



Property Council of Australia

Submission to the ACT Legislative Assembly Standing Committee
On Planning, Public Works and Municipal Services

May 2012

The Voice of Leadership

Level 1 1Hobart Place AMP Building Canberra City 2601- GPO Box 1025 Canberra ACT 2601
PH 02 6248 6902 - FAX 02 6248 8210
Email aperera@act.propertyoz.com.au - www.propertyoz.com.au





Introduction

This submission is made in response to the invitation by the Legislative Assembly Standing Committee on Planning, Public Works and Municipal Services for public comment on DV306 “Residential Development, estate development and leasing codes”.

1.0 Appendix A – Residential Zone Objectives and Development Tables

The Property Council generally supports the Residential Zones Objectives. However, within the RZ 1 Zone Objectives there does appear to be some conflict. Objective (b) requires the extent of change in an existing area to be limited to protect the character of existing housing, yet Objective (c) requires provision of a wide range of affordable and sustainable housing choices.

2.0 Appendix C – Single Dwelling Housing Development Code

2.1 General Comment

The use of “reasonable” as an assessment criteria, e.g. solar access and amenity criteria, is subjective and lacks clarity of what would be considered reasonable.

The explanatory document lists the main policy change as introduction of solar access provisions, ostensibly to delivery min 6-star rated dwellings. Star rating is for energy efficiency of which solar access is only one solution, and possibly not the most cost effective way when all the new criteria from this code and the Estate Development Code is taken into account.

The housing product that won the UDIA National Affordable Housing award could not be constructed under these setback provisions. This code takes away any ability by industry to deliver innovative and high quality approaches to new housing forms.

2.2 Specific Comment

R26- compact lot front fencing code. Restricts a courtyard wall to a max of 60% of the lot width where it is under 12m – This results in a complete lack of privacy for those dwellings which will have private open space at the front on the north facing lots that are now mandated.

In addition, the draft code requires a minimum setback of 1m from the boundary. On compact lots it should be allowable on the boundary line particularly for north facing lot with front private open space. What is the point of the setback?

2.3 Parking and Site Access

R30 – Requirement for minimum of 2 car spaces for 2+ bedrooms completely ignores the current demographic shift of households as well as impinges on the affordability and design of new communities.



2.4 Element 6: Environment

R42 This rule reduces the area of a block for which no water tank is required from 299.9 SQ Metres to 250 SQ Metres and less, that is compact blocks only. We do not believe that there is any justification for this reduction in area. Rather the requirement for water tanks should simply be deleted.

4.0 Appendix D – Multi Unit Housing Development Code

Element 1 – Restriction on Use

The prescriptive measures constraining Dual Occupancy Housing in concert with the Unit Titles Act render this form of development impractical and unviable in the Territory. If government policy is to provide 50% infill opportunities, this area of opportunity for urban renewal, affordability and continued growth requires extensive and detailed consideration. At present, it appears that government policy is not aligned or addressing more relevant legislation to achieve desired urban outcomes.

Element 3 – Building and Site Controls

The addition of more prescriptive design and siting controls is excessive. It is unnecessarily constraining design innovation and diversity of product. If there are controls for the number of storeys (R16-22) for each zone, why is it deemed necessary to add prescriptive height controls (R23-26) as well as envelope controls for buildings less than four storeys? It appears that as the development in Molonglo Valley is exempt from many of these rules, that land has been sold in this growth area that could not possibly comply with such prescriptive measures.

Element 4 – Site Design

4.4 Landscape Design – all zones provides criteria that are highly subjective and almost impossible to interpret or address. It calls for “semi-mature” planting stock, “reasonable resident amenity” and “visual interest in pavement materials and finishes”. Such subjectivity is not appropriate given it will be assessed and interpreted by any number of differing opinions as to whether or not specifics of a proposal satisfy the criteria.

Element 5 – Building Design

5.1 – Surveillance – R47 requires buildings to have “at least one window to a habitable room that is not screened by a courtyard wall” and “at least one door with roofed element such as a verandah or balcony”. By prescribing windows to be exposed in such a way could cause a number of issues including degraded occupant amenity, compromised security and articulation of the built form (courtyard walls) that will contradict CPTED guidelines. By creating hiding places that are difficult to light (given proximity to such exposed windows), such controls can be counterproductive to

The Voice of Leadership

Level 1 1Hobart Place AMP Building Canberra City 2601- GPO Box 1025 Canberra ACT 2601
PH 02 6248 6902 - FAX 02 6248 8210
Email aperera@act.propertyoz.com.au - www.propertyoz.com.au





surveillance where access to dwellings is concealed in nooks specifically created to reduce crime. The requirement for a roofed element could not be considered necessary for “surveillance” on a fifth floor balcony. This element appears to be misplaced or irrelevant to the Rule under which it is specified.

Element 6: Amenity

6.2 Principal Private Open Space – It appears that the requirements under R61 state that (c) and (e) are contradictory to provision of greater amenity where (c) states that principal private open space “is screened from adjoining public streets and public open space, but (e) states that any dwelling located toward the southern quadrants of a building are only permitted if overlooking such spaces. If the public realm presents views or opportunities for amenity, it appears counterproductive to screen the open space in this instance.

Under Table A9, dwellings of 3 or more bedrooms in RZ3 and RZ4 must have an upper level principal private open space of not less than 24m² with a minimum dimension of 2.5m. As the Variation mandates the inclusion of 3 bedroom units to all developments, this measure is excessive,

cost preclusive and structurally difficult in some circumstances. Residents looking to purchase into multi-unit developments will only be encouraged if it is viable. The cost of adding such extensive space to the exterior of upper level units will ensure the product is not as attractive as lower level outer lying options. This requirement must be reconsidered as it will ensure a minimal mix of this type of product in any development.

Element 7: Parking and Vehicular Access

This element has provided opportunity to review the current parking provision rates to address sustainability criteria. The Variation has seemingly ignored such an opportunity to review redundant policy and promote current government policy in terms of sustainability, affordability, transit orientated developments and carbon emissions. Further consideration should be given to the current parking provisions under such a major review of the Territory Plan.

Part D – Endorsement by government agencies (entities) is now required as an assessable rule for development applications. There are statutory time frames for responses from entities when referred by ACTPLA during assessment under the Land and Planning Act. There is no such statutory requirement for entity response for pre-endorsement. Current industry experience is that pre-endorsement is often a protracted process and often one that is not resolved prior to lodgement. If pre-endorsement is to become a rule, the relevant legislation to require entities to respond reasonably must be updated.

The Voice of Leadership

Level 1 1Hobart Place AMP Building Canberra City 2601- GPO Box 1025 Canberra ACT 2601
PH 02 6248 6902 - FAX 02 6248 8210
Email aperera@act.propertyoz.com.au - www.propertyoz.com.au





Other

Gross Floor Area Definition

The current draft variation provides an opportunity to improve the GFA definition with respect to balconies and building basements which we believe will result in substantially improved design outcomes and greater planning certainty.

a) Balcony GFA

The current interpretation is based on balconies being included in GFA where they are considered substantially enclosed. Substantially currently is defined as being enclosed on three sides. Typically this would mean a balcony with access off the apartment as one wall and the two side walls. Given that development of many sites is controlled by a GFA limitation, the above definition forces an architectural outcome of expressed balconies. While this may be reasonable in many instances, in some circumstances, such as mixed use zones it forces a residential architectural response instead of a more commercial response. It also removes the option of winter gardens from these sites as such a solution would mean that the balcony would be considered enclosed and therefore part of the building GFA.

We propose that the GA definition expressly remove balconies to avoid forced architectural outcomes.

b) Basement GFA

Similar to above, if a proposed basement has any portion more than 1.0m above existing natural ground level, then that portion of the basement is also considered as GFA. This again results in forced architectural outcomes on sloping sites with GFA limitation which leads to poor streetscapes. As an example, a site falling away from a road, with a GFA limitation on development will result in the ground floor of these buildings being below street level (on steep sites significantly below) to ensure the basement is not included in GFA calculations.

We propose this be avoided by expressly removing basements from the GFA definition and instead design a rule and criteria requirement that basements be designed to be no more than 1.0m above proposed finished ground level (as opposed to existing ground level) with a criteria that requires basements to be sympathetically designed to site and building constraints.

The Voice of Leadership

Level 11 Hobart Place AMP Building Canberra City 2601- GPO Box 1025 Canberra ACT 2601
PH 02 6248 6902 - FAX 02 6248 8210
Email aperera@act.propertyoz.com.au - www.propertyoz.com.au





Appendix E – Estate Development Code

Key Issues

1. Block layout and Orientation

This is the key element of the proposed amendments that will have significant impacts on both the urban design of new suburbs and larger developments as well as the ability to meet other government policies including the delivery of affordable housing.

The Property Council is very supportive of the Government's stated commitment to improving the energy efficiency of dwellings, noting the existing BCA requirement for the delivery of minimum 6 star rated new homes. We would also agree with the statement that "homes that integrate sound environmental design such as proper insulation, northerly orientation and shading of windows and walls in summer, are most likely to achieve this target" for the most part. However, it is not the only way and it is not a solution that is best fitted to all scenarios.

We would strongly disagree with the philosophy underpinning this entire section of the code that the way to solve energy efficient design is by dictating a limited solution as the only "complying" solution. There are many examples, Crace urban core being one, which is a practical demonstration as to how narrow, compact lots which tend towards an orientation 45 degrees to the north-south axis easily achieve a minimum of a six star rated dwelling without compromising neighbouring solar access. That it is an undesirable/inefficient solar outcome is a philosophical view that is not rooted in demonstrable fact and will have the end result of creating poor urban design outcomes and reduced livability outcomes.

Most developers and builders of compact and integrated housing have long acknowledged that the best solar and livability outcomes come from a predominantly east/west orientation to enable good

solar penetration into the dwelling from both the front and rear of the dwelling and maximum northern sunlight into private open spaces. The orientation being promoted in this code as "complying" will require a significant proportion of smaller dwellings to have private open space on the street frontage, both a poorer outcome for livability and privacy for the occupant and often a significantly poorer urban design and streetscape outcome.

The underlying philosophy of how to deliver maximum solar outcomes for small lot housing by way of fixed models and tables is fundamentally flawed and by insisting that this philosophy is the complying design outcome will result in poorer urban design outcomes and reduce innovation in compact lot housing.

The Voice of Leadership

Level 1 1Hobart Place AMP Building Canberra City 2601- GPO Box 1025 Canberra ACT 2601
PH 02 6248 6902 - FAX 02 6248 8210
Email aperera@act.propertyoz.com.au - www.propertyoz.com.au





A superior outcome would be for the Code to establish the required performance outcomes (eg a minimum 6-star rated dwelling) to enable innovation in urban design, dwelling construction technology and materials and housing types to respond to increasing energy efficient design requirements and market forces, rather than attempt to dictate a single approach with its inherent limitations.

2. Block Sizes

The minimum block width that is nominated in Element 8, R41, of 6 metres is not acceptable. A number of developments in the ACT are delivering high quality single dwellings at frontages of less than 6 metres, whilst still achieving 6-star energy efficient ratings.

The amendments to the Estate Development Code, coupled with the rules of the Single Dwelling Housing Development Code, will not enable this type of dwelling to be approved in the ACT and will have a significant impact on the ability of industry to deliver innovative approaches to compact lot housing and affordable housing, that has been widely endorsed by the community and residents who live in these dwellings.

It appears that the driving design imperative behind this minimum is the need to ensure two car spaces on every single dwelling block regardless of the size or the number of bedrooms. This ignores current demographic trends of a reducing household size. A large proportion of ACT households now contain less than two residents and it seems fitting that we should be able to provide a compact dwelling with one car space (that is not an apartment) as part of the objective of housing diversity. Designing residential lots based on accommodating two cars as opposed to household demographics is wrong, particularly in the face of the other sustainability objectives (including greenhouse gas reduction) nominated as a key driver of this amendment.

3. Element 14 – Street Networks

Rules 93 and 103 need to be re-examined to ensure there is no conflict between TAMS and ESA.

4. R112

This mandatory requirement appears to remove the ability for ACTPLA to overrule the Conservator based on good planning outcomes and will most likely result in a situation where no tree of medium value or higher can be removed. This means an odd tree isolated in the middle of a paddock could become the principal determinant in designing a subdivision irrespective of the other factors. There needs to be an opportunity to take a longer term view of the estate development plan and how the trees will be managed once in public ownership in relation to public safety and liability concerns.

A positive clause to the effect that ACTPLA can re-determine the requirements of the Tree Management Plan is required.

The Voice of Leadership

Level 1 1Hobart Place AMP Building Canberra City 2601- GPO Box 1025 Canberra ACT 2601
PH 02 6248 6902 - FAX 02 6248 8210
Email aperera@act.propertyoz.com.au - www.propertyoz.com.au





5. Element 17

R119. This mandatory requirement allocates stormwater design endorsement to ActewAGL. Stormwater has a critical impact on road design which is endorsed by TaMS as well as the integration with any WSUD plan required under Element 5. This appears to be an error in Element 17 rather than a variation to the endorsing agency. Likewise natural gas infrastructure approvals are currently undertaken by Jemena rather than ActewAGL so clarity around these services would be appreciated.

Clarity around design standards will be required as the current ActewAGL design requirements around sewer are not clear in Element 17, and there is some doubt as to how ActewAGL may assess storm water back of block servicing standards.

There are not time constraints on ActewAGL to respond to design approvals and they are clearly the poorest performers of all endorsing agencies. The whole approval process could be put in limbo waiting for an ActewAGL endorsement if this rule is adopted. This requirement must be resisted and removed with responsibility remaining with TaMS.

For further information contact:

Catherine Carter
ACT Executive Director
Property Council of Australia

T: 02 6248 6902
E: ccarter@propertyoz.com.au

The Voice of Leadership

Level 1 1Hobart Place AMP Building Canberra City 2601- GPO Box 1025 Canberra ACT 2601
PH 02 6248 6902 - FAX 02 6248 8210
Email aperera@act.propertyoz.com.au - www.propertyoz.com.au

