



Legislative Assembly for the
Australian Capital Territory

Standing Committee on Environment
and Planning

Submission Cover Sheet

Inquiry into DPA-04 – Missing Middle Housing Reform

Submission number: 026

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Oral Submission – Missing Middle Housing Reforms

12 February 2026

1. Opening Position

I support the intent of the Missing Middle Housing reforms.

In particular, I support:

- Increasing housing choice
- Improving affordability
- Enabling gentle density in established suburbs

I also support a number of the proposed changes, including:

- Expanded permissibility for townhouses
- Dual occupancies
- Other low-rise housing types

The intent behind these reforms is sound. However, without fixing the approval system, the reforms cannot be effectively implemented.

2. Opening Statement

Each year I speak with around 500 Canberrans who want to build an extension or a secondary dwelling. Almost without exception, they believe something in the planning system needs to change.

Businesses succeed when they create products for customers — not when they try to find customers for products. The planning system does not currently meet the needs of the people of Canberra. If it were a business, it would fail — repeatedly.

Behind every one of those customers is a unique problem:

Someone building for a mother battling cancer.

Someone building for a son or daughter returning home after a divorce.

Someone trying to make a property investment break even by adding a second dwelling.

Someone who loves their suburb but needs more space — a master bedroom and ensuite — so they can stay in their community.

Families and living arrangements have changed. The Planning Act and supporting regulations have not evolved to facilitate that diversity.

3. Two Principles That Must Be Understood

I could speak for hours about system issues, but two principles are fundamental.

Principle 1: Rule-Based Planning, Not Outcomes-Based Planning

If the objective is to deliver missing middle housing at scale, the system must be rule-based.

Outcomes- or objectives-based planning introduces subjectivity, inconsistency and risk. Applicants need clear, testable rules that they can design to with confidence — not discretionary interpretation at assessment.

If the rules are met, development should be permitted. That is the purpose of residential zoning.

Some may be uncomfortable with the role of the market in shaping housing outcomes. However, market acceptance is the primary safeguard against poor design. Poorly designed products do not sell, cannot be financed, and are not repeated. That feedback loop is immediate and effective.

At present, good, modest housing is being filtered out by process before it ever reaches the market.

Principle 2: Diversity Requires Separate Titles, Not Body Corporates

If the Territory is serious about increasing housing diversity, it must allow and encourage separate-title outcomes.

There is currently too much reliance on unit titling and body corporates.

The customers the reforms are targeting — particularly owners of 1,000m² blocks in suburbs like Curtin or Duffy — do not want body corporates. They have experienced them and actively avoid them.

The most in-demand housing product in Canberra today would be:

- Separate-title
- Single level
- Approximately 150m²
- EER 7.5
- Three bedrooms
- Two bathrooms
- Double garage
- On a 400m² block in an established suburb

There is currently no planning overlay that delivers this outcome.

If this product were clearly permitted and enabled, thousands of homeowners would likely sell their large, underutilised “empty nester” blocks and move into these homes. That would:

- Free up established housing stock
- Support ageing in place
- Deliver missing middle outcomes without high-rise development

Have recent reforms enabled this outcome?

With no offence intended to planners, the honest answer is no.

Over the last five years, delivering this type of housing has not become easier — it has become harder. The burden has been placed on homeowners and small to medium builders.

Recent legislative changes have made urban infill harder to deliver, not easier. They have also made it more difficult to build more energy-efficient homes, while simultaneously signalling that more urban infill is desired.

4. Core Problem – System Failure, Not Policy Intent

Let us assume the Legislative Assembly amends the Territory Plan and Regulations to enable missing middle housing.

My concern is that organisational and system failures within government departments will prevent those reforms from being implemented effectively.

The primary barriers are not planning controls. They are:

- Process
- Uncertainty
- Inconsistency
- Delay

These issues already prevent modest, low-impact housing from being delivered.

5. Real-World Examples of System Failure

These are not theoretical concerns. They are real experiences.

a) Lease Variation (LVC) Processes

Lease variation adds significant time and complexity, particularly for secondary residences.

It can take a minimum of 21 working days just to receive instructions to add a granny flat.

This is not the fee, this is to change two words. It can take 14 weeks

Example – Coombs

The lease variation component was paid at completeness check.

The DA team failed to refer the application to the lease variation team.

The resulting delay was due to an internal administrative error, with no recourse available to the client.

Proposal: Under the current Planning Act 2023, s276 provides that all leases may be used as home businesses. This means that the Act provides a way to circumvent the issues with Lease Variation. I'd like to propose a similar thing happening to secondary residences, where all residential leases may be used for a secondary dwelling.

b) Request for Information (RFI) Practices

RFIs are frequently used in ways that extend timelines rather than clarify issues. Common problems include:

- RFIs issued at the end of the assessment period
- Incomplete or unclear requests
- Multiple rounds of RFIs
- New and unrelated issues introduced after initial responses

When an RFI is issued, the DA clock stops. Delays are therefore not recorded as exceeding statutory timeframes.

Example – O'Connor: An RFI response took 26 working days to be assessed. After that assessment, new and different information was requested.

c) Lack of Example Plans and Clear Guidance

There are still no example plans to guide applicants.

To build a 40m² secondary dwelling can require 50+ plans and documents from DA to BA, involving up to eight different entities, departments or sections — all potentially interpreting the same documents differently.

Completeness checks are fee-based and often fail without meaningful feedback. This creates incentives to reject rather than guide.

Interpretations change unpredictably.

Example – Dunlop

A project was delayed over how driveways were referred to in the application. The same wording had been accepted in other applications.

Industry has repeatedly requested published example plans and clear guidance. This has not occurred.

d) Multiple Entities and Inconsistent Outcomes

Even where referral advice has been obtained within six months prior to submission, referrals are duplicated during the DA process — sometimes resulting in different outcomes.

This discourages due diligence and is inconsistent with the intent of the ACT Planning Act 2023, Division 7.5.3, section 170(2).

Utilities operate as monopolies, yet there is limited practical right of appeal.

e) Outcomes-Based Rules Without Certainty

Outcomes-based controls remain subjective and open to interpretation.

Examples include:

- Whether eaves over 600mm are included in site coverage
- Unclear calculation methodologies
- Undefined terms such as “sufficient”
- Differences between planner and building regulator interpretations

In one instance, because of site coverage rules, homes were designed without eaves — a perverse outcome of unclear interpretation.

These uncertainties directly affect feasibility and risk.

f) Disproportionate Conditions

Conditions are sometimes imposed that are disproportionate to the scale of development.

Examples include:

- Traffic management plans for a granny flat
- Waste management plans for a 40m² build

These add cost and delay without commensurate public benefit.

g) NCC Changes and Certifier Uncertainty

Changes to the NCC regarding adaptability and upgrade triggers were implemented without sufficient clarity or support for certifiers.

Certifiers were left in a “no man’s land.”

Outcomes included:

- Extensions triggering costly upgrade requirements
- Additional costs running into hundreds of thousands of dollars
- Owners choosing demolition instead
- Some opting for unsafe or unapproved alternatives

6. Perverse Outcomes – Circumvention of the System

Due to complexity and uncertainty, some proponents bypass the formal approval system entirely.

This has led to:

- Proliferation of unapproved Class 10 structures
- Transportable and mobile buildings used as dwellings
- Increased fire, asbestos and safety risks

Drive around Canberra and you will see container homes, site sheds and transportables being used as housing — largely because people no longer want to engage with the approval process.

On paper, Australia designs some of the most efficient and accessible homes in the world. In reality, people are increasingly importing dwellings and placing them on blocks with minimal oversight.

7. Core Question for Government

Before significantly expanding development permissibility, a fundamental question must be asked:

Does the current planning and approvals system have the capability to implement these reforms consistently, transparently and efficiently?

Without system reform, increased permissibility alone will not deliver housing outcomes.

Do we currently have a system that can identify bottlenecks, track delays, map workflows, and surface failure points in a way that cannot be ignored?

If not, expanding the landscape will only magnify existing dysfunction.

8. What Is Required for the Reforms to Succeed

For these reforms to succeed:

- The system must be rule-based.

- There must be absolute clarity about interpretation.

- Published examples and practical guides must be provided.

- The appendices of the NCC and planning instruments must be clearly integrated.

- Structural system failures must be openly acknowledged.

This is not about blame.

It requires a blame-free autopsy of process failure.

The Assembly's role is to ensure systems are designed to surface problems, not obscure them.

Technology — including AI — can assist. Not to replace people, but to:

- Track bottlenecks

- Map workflow

- Identify systemic failure points

- Provide transparent performance data

This is achievable if there is collective agreement that problems exist and must be addressed constructively.

I acknowledge the intent shown by David Pfeffer in this regard. However, that intent requires clear support from the Assembly to draw a line in the sand and state that the purpose of planning is to deliver outcomes for the people of Canberra — in all their diversity and housing needs.

A rule-based planning system, driven by efficiency and clear outcomes, is the most practical way to achieve that.

9. Closing

Support for Missing Middle Housing reforms is strong.

The intent is shared.

However, without addressing systemic process failures, the reforms will not achieve their objectives.

Fixing the system is foundational to delivering Missing Middle Housing outcomes.