



LEGISLATIVE ASSEMBLY

FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING, TRANSPORT AND CITY SERVICES

Jo Clay MLA (Chair), Suzanne Orr MLA (Deputy), Mark Parton MLA

Submission No 3 -

ACTCOSS

Inquiry into DV 365 -

Housing Choices

Received - 21/04/21

Authorised - 06/05/21

Committee Secretary
Standing Committee on Planning, Transport, and City Services
ACT Legislative Assembly,
GPO Box 1020, Canberra ACT 2601

Via email: LCommitteePTCS@parliament.act.gov.au

Dear Committee Secretary

**Inquiry into Draft Variation 365: Housing Choices –
Co-Housing and Boarding House**

Thank you for the opportunity to make a submission into this draft variation to the Territory Plan issued in December of last year regarding arrangements for the zoning, compliance and development of co-housing and board house arrangements.

Our priorities for Housing Choices

ACTCOSS's priorities in the Housing Choices process were flagged in our [submission](#) to that process. ACTCOSS and its members have also provided substantial input into the development of the ACT Housing Strategy and the priorities that have led to the commitments on housing in the current Parliamentary and Governing Agreement. We have also made a wide-ranging [submission](#) on the ACT Territory Plan review.

In short, ACTCOSS urges the ACT Government to:

- Commit to full, transparent and timely delivery of the ACT Housing Strategy and additional commitments in the Parliamentary and Governing Agreement on public and affordable dwellings
- Achieve the target of 15% of the Land Release Program for the *effective* supply of public, community and affordable housing so that it results in the development of additional social and affordable housing
- Increase effective land transfers to ACT community housing providers and empower them to build more community and affordable housing
- Provide further investment in additional public housing and renewal of current stock (in suburbs across Canberra)

- Locate public and community housing in a range of locations including suburbs close to established amenities and services
- Commit to all new residential properties in the ACT built to meet Universal Design standards to make them able to be adapted and accessible to all people regardless of age, disability or other factors, and support reforms of the National Construction Code
- Develop an Indigenous Housing Strategy for the ACT including a pathway to a community controlled Aboriginal housing organisation
- Establish a specialist youth homelessness service
- Implement long-term housing solutions for detainees leaving the Alexander Maconochie Centre and people on bail
- Fund human rights compliant mental health specific supported housing.

Draft variation

The draft variation proposes to maintain boarding houses as ‘merit assessable development’ in residential zoning areas. It also seeks to prescribe the number of rooms in a boarding house. Further, the draft variation would regulate and potentially restrict co-housing within residentially zoned (RZ) areas.

ACTCOSS does not have views about the specific zoning changes proposed in the variation.

ACTCOSS does have reservations about regulatory change which might imply that the expansion of the boarding house sector in Canberra is desirable without first undertaking significant policy and regulatory work to protect rights of vulnerable people who have been the traditional residents of boarding houses, such as people with disability. Noting that boarding houses often have shared facilities and more than one person to a room, thorough policy development is required in the ACT to support vulnerable people to live safely and with dignity.

In relation to boarding houses in the ACT, a starting point would be to examine regulatory approaches and their effectiveness in other jurisdictions.

This is discussed in more detail below.

Boarding houses

The zoning changes act to limit the scale of boarding houses in RZ1. Albeit that the draft variation creates new restrictions, this change may implicitly suggest support for, or acceptance of, the establishment of new private boarding houses in Canberra.

The ACT does not have a history of large private boarding houses, although we do have short stay accommodation for students and some other settings similar to boarding houses.

We note that in other jurisdictions, privately run boarding houses (in NSW called Assisted Boarding Houses) have a long history as unsafe, exploitative and troubled institutional environments for people who are on income support, have psycho-social disabilities, are dependent on substances, have exited the justice system or have experienced trauma.

In some cases boarding house proprietors have claimed to offer therapy, income management and other 'services' to tenants and these supports become linked to tenancy arrangements.

There have been high profile prosecutions¹ of boarding house providers for withholding people's incomes, denying people therapy and subjecting vulnerable people to financial, sexual, and physical abuse, violence and coercion. Boarding houses and hostels have also experienced overcrowding, building quality issues and fires.

While a range of people are vulnerable in boarding houses, there are specific risks for people with disabilities.

According to a submission to the review of the NSW Boarding House ACT by People with Disability Australia, boarding houses, even where they are regulated, represent a form of congregate housing that does not promote or deliver on the right of people to live independently and participate in the community, which is a right under the Convention on the Rights of Persons with Disabilities (Article 19). Research and inquiries have also shown that people with disability living in congregate forms of housing are

1 Maurice Blackburn Lawyers, *Grand Western Lodge Class Action*, mauriceblackburn.com.au, n.d., accessed 21 April 2021, <https://www.mauriceblackburn.com.au/class-actions/past-class-actions/grand-western-lodge-class-action/>

more likely to be exposed to violence, abuse, neglect and exploitation (Article 12).²

We note that the Australian Government has established the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and that an area of investigation includes the experiences of people with disability living in congregate accommodation such as boarding houses, where they have been subject to many forms of violence, abuse, neglect and exploitation.

We would be concerned if boarding houses – where housing, disability supports and other amenities like food service are linked – were to become an assisted disability housing option or part of the Specialist Disability Accommodation market in the ACT via the National Disability Insurance Scheme (NDIS). Work in this area requires consultation with disability representative organisations.

While other jurisdictions have made attempts to regulate boarding houses, the ACT does not have a baseline of minimal regulation, such as a Boarding House Act including a publicly available list of registerable boarding houses like that in [NSW](#).

The ACT Government, in maintaining boarding houses as merit assessable development, does not detail plans to publicly list or accredit providers, provide for mandatory inspections, regulate providers and establish arrangements which subject any new private boarding houses to high levels of scrutiny including official visitors and fire inspection requirements. It does not include plans to establish new rights for boarding house occupants as tenants, make boarding house tenants aware of their rights and enhance advocacy resources for people in boarding houses.

Gaps in tenant advocacy are relevant in this context. ACTCOSS continues to call on government to re-establish and fund an advocacy voice for tenants in the ACT.

We note that even where Assisted Boarding Houses have been regulated in NSW, such as requirements to list proprietors, the regulations have failed to protect vulnerable people over time and required governments to become involved in work to devolve people from boarding houses.

² People with Disability Australia, *Closing the door on Assisted Boarding Houses: Transitioning to contemporary, affordable and accessible housing for people with disability*, Submission to NSW Department of Customer Service (Better Regulation Division) section 105 legislative review of the Boarding Houses Act 2012, October 2019, p4

As the ACT is a human rights jurisdiction, it will be important to gain an understanding of whether, and how, boarding houses might be held accountable through different rights monitoring mechanisms and whether this is effective.

For instance, the ACT is in the process of implementing and understanding its obligations in relation to closed places under the Optional Protocol for the Elimination of Torture (OPCAT), so it would be important to understand how these places might be covered by National Preventative Mechanisms under OPCAT.

Co-housing

We note that the policy issues in relation to co-housing are substantially different to boarding houses.

Boarding houses involve some level of shared facilities and services, such as shared kitchens and bathrooms. They are a congregate model which involves shared supports and cohabitation.

Co-housing might involve a number of distinct units on a block or micro-apartments with separate dwellings. It is more similar to independent housing units.

There may be value in de-coupling policy and regulatory work relating to boarding houses from policy and regulatory work on co-housing.

ACTCOSS understands that submissions are being made by ACT Shelter and Co-housing Canberra and refers the inquiry to these submissions also.

Please feel free to discuss this submission with Craig Wallace, Head of Policy or myself on 02 6202 7200.

Yours sincerely,



Dr Emma Campbell
Chief Executive Officer



21 April 2021