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The Standing Committee on Planning, Environment and Territory and Municipal Services
GPO Box 158
Canberra, ACT 2601

Draft Variation to the Territory Plan No 343
Residential blocks surrendered under the loose fill asbestos insulation
eradication scheme

To whom it may concern,

I object to the Draft Variation to the Territory Plan No 343 (the proposal). The proposal:

1. Is not consistent with the Territory Plan RZ1 objectives,
2. Is not consistent with the Territory Plan's statement of strategic directions in terms of the spatial planning and urban design principles,
3. lacks necessary transparency, and
4. includes undefined design criterion that cannot be objectively assessed.

The proposal is a threat to the integrity of RZ1 amenity that was sought and purchased in good faith.

The proposal undermines the rules that apply to other land in the zone and considered necessary to protect the RZ1 values.

By allowing higher plot ratios and unit titling, the proposal will encourage large two storey dwellings. It is highly unlikely that such dwellings would be built without these variations and would result in neighbouring residential properties being overlooked and overshadowed, devaluing the existing residential amenity.

However the integrity of RZ1 can be protected by amending the proposal to:

- allow only single storey dwellings on unit titled blocks, plus allowing attics and basement car parking where plot ratios of 50% apply, and
- keep the current sliding scale plot ratios.

By making these changes while keeping the unit titling provisions the amenity of neighbouring properties will be protected and the ACT Government will still raise critical revenue.

The basis for my objection to the proposal as specified below.

Inconsistencies of the proposal with RZ1 Suburban Zone Objectives

Inconsistency 1—Variation 3: *Permit subdivision for unit titling of dual occupancy development on the affected blocks.*

Variation 3 of the proposal is not consistent with RZ1 Suburban Zone Objectives including 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”.

Unit titling of surrendered residential blocks will price them well above the neighbouring blocks, as is the objective of the variation. This premium will ensure that the buyers capital outlay could not

be recovered in any reasonable period by building a single dwelling across the permitted subdivisions. The new Molonglo Valley offers a case study of the inclinations of the building industry on small and mid-sized blocks: here dwellings built by developers are predominantly double storey dwellings that push the upper boundaries of the permitted plot ratios. This variation can only encourage higher density two storey dwellings where they would not have existed otherwise.

This variation clearly compromises the RZ1 zone objective of single dwelling residences. As similar unit title developments cannot be carried out in any other similar blocks in the RZ1 zone one must conclude that this variation is not consistent with the zone objectives.

Inconsistency 2—Variation 5: *Alter the plot ratio to accommodate the reduction in block size, consistent with plot ratio provisions currently applying to dual occupancy development in the RZ2 suburban core zone.*

Variation 5 of the proposal is not consistent with RZ1 Suburban Zone 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 the dwelling”.

Variation 5 alters the sliding scale plot ratio for surrendered blocks. This ratio has been fiercely defended by successive Governments. This change is significant: for example a block of 1,120 m², the plot ratio is 5% higher, equal to 112m² of additional floor area on unit title two storey developments. As the sliding plot ratio must be carried out on all similar non-surrendered blocks in the RZ1 zone, one must conclude that the use of a set plot ratio is not consistent with the zone objectives.

Inconsistency 3—Variation 3: *Reduce the block size for dual occupancy development on the affected blocks from 800m² to 700m².*

If the 700m² limit on dual occupancy cannot be carried out on all other similar non-surrendered blocks in the RZ1 zone, one must conclude that this variation is not consistent with the zone objectives.

Inconsistency 4

The proposal is not consistent with RZ1 Suburban Zone Objective d):

“Ensure development respects valued features of the neighbourhood and landscape character of the area and does not have unreasonable impacts on neighbouring properties”.

Changing the plot ratios and unit titling provisions of zoning rules for blocks will negatively affect the garden city character of RZ1 suburban areas. The proposed changes will encourage two storey dual occupancy dwellings to be built as close to the property boundaries as possible in order to maximise dwelling size. The proposal will unreasonably impact on the privacy and amenity of neighbouring properties, particularly in our gardens.

Inconsistency with the Territory Plan’s statement of strategic directions

The proposal is not consistent with item 2.5 of the Territory Plan’s statement of strategic directions:

“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.”

The proposal contradicts item 2.5 of the Territory Plan’s statement of strategic directions by:

- intensifying development away from commercial centers and major transport routes, and
- not protecting the low density, garden city character of Canberra’s suburban areas.

Lack of necessary transparency

This proposal does not clearly explain how the plot ratio rules are applied. For example Rule 3.3 states that the maximum plot ratio for dual occupancy housing is 35% where at least one dwelling does not directly front a public road from which vehicular access is permitted. For an affected block this could be interpreted as either:

- both unit titles have a maximum 35% plot ratio: or
- the unit title that directly fronts a public road can have a maximum 50% plot ratio and the unit title that does not directly fronts the public road has a maximum 35% plot ratio.

This lack of clarity also means that the public are unable to assess the implications of potential two storey developments on their local amenity: i.e. for the above example, can the front unit title of a neighbouring block have a two storey dwelling or not?

This part of the proposal needs to be re-written clearly and accompanied by diagrams that clearly illustrate the intent as provided in other ACT Government planning legislation and codes. It is unreasonable to consider tabling this legislation until these matters are resolved and there is an appropriate extension of time for the public to consider the implications of, and comment on, any proposed changes to planning rules for surrendered blocks.

Subjective design criterion

A key measure in the proposal is a building height limit and an associated design criterion, which is claims will meet the objective of maintaining the existing amenity of streets and suburbs. This outcome is compromised as the each of the elements of the design criteria are subjective:

- visually harmonious streetscape
- character with variety and interest, and
- not detrimental to, or overtly detracting from the existing streetscape character.

The proposal does not specify the actual elements of the design criterion that allow for an objective assessment of its correct application to be made or appealed. For example, what is the allowable pitch of the roof to achieve this criterion?

Every element of the design criteria is about streetscape and does not address amenity for the neighbouring properties, particularly from the perspective of their back yards. The design criterion in no way protects the amenity of neighbours by dwellings that overlook or overshadow their properties as is implied in the Explanatory Statement.

Recommendation

I am aware that addressing the Mr Fluffy legacy is placing immense fiscal pressure on the ACT budget and is limited opportunity to offset the costs of the scheme. Because of this recognition, I don't seek for the proposal to be abandoned, but that the proposal is amended as follows:

- allow only single storey dwellings on unit titled blocks, plus allowing attics and basement car parking;
- keep the current sliding scale plot ratios, and abandon the set ratios; and
- clearly explain how the plot ratio rules are applied and include example diagrams.

By making these changes, while keeping the unit titling provisions, the integrity of RZ1 can be protected, neighbouring properties that were sought and purchased into in good faith will have their amenity protected and the ACT Government will still raise critical revenue.

Shayne Di Camillo