

2009

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

GOVERNMENT RESPONSE TO THE
STANDING COMMITTEE ON PLANNING, PUBLIC WORKS AND
TERRITORY AND MUNICIPAL SERVICES - REPORT NO. 2

DRAFT VARIATION NO. 288

CHANGES TO RESIDENTIAL ZONES
MULTI UNIT HOUSING DEVELOPMENT CODE PART A(5)

AND

RESIDENTIAL ZONE CHANGES FOR
BLOCKS 3 AND 4 SECTION 69 LYONS AND
BLOCK 8 SECTION 47 LYONS

Circulated by the authority of
Minister for Planning
Mr Andrew Barr MLA

Recommendation 1

The Committee recommends that the ACT Planning and Land Authority commission all Planning Studies itself and, where a Territory Plan Variation is initiated by request from a proponent, require the proponent to fund the cost of the study.

Response

Agreed in part.

The Government does not agree that ACT Planning and Land Authority (ACTPLA) should commission all planning reports, especially where they are proponent driven, because ACTPLA scopes planning reports and assesses these reports independently. If ACTPLA were to commission and assess the planning reports it may result in a perceived or actual conflict of interest situation. ACTPLA does require planning studies to be funded by a proponent.

Recommendation 2

The Committee recommends that Criteria C25 (d) of the Multi-Unit Housing Development Code be amended to protect the solar access requirements of developments on the same land, in addition to protecting adjacent land.

Response

Agreed.

In accordance with Ministerial direction – consistent with section 76 of the *Planning and Development Act* – and to address the Committee’s concern the variation has been amended by incorporating part (e) into criterion 25 to ensure the protection of solar access on the same land as well as developments on neighbouring sites.

The wording of the additional part is as follows:

C25 e) do not prevent the solar access requirements of any existing development on the same parcel of land being achieved (see Element 5 Part C5 of the Multi Unit Housing Development Code)

Recommendation 3

The Committee recommends that the proposed changes to Rule R25 and Criteria C25 of the Residential Zones Multi-Unit Housing Development Code Part A (5) proceed.

Response

Noted.

Recommendation 4

The Committee recommends that the proposed variation to the Territory Plan to re-zone Blocks 3 and 4 Section 69 Lyons and Block 8 Section 47 Lyons to RZ5 high density residential zoning proceed.

Response

Noted.

Recommendation 5

The Committee recommends that ACTPLA increase the density allowances in the lease and development conditions for Blocks 3 and 4 Section 69 Lyons to enable real densification on the site.

Response

Agreed in principle.

The joint venture, comprising DHCS and Hindmarsh has advised that it will seek a lease variation to increase dwelling yield for the site and ACTPLA will consider it via the usual development application process.

The Government notes that whilst the dwelling density is not expected to increase as a result of the variation to the Territory Plan it would increase if a lease variation is made.

Recommendation 6

The Committee recommends that the proposed variation to the Territory Plan to include Rule R27A, allowing development up to 10 storeys on part of Block 4 Section 69 Lyons, should proceed subject to Recommendation 5 being agreed.

Response

Noted and agreed subject to comments noted in response to recommendation 5.

Recommendation 7

The Committee recommends that ACTPLA, in its review of the Residential Zones Multi-Unit Housing Development Code as part of the 'ACTPLAn' initiative, take into account the need to improve the energy efficiency of multi-unit buildings, including the possibility of increasing the minimum solar access requirements.

Response

Noted and agreed in part.

ACTPLA is already undertaking a broad review of the Territory Plan as a part of the *ACTPLAn* initiative and this will involve reviewing the Multi Unit Housing Development Code, including solar access requirements.

This work is also proceeding in response to the Parliamentary Agreement with the ACT Greens.

Solar access and energy efficiency are addressed differently – energy ratings are covered by the Building Code of Australia but solar access will be taken into consideration during the Sustainable Future Program’s solar access consultancy, which will inform the review of the Multi Unit Housing Development Code.

Recommendation 8

The Committee recommends that ACTPLA not combine multiple planning and zoning issues into a single Draft Variation in future unless all issues are specific to a single Zone type, Block, Section or group of Blocks. Territory wide variations to zoning requirements should be promoted as such.

Response

Agreed in part.

Wherever feasible ACTPLA will endeavour to keep variations to the Territory Plan to single matters or issues. ACTPLA will also better explain and promote variations of this type in the future where they combine both zone and site specific issues.

In this instance variation 288 incorporated two components being the changes to the general provisions for all residential RZ5 – high density residential zone and rezoning the Lyons site and related area specific changes.

As both components have implications for the Lyons site it was considered important that the two related matters be dealt with in a single variation to the Territory Plan to assist public understanding.

Combining the two elements of the variation enabled ACTPLA to limit the extensive resource requirements to process variations, which also involve Legislative Assembly processes.

Recommendation 9

The Committee recommends that future Draft Variation documentation include additional information on the current Territory Plan provisions, to assist the community to better understand the implications of the variation.

Response

Agreed.

ACTPLA will include additional information on the current Territory Plan provisions and potential implications of proposed changes in future draft variation documents.

Recommendation 10

The Committee recommends that in future ACTPLA ensure all relevant documentation is available to the public during the statutory Draft Variation consultation period and that ACTPLA check that website links to those documents work.

Response

Agreed.

ACTPLA will ensure all relevant documentation is available and can be accessed on the website from the day of public release.

Additional recommendations from Caroline Le Couteur MLA

The additional recommendations from Ms Le Couteur are addressed below.

Recommendation A

In descriptions accompanying planning proposals, ACTPLA ensure that the text is consistent with the actual characteristics of the development.

Consultation on TPVs should also include an illustration of the maximum permissible 3D building envelope.

Response

Agreed in part.

ACTPLA assesses planning reports and as a part of this process seeks to ensure consistency between the text and the characteristics of the proposal. Technicalities of wording can sometimes be interpreted differently by different groups of people.

As noted in response to recommendation 9 of the Committee's report, ACTPLA has agreed to include additional information on the current Territory Plan provisions and potential impacts of proposed changes in the future draft variation documents to assist public understanding.

With these types of variations to the Territory Plan, where an indicative plan is provided, it can lead to confusion. ACTPLA in its scoping and assessment of planning reports will advise when it would be helpful to include a maximum permissible 3D building envelope plan.

Recommendation B

That the Committee and ACTPLA consider ways of improving the consultation process without imposing unnecessary costs and delays on either the community, proponents or Government.

Response

Noted.

The Government is continually improving its consultation processes, including those of proponents and better utilising technology, to enhance community understanding.

Recommendation C

Proponents of future large developments should prepare an environmental analysis of different options and submitted as part of any masterplan, draft precinct code or rezoning application. This analysis should be included in public consultation.

Response

Not agreed.

When a proponent requests a variation to the Territory Plan, ACTPLA already requests a planning report and prepares a scoping study. This may require elements of environmental analysis, noting that where required, many large development s are already subject to other levels of environmental assessment or the land on which they sit or the policy settings they respond to have already been subjected to environmental assessments processes.

Recommendation D

That the minimum energy efficiency rating for RZ5 should be raised to 5 * minimum with an average of 6 *. If the BCA is later changed to give a higher minimum for single residences, then this should also apply to RZ5. This should also apply to the other multi-unit codes for RZ2, RZ3 and RZ4.

Response

Not agreed.

As discussed in response to recommendation 7 of the Committee, energy efficiency ratings are covered by the Building Code of Australia, not the Territory Plan.

Recommendation E

Government multi unit developments should aim for the minimum 4 Greenstar rating.

Response

Noted.

At a minimum public housing developments meet the energy rating standards of the Building Code of Australia. For dwellings that will be constructed under the Nation Building and Jobs Plan initiative, it is a condition of the funding that a 6 star energy rating be met. The possibility of applying this to other public housing dwellings is being considered.

Recommendation F

That future leases for all but single residential sites (except RZ1 or single) contain a requirement for a minimum yield.

Response

Noted.

Leases for new greenfield multi-unit housing sites contain controls in relation to dwelling numbers. However, this is not a greenfield site and the dwelling numbers are set by the existing lease. Consistent with the response to recommendation 5 of the Committee, where a lease exists, any changes are typically determined via the development application process.

Recommendation G

Redevelop the proposed site and building layout to improve solar access and thus sustainability. This could use the plans drawn up by Mr Wrigley as the basis or possibly a design competition.

Response

Not agreed.

This suggestion has been referred to the Department of Disability, Housing and Community Services for consideration during the design development for the final stage of the proposal. This is not a matter for the Territory Plan variation.

Recommendation H

That the joint ventures analyse the feasibility of altering some or all of the single storey units to two (or more) storeys to increase the density. This should be done immediately before all the units are sold to minimise cost and legal issues.

Response

Not agreed.

Occupation of the single storey units will start shortly. In the circumstances, any change to the height of the units at this stage is not possible. The Joint Venture will submit an application to vary the lease to increase the dwelling yield on the site as discussed in the response to recommendation 5 of the Committee. This is not a matter for the Territory Plan variation.

Recommendation I

That ACTPLA, LDA and ACT Housing improve practices to increase densities around town centres in accordance with the Spatial Plan. Increased densities should be done as part of a robust, high quality urban design process that is subject to public consultation and debate and results in site specific building envelope controls being incorporated into a territory plan precinct code.

Response

Noted.

The Government is committed to achieving the principles of the spatial plan, including increasing residential densities around centres and transport routes. Precinct codes provide one option to achieve this. However, wherever possible it is intended that the zone and development codes be utilised to assess development and that precinct codes are only used in unique or special circumstances for example the Northbourne Avenue precinct.

Government policies already promote increased densities in and around town centres, group centres, local centres and along public transport corridors. This is reflected in a substantial number of projects over the last seven years and Australian Bureau of Statistics data showing increasing levels of urban density in the ACT between 2001 and 2008.