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

**Government Response to Standing Committee on Planning, Transport and City Services -
Report 4 - Inquiry into Draft Variation 365: Housing Choices - Co-Housing and Boarding Houses**

**Presented by
Mr Mick Gentleman MLA
Minister for Planning and Land Management
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Introduction

The ACT Government thanks the Standing Committee for Planning, Transport and City Services (the Committee) for the recommendations put forward in Report No. 4 regarding Draft Variation No. 365 Housing Choices – Boarding Houses and Co-housing (DV365).

DV365 was prepared by the ACT Government to implement part of the Housing Choices project which was undertaken by the Environment, Planning and Sustainable Development Directorate (EPSDD). The project investigated whether the housing needs of the Canberra community are adequately understood, whether they are currently being met and how they can be better met in the future.

The first stage of the Housing Choices project was initiated with the release of a Discussion Paper in November 2017. The results of the community engagement from the Discussion paper were detailed in the Housing Choices Discussion Paper Community Engagement Report (May 2018).

The second stage of the Housing Choices project involved the creation of the Housing Choices Collaboration Hub. The Collaboration Hub was a group of 38 randomly selected individuals that represented a broad cross-section of the Canberra community.

The Collaboration Hub participants wrote the recommendations in their report of 28 July 2018.

The Minister for Planning and Land Management gave support in-principle to all the Collaboration Hub's recommendations contained in its report. That is, the Minister agreed to the ideas proposed in the recommendations, with further detailed work required by EPSDD and other agencies to determine the most appropriate way to deliver the desired outcome.

The ACT Government's response to each of the 13 recommendations is outlined in the ACT Housing Choices Collaboration Hub: Government Response (September 2018). This report is available at: <https://www.yoursay.act.gov.au/housing-choices>.

The Government's response includes a commitment that the Collaboration Hub's recommendations and other issues raised during consultation on the Housing Choices project will be considered and/or implemented through a variation to the Territory Plan and as part of the ACT Planning System Review and Reform project and other projects.

DV365 proposes to amend the Territory Plan to implement Recommendation 7 of the Housing Choices - Collaboration Hub Report as outlined below.

Theme 4 – Lifestyle and diversity – The current housing options driven by market do not provide flexibility for varying lifestyles in both physical space and possible procurement methods.

Recommendation 7 – For both infill* and new developments, government should require and/or incentivise developers to deliver an increase in:

1. *Mix of dwelling sizes and diversity of dwelling types.*
2. *The set proportion (%) of new dwellings that meet universal design standards: whilst taking into account different Precincts and changes over time.*

Other NOTES about Infill; this should allow:

- *For rules to kick in over time, as spaces/blocks are redeveloped with reference to Precinct Plans.*
- *For the mix and diversity for each area to be reviewed over time; not set and forget.*

Notes for Item 1. As examples for consideration/incorporation: single level age-in places, shop top living, build to rent, share housing, loft-style, courtyard, terrace house, mews and manor.

Notes for Item 2. Universal design is considered to be an adaptable house that is able to respond to changing lifestyle needs.

Rationale – Based on submissions/presentations by: Kate Auty, ACT Commissioner for Sustainability and Environment; Sue McGrath, The Benevolent Society; Clare Wall, Board of Community House Canberra; and Shane Garrett, Housing Industry Association.

DV365 introduces co-housing into all residential zones except for the RZ1 Suburban Zone. It also revises and updates the provisions for boarding houses in the ACT. These amendments are primarily intended to assist in increasing housing diversity and to respond to the changing needs and expectations of the Canberra community.

DV365 was released for public comment between 17 January 2020 and 6 March 2020. A total of 36 written submissions were received. Most of the submissions expressed an interest in increasing housing choices across the residential zones and relaxing provisions to increase viability of boarding houses and co-housing. However, some submissions called for greater limitations and control of boarding houses and co-houses particularly in the Residential RZ1 Suburban and the Residential RZ2 Suburban Core Zones.

Changes were made to the DV365 in response to the issues raised in the public submissions. However, the overall policy intent of the draft variation was retained. The revised recommended version of DV365 was referred to the Committee on 1 March 2021.

On 11 March 2021, the Committee agreed to conduct an inquiry into DV365. The Committee received eight public submissions and held one public hearing on 15 July 2021

during the course of its inquiry. The inquiry culminated in the Committee Report No. 4 (the Report) in August 2021. The Report recommendations are outlined below.

Recommendations

No.	Recommendations
Recommendation 1	The Committee recommends that the ACT Government should deal with any proposed planning changes for co-housing and boarding houses in separate Draft Variations.
Recommendation 2	The Committee recommends that the co-housing components of DV365 be withdrawn and Territory Plan amendments concerning co-housing be made following evaluation of the co-housing projects currently being progressed through the demonstration housing project, the Collaboration Hub, community consultation and existing informal co-housing models in Canberra.
Recommendation 3	The Committee recommends that if the ACT Government review its regulatory and compliance regime for both private and community boarding houses in the ACT. This could be modelled on existing community boarding house regulation and should be designed to protect boarding house residents. It should include a system of licensing, inspection and registration and should be developed in consultation with the existing community housing sector.
Recommendation 4	The Committee recommends that if the ACT Government retains co-housing in DV365, it consider: <ul style="list-style-type: none">• whether co-housing should be prohibited or permitted in RZ1 and if it is permitted, whether it should be limited to one per section and be subject to other limitations such as the Living Infrastructure policy;• using the original definition of co-housing distributed in the original consultation;• policy and options for unit title for co-housing; and• embedding a review of co-housing in five years' time.

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Recommendation 1

The Committee recommends that the ACT Government should deal with any proposed planning changes for co-housing and boarding houses in separate Draft Variations.

Response

NOTED BUT DISAGREE

The ACT Government does not agree with Recommendation 1 to separate DV365 into two draft Territory Plan variations. The proposed Territory Plan amendments for boarding house and co-housing were incorporated into one draft variation DV365 because they both came out of the Housing Choices Collaboration Hub - Recommendation number 7.

Notwithstanding this, it is acknowledged that the planning policies for boarding houses and for co-housing are different and have distinct planning considerations. For future draft Territory Plan variations, consideration will be given to separating amendments for different planning matters into different draft Territory Plan variations.

In terms of DV365, the recommendation to separate the boarding house and co-housing amendments into two draft variations does not change the policy outcomes sought in the original DV365 or in the Report. At this stage in the planning process, separating the proposed amendments will essentially be an administrative process. However, the *Planning and Development Act 2007* (the Act) does not provide scope for draft variations to be split into multiple variations. The recommendation, if agreed, would require removal of the co-housing provisions from DV365 and for a new draft variation to be prepared for the co-housing provisions.

Recommendation 2

The Committee recommends that the co-housing components of DV365 be withdrawn and Territory Plan amendments concerning co-housing be made following evaluation of the co-housing projects currently being progressed through the demonstration housing project, the Collaboration Hub, community consultation and existing informal co-housing models in Canberra.

Response

NOTED

DV365 seeks to introduce co-housing as a new type of housing in the higher density residential zones. This is in response to the recommendations of the Collaboration Hub as

well as community discussions on co-housing (including comments on existing co-housing models in Canberra) during the housing choices project.

Consistent with the Committee recommendation, it is appropriate to consider the outcomes of the demonstration housing proposal contained in DV376, prior to making a decision about whether co-housing is suitable in all residential zones and not just in RZ2, RZ3, RZ4 and RZ5. The DV376 demonstration housing proposal seeks to maintain high residential amenity, slightly increasing residential density, consistent with garden city principles, while maintaining character and amenity of the RZ1 zone. In this regard, an evaluation of the demonstration housing development will inform future ACT housing policy, including co-housing.

However, it is equally as important to review the outcomes of co-housing development proposals in the RZ2 to RZ5 zones that will be permitted with DV365. DV376 responds to a specific co-housing proposal on an RZ1 block in Ainslie. Conversely, DV365 will enable a range of co-housing interpretations that comply with the Territory Plan definitions and provisions. These will test the appropriateness and workability of the Territory Plan requirements prior to introducing co-housing in the RZ1 zone (where it is anticipated the take-up of this housing option will be significantly greater).

Notwithstanding the above, the comments in the Report about co-housing are noted. Of note are the comments about the limitations on block sizes for co-housing and the various applicable provisions of Element 3 of the Multi Unit Housing Development Code and Element 1 of the Single Dwelling Housing Development Code.

Accordingly, the Minister for Planning and Land Management will direct the Environment, Planning and Sustainable Development Directorate to review and revise the code provisions applying to co-housing. A key consideration will be to remove any unnecessary limitations on co-housing developments in the RZ2, RZ3, RZ4 and RZ5 residential zones of the Territory Plan to enable the additional housing type to be fully utilised.

Recommendation 3

The Committee recommends that if the ACT Government review its regulatory and compliance regime for both private and community boarding houses in the ACT. This could be modelled on existing community boarding house regulation and should be designed to protect boarding house residents. It should include a system of licensing, inspection and registration and should be developed in consultation with the existing community housing sector.

Response

NOTED

This is a matter to be dealt with outside the Territory Plan and DV365 as it relates specifically to management of the property rather than to the built form. However, the

concerns about unscrupulous management of boarding houses in other jurisdictions have been noted.

The Territory Plan currently permits boarding houses in residential zones however to date the uptake of boarding houses by the private sector has been very low in the ACT. The ACT Government notes that existing boarding houses in the ACT (in both the private and community sectors) are already subject to the *Residential Tenancies Act 1997* and must operate under either residential tenancy or occupancy agreements. These legal arrangements already prohibit many of the unscrupulous management behaviours referred to in the Report.

Should issues arise with the regulatory process for private and/or community boarding house developments, the Justice and Community Safety Directorate will consider the matter accordingly.

Recommendation 4

The Committee recommends that if the ACT Government retains co-housing in DV365, it consider:

- **whether co-housing should be prohibited or permitted in RZ1 and if it is permitted, whether it should be limited to one per section and be subject to other limitations such as the Living Infrastructure policy;**
- **using the original definition of co-housing distributed in the original consultation;**
- **policy and options for unit title for co-housing; and**
- **embedding a review of co-housing in five years' time.**

Response

AGREED IN PRINCIPLE

During the development of DV365 consideration was given to whether co-housing should be permitted in the RZ1 Suburban Zone and if it were, what provisions would be appropriate to apply to such development. This process also took into consideration community feedback from the housing choices project.

As co-housing is a new type of development in the ACT planning system, it was considered appropriate to prohibit co-housing in the RZ1 zone. It was also considered appropriate that a review of the demonstration housing proposal contained in DV376, as well as any co-housing developments resulting from DV365, should inform any future decisions about extending co-housing into RZ1 zone consistent with the objectives of this zone.

Notwithstanding the above, the following information is provided in response to four dot points in the Committee recommendation number 4:

- Co-housing in the Residential RZ1 Suburban Zone and living infrastructure:

- If and when consideration is given to allowing co-housing in the residential RZ1 Suburban Zone, then appropriate locational and site requirements will be prepared to guide such development.
- Living infrastructure requirements are currently being implemented through a separate draft variation to the Territory Plan (DV369) for all residential zones. For this reason, living infrastructure does not need to be considered separately for co-housing.
- The definition of co-housing in DV365: It is not clear what ‘original’ definition of co-housing is being referred to in the Report. The same definition of co-housing was included in both the draft variation DV365 for public notification and the recommended version of DV365 that was considered by the Committee. No changes have been made to the definition of co-housing.

There are a number of different definitions of co-housing used by groups around the world. Often the definition relates to the management and cooperative arrangements for co-housing groups and proponents. The definition of co-housing proposed in DV365 relates to co-housing as a type of development and does not specify a management arrangement. Therefore this aspect of a co-housing development will be at the discretion of the proponents.

- Unit titling of co-housing - Unit titling of co-housing is specifically permitted under DV365 under proposed rule R32D. It is noted that there were differing views in the submissions to the Committee about unit titling of co-housing. While unit titling is permitted through a mandatory rule of the Territory Plan, it is not mandatory for a co-housing development to be unit titled. This means that the co-housing development can have the ownership arrangement preferred by the owners and does not have to include unit titling if they do not wish to.
- Review of co-housing in five years time – It is not considered necessary to embed a review of co-housing in five years time, nor is it considered appropriate to include such a requirement into the Territory Plan. Planning policies are reviewed from time to time and it would be more appropriate to undertake a review of co-housing when the policies applying to development in residential areas are reviewed.