**HERITAGE ADVICE**  
**Under Part 10 of the *Heritage Act 2004***

Heritage Reference: DTPV-350  
Contact Officer: Kate Harrison  
Received by Council: 18 April 2018  
Due date: 2 May 2018

**TO: Territory Plan Section**  
Environment, Planning and Sustainable Development Directorate  
[terrplan@act.gov.au](mailto:terrplan@act.gov.au)

Description of Works: Draft Variation to the Territory Plan – DV 350  
Council Advice provided by: Team Leader (Advice)

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**Background:**

On 18 April 2018, the ACT Heritage Council (the Council) was referred a Draft Variation to the Territory Plan (DV350) for comment. DV350 proposes to change the title of ‘single dwelling block’ to ‘standard block’ and amend the wording of the definition to include blocks originally leased or used for the purpose of one or two dwellings.

**Advice:**

Review of the ACT Heritage Register identifies that the term ‘single dwelling block’ is not referenced in any Heritage Guidelines for registered heritage places.

The Council also notes that the maximum plot ratios, maximum building heights and minimum setbacks outlined in the ‘*Single Dwelling Housing Development Code*’ would apply to ‘standard blocks’, aiding in the retention of the existing low density suburban character in areas adjacent to registered heritage places.

In light of the above, the Council considers that the proposed variation would not diminish the heritage significance of any heritage places, and raises no objection to DV350 as Heritage Act 2004 provisions will continue to apply to blocks registered on the ACT Heritage Register.



Meaghan Russell  
**Team Leader (Advice) (as delegate for),**  
**ACT Heritage Council**

24 April 2018



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Mr Ben Ponton  
Chief Planning Executive  
Environment Planning & Sustainable Development Directorate  
GPO Box 158  
CANBERRA ACT 2601

Attention: Territory Plan Variation Unit

Dear Mr Ponton

Thank you for the opportunity to review and provide comment on the proposed Draft Variation to the Territory Plan No 350.

The proposed variation is supported.

Thank you once again for the opportunity to review and provide comment on the draft variation. Should you require further information please contact the Environment Protection Authority Planning Liaison Officer on 6207 5642.

Yours sincerely



Narelle Sargent  
Environment Protection Authority  
May 2018



**ACT**  
Government

Environment and Planning

██████████  
Convenor

Friends of Hawker Village Incorporated

[fohv1975@gmail.com](mailto:fohv1975@gmail.com)

Dear Mr Lyons

Thank you for your letter of 18 April 2016 regarding the Territory Plan and single dwelling blocks.

As you have raised in your letter, the Territory Plan manages development on single dwelling and non-single dwelling blocks differently. This stems from differences in both the historical leases, including their development covenants, and the historical use of the premises on these two types of block.

I understand that DA201528466 is currently before the ACAT. Unfortunately, I am unable to comment on matters before the Tribunal.

Residential leases, particularly in older suburbs in Canberra, commonly permit blocks to be used for 'residential purposes' which can include development of more than one dwelling (for example, a dual occupancy).

For residential blocks, development covenants applied additional conditions which further restricted the type of development that could occur. In some circumstances, development covenants permitted the leaseholder to erect '*one building only*', in other circumstances development covenants permitted '*one private single dwelling house building*' to be erected.

Where development covenants permitted the erection of '*one building only*', it was possible to erect a single building that contained more than one dwelling. Subsequent provisions in the Territory Plan reflected the differences between blocks where more than one dwelling had been previously approved. It achieved this by defining '*single dwelling blocks*' and '*non-single dwelling blocks*'.

The effect of these provisions is that blocks that were originally developed with more than one dwelling, even if those dwellings were in the same building, are currently permitted to have higher development densities. The consequence of these provisions were understood when they were incorporated into the Territory Plan.

It is possible to vary the Territory Plan to respond to a range of economic, social and environmental factors and the Environment and Planning Directorate always welcomes feedback on how the Territory Plan can be improved. With this in mind, I have asked the Territory Plan Team to consider the issues you raise when undertaking future residential policy and when considering how planning outcomes can be improved in the ACT.

Should you wish to discuss this matter further, Ms Alix Kaucz, Senior Manager Territory Plan is available on 02 6205 0864 or at [Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au).

Yours sincerely

Dorte Ekelund  
Director-General  
May 2016



**ACT**  
Government

Environment, Planning and  
Sustainable Development

# Notice of decision

Under Part 7 of the Planning and Development Act 2007  
**Merit track**

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DA NO: 201630177		DATE LODGED: 22/09/2016
DATE OF DECISION: 13 January 2017		
BLOCK: 42	SECTION: 45	SUBURB: SCULLIN
STREET NO AND NAME: 150 Belconnen Way Scullin		
APPLICANT: Spacelab		
LESSEE: Javelin Projects Pty Limited		

## THE DECISION

This application was lodged in the merit track. Pursuant to section 113(2) of the *Planning and Development Act 2007* (Act), the application must be assessed according to the provisions relevant to merit track applications.

I, Thara Boraiah, delegate of the planning and land authority, pursuant to section 162 of the Act, hereby refuse the proposal for:

- demolition of all existing structures on site;
- construction of six, two-storey units with basement garages;
- associated driveway, landscaping, paving and other site works; and
- vary the lease to permit a maximum of six dwellings;

in accordance with the plans, drawings and other documents and items submitted with the application approval

**PART 1** sets out the Reasons for the Decision.

**PART 2** is Public Notification and Entity Advice.

**PART 3** contains administrative information relating to the determination.

DELEGATE

Thara Boraiah  
Delegate of the planning and land authority  
Environment, Planning and Sustainable Development Directorate  
13/01/2017

Phone: (02) 6207 7373  
Email: thara.boraiah@act.gov.au

## **PART 1 REASONS FOR THE DECISION**

In accordance with section 119 of the Act, the application was refused because it did not comply with the legislated requirements for merit track applications. The application was inconsistent with:

the relevant code, being the Multi Unit Housing Development Code; and

the advice given by an entity, the entity being the Conservator of Flora and Fauna.

In accordance with section 120 of the Act, the application was refused because it was considered that the proposal did not meet the zone objectives of RZ1-Suburban Zone, in particular, objectives (a), (b), (d) and (g)

The following key inconsistencies have been identified through the assessment process:

### Multi Unit Housing Development Code

#### Rule/Criterion 29 - Front boundary setbacks

The front veranda, fin walls and awnings of the ground floor level, and the bedrooms, fin walls and roof of the upper floor level encroaches into the front 6metre setback. The building encroaches by more than a metre into the front setback distance in addition to courtyard walls, waste bin location area and the decks. The proposal reduces the opportunity for landscaping at the front and is considered to impact on the resulting streetscape.

#### Rule/Criterion 25 - Building Envelope

The proposed front building encroaches into the building envelope on the western side.

#### Rule/Criterion 30 - Side and rear boundary setbacks

The upper floor level encroaches into the side setback requirements for both primary and rear building zones. The proximity of the buildings to the neighbouring block is considered to compromise on the required spatial separation distances reducing the amenity of the developments.

#### Rule/Criterion 38 - Site open space

The site open space proposed is approximately 350sqm and is less than the required 40% of the total site area. The development with considerable hard surfaces on the block reduces the opportunity for on-site infiltration. There are no deep root plantings and meaningful and readily accessible communal open space particularly with the lack of useable private open space for the units at the front.

#### Criterion 40 – Landscape design

The extent of driveway with reduced site open space is not considered to contribute to the energy efficiency of the development.

#### Rule/Criterion 42- Courtyard walls

The courtyard wall encroaches into the front setback requirements of this rule and does not provide for trees or shrubs to soften the visual impact on the street. The courtyard wall also does not consider the sightline requirements for vehicles exiting the driveway.

#### C43-External facilities

Water tank, mechanical service/air conditioning units, if any, and clothes drying areas are not indicated and cannot be considered if those would be adequately screened from public view.

Rule/Criterion 61-Principal private open space

The private open spaces for the front units are less than minimum 6metres and are located to the south of the of the dwellings. The lack of sufficient north facing private open space is considered to affect the quality of outdoor living, dining and recreation uses.

Rule/Criterion 72- Driveway verge crossings

Refer to Transport Canberra and City Services Directorate (TCCS) comments and response below.

Rule /Criterion 73 – Internal driveways

The driveway is less than 1m from eastern boundary and the living room window and bedroom windows are less than 1m from the driveway.

Rule/ Criterion 75 - Internal driveways

The driveway serves more than 10 car parking spaces and is less than 5 metres in width. The internal driveway is required to be not less than 5m wide for not less than 7m in length measured from the relevant block boundary.

The proposal does not have passing bay for safe entering and exiting of vehicles resulting in queuing and congestion at vehicular entrance.

Rule/ Criterion 76 - Internal driveways

Internal driveway slope details and section is required.

Zone objectives

Following assessment against the relevant codes the view was formed that the proposal could not be considered consistent with the following zone objectives for the RZ1-Suburban Zone.

*Objective 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*

The proposal encroaches into the front and side setback requirements of the code for both upper floor and lower floor levels and encroaches into the courtyard wall requirements. The units at the front do not have sufficient northern private open space. The narrow width of the driveway, leading to the requirement of traffic lights within the residential block boundaries, the requirement for wide verge cross over and removal of street trees will divert the proposed development from the surrounding single dwelling low density character.

*Objective 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.*

Increase in density to 6 dwellings cannot be considered as limited extent of change with regard to original pattern of subdivision. If the surrounding single dwelling blocks are to be redeveloped, only two dwellings will be allowed by the Multi Unit Housing Development Code (MUHDC). The proposed 300% increase in density cannot be considered as a limited extent of change.

*Objective d) Ensure development respects valued features of the neighbourhood and landscape character of the area and does not have unreasonable negative impacts on neighbouring properties.*

The front setback encroachment, the courtyard wall encroachment and the long length of driveway do not allow for maintaining the landscape character of the area. The development

reduces overall deep root planting area and is not considered to be able to maintain the landscape character of the area

*Objective g) Promote good solar access*

The front units of the proposal do not have adequate northern private open space for an extension of dwellings' outdoor functions.

The applicant was advised of the departures resulting in the applicant submitting additional justification for the proposed development. The information submitted emphasized that the block is a non single dwelling block and the proposed development respects the intent of the zone and is consistent with the rules and criteria of the relevant codes.

The proposal was referred to Major Project Review Group (MPRG) for advice. The MPRG carefully considered this proposal and noted that the block is not a single dwelling block as per the definitions of the Territory Plan, however, the Territory Plan does not intend on allowing these blocks to be developed for a multi unit development beyond any multi unit development on other single dwelling blocks in the zone. The block is still subject to RZ1-Suburban Zone objectives and the proposal is not consistent with the objectives of the zone as mentioned above.

Entity advice

The development proposal is not consistent with the following entity advice:

Conservator of Flora and Fauna

*The Conservator of Flora and Fauna does not support the removal of a regulated tree (Cupressus sp) on the western side of the block as the tree does not meet the tree removal criteria.*

The authority did not support the removal of the tree on development grounds as the development was not considered to be consistent with the objectives.

TCCS Comments

*Proposed 3m wide single driveway would not be adequate for 6 unit development off an Arterial Road (Belconnen Way). TCCS recommends a two way driveway (5.5m) or a passing bay and traffic control system inside the block boundary for this development. Widening of the driveway may impact on more trees. Driveway would be designed with a minimum clearance of 3m to adjacent trees. The driveway must be built on top of existing levels to reduce excavation. The proponent must work with TCCS to find an acceptable driveway arrangement and verge tree management option.*

*Maximum gradient for the first 6 metres of the access driveway within the block boundary must not exceed 5% in accordance with section 3.3 of the Australian Standard for Parking facilities AS 2890.1 Off-street Car Parking. A long section of the driveway must be submitted to demonstrate this requirement.*

The MPRG noted TCCS comments and acknowledged that this type of driveway arrangement has the potential to be a 'precedent' for developments in the area. Other blocks on the street could end up having similar arrangements and a cumulative impact will be an undesirable one and did not support TCCS comments.

Following advice received from the MPRG, it was decided to refuse the proposal in its current form. The proponent may choose to address all the issues by way of reconsideration application or a new application, or may choose to apply for a review of this decision by the ACT Civil and Administrative Tribunal.

## EVIDENCE

Application No. 201630177

File No. 1-2016/16592

The Development Code – Multi Unit Housing Development Code

The Precinct Codes – Scullin Precinct Map and Code

Current Crown Lease – Volume 298 Folio 54

Representations - Four

Entity advice

## PART 2

### PUBLIC NOTIFICATION AND ENTITY ADVICE

#### PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 29 September 2016 to 20 October 2016. Four written representations were received during public notification.

The main issues raised were as follows.

- The development is inconsistent with Territory Plan (TP) requirements;
- 6 Dwellings on a block is not appropriate in RZ1 Suburban area;
- Affects sight lines, pedestrian footpaths and bus stop at the front;
- Removal of street/verge trees will impact on street appeal;
- Increased vehicular activity;
- Potential to open the door for redevelopment of surrounding properties;
- Impacts on noise, shadow, privacy and value of the adjoining properties;
- Designed to get around the single dwelling block classification. Conflicts with RZ1;
- Does not limit the extent of change. It changes the original pattern of subdivision and density;
- The planned big construction work will also impact the neighbour's normal living quality, and the neighbours hardly keep the privacy;
- There is an electric line pole in the backyard of that block (close to fence). It is not safe to build the building so close to the pole;
- Not a low density plan ;
- Treatment of the subject block and any similar blocks in the way proposed is essentially "unplanning" and unfair. Such redevelopment has not been planned or coordinated;
- undermines the integrity of the whole planning system;
- parking arrangements are cramped with tight access which will encourage illegal parking on the nature strip or unsafe parking on Belconnen Way.

#### ENTITY ADVICE

Pursuant to Division 7.3.3 of the Act, the application was referred to entities and advice was received. The referral entities' comments are as follows. A response to the advice is provided as appropriate.

#### CONSERVATOR OF FLORA AND FAUNA

On 17.11.2016 advice was received from the Conservator of Flora and Fauna in relation to the proposal. The advice states that there is one regulated tree on this site (*Cupressu sp.*) that does not meet criteria for removal but is of low quality.

TRANSPORT CANBERRA AND CITY SERVICES DIRECTORATE (TCCS)

On 20.10.2016, advice was received from TCCS in relation to the proposal. The advice states that further information is required to finalise the Decision

TCCS Comments are included in the reasons for the decision

ACTEWAGL-ELECTRICITY

On 18.10.2016 advice was received from ActewAGL-Electricity in relation to the proposal. The advice states that the application is approved subject to conditions. **Refer Attachment A.**

On 18.10.2016 advice was received from ActewAGL-Gas Networks in relation to the proposal. The advice states that the application is approved subject to conditions. **Refer Attachment B.**

ICON WATER

On 29.09.2016, advice was received from Icon Water in relation to the proposal. The advice states that the application fails to comply. **Refer Attachment C.**

EPA

To date advice has not been received from EPA.

## **PART 3 ADMINISTRATIVE INFORMATION**

### **INSPECTION OF THE APPLICATION AND DECISION**

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment and Planning Directorate Dickson Customer Service Centre at 16 Challis Street, Dickson, ACT.

### **RECONSIDERATION OF THE DECISION**

If the applicant is not satisfied with the decision to refuse the application, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision or within any longer period allowed by the planning and land authority.

To submit an application for reconsideration, documents must be provided electrically by email to [epdcustomerservices@act.gov.au](mailto:epdcustomerservices@act.gov.au) or provided at the customer service centre on a CD/DVD. The delegate of the Authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal. Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres.

### **REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)**

Decisions that are reviewable by the ACAT are identified in Schedule 1 of the *Planning and Development Act 2007*, except for those precluded under Schedule 3 of the *Planning and Development Regulation 2008* – Matters exempt from third-party ACAT review.

## APPENDIX 1

### REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*. Refer to the Review by the ACT Civil and Administrative Tribunal (ACAT) section of the Notice of Decision for information about its relevance to this development application.

### CONTACT DETAILS

The review authority is the ACT Civil and Administrative Tribunal (ACAT).

Location	Contact details
ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601	Website: <a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a> Email: <a href="mailto:tribunal@act.gov.au">tribunal@act.gov.au</a> Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601

### POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

### APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the form from the ACT Legislation Register <http://www.legislation.act.gov.au/af/2009-278/current/pdf/2009-278.pdf>.

If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

### TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

### FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

### TIME LIMITS FOR REVIEWS OF DECISIONS

The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.

### FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

The following organisations can provide advice and assistance if you are eligible:  
ACT Attorney-General, write to The Chief Executive, of Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;  
the ACT Legal Aid Office, telephone 1300 654314;  
Legal Advice Bureau, telephone (02) 6247 5700;  
ACT Council of the Ageing, telephone (02) 6282 3777; and  
Welfare Rights and Legal Centre, telephone (02) 6247 2177.

### AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

### ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT Freedom of Information Act 1989. Information about Freedom of information requests is available on the planning and land authority's web site or by contacting us by phone on (02) 6207 1923.

### PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

TRANSLATION AND INTERPRETER SERVICES

The ACT Government's translation and interpreter service runs 24 hours a day, every day of the week. Telephone 131 450.

ENGLISH	If you need interpreting help, telephone:
ARABIC	إذا احتجت لمساعدة في الترجمة الشفوية، إتصل برقم الهاتف:
CHINESE	如果你需要传译员的帮助，请打电话:
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, ċempel:
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefonirajte:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

**TRANSLATING AND INTERPRETING SERVICE**

**131 450**

Canberra and District - 24 hours a day, seven days a week