



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: 011 (updated)

Submitter: North Canberra Community Council (NCCC)

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www.northcanberra.org.au

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Protecting, promoting and enhancing the economic, cultural, social and environmental well-being of the residents of North Canberra

The North Canberra Community Council receives funding and support from the ACT Government



Standing Committee on Environment and Planning
ACT Legislative Assembly
GPO Box 1020
Canberra ACT 2601

Submission to Standing Committee on Environment and Planning Inquiry into DPA-04 – Missing Middle Housing Reform

The NCCC supports appropriately planned and targeted dwelling density increases within existing suburbs with a commensurate increase in amenities and infrastructure such as schools and community services, health facilities and services, shops, parking, EV charging points, cycle paths and footpaths, playgrounds, facilities for recreation, waste collection, sewerage, maintenance etc.

The NCCC has serious concerns with the government's proposed Missing Middle Housing Reforms (MMHRs).

The NCCC made a submission to the government's consultation on the proposed MMHRs. This submission is at [Attachment A](#).

The consultation report provided by the Government shows that all of the major concerns raised in this previous submission remain valid. In particular, NCCC finds that the proposed MMHRs :

- are not based on a clear statement of objectives or compelling evidence that the MMHRs will deliver particular outcomes; and,
- are neither necessary nor sufficient to deliver the scale and diversity of housing the community needs; and,
- are likely to deliver a range of negative outcomes that have not been identified, assessed or explained to the communities most directly affected; and,

- would lead to haphazard, unpredictable development driven by developers rather than the community.

Given the government's failure to respond to any of the key points raised in our previous submission, we refer the Committee to that submission for our current views.

What did the community think, and how will the government respond?

The Consultation Report of the Government's consultation process states that:

The majority of Canberrans have indicated that they support an increase in missing middle housing and greater housing choice across Canberra.

However, the community feedback also identified specific areas requiring further consideration and potential refinement of the Territory Plan amendments.

Comments included concerns from reform opponents and constructive suggestions for implementation, including recommendations for potential future government action.

[paragraph breaks added for clarity of explanation]

The government's response to the consultation process seems to focus only on the support for increased density, and does not really address the "areas requiring further consideration". In essence, the government has chosen to confuse support for the objective of the proposal (increased housing choice) with views on the specific approach taken, where there are serious concerns over likely impacts and effectiveness.

We note that around 44% of written submissions in the government's consultation process opposed the reforms or had significant concerns with them, while 42% supported. In survey responses, 43% opposed or had major concerns, while 47% supported. So, despite the fact that the government's documents presented an unjustified and biased view of issues¹, half the community is against this proposed reform.

There also appears to be no appetite for the government to seriously consider the issues raised through consultation. The Consultation Report notes 101 issues and gives the government response on each (except for 2 where no specific response is given). Of these, the response was:

¹ Table 1 indicates some of the areas where the government's documentation was misleading at best.

Response	Number
Noted	60
No Change	24
Noted. No Change.	6
Agreed	5
Noted. Changes Proposed.	2
Partially Agreed	1
Not agreed. No changes.	1

Many (though not all) of the “Noted” responses should really have been labelled “Noted. No Change.” raising questions of how systematic this system of responses was. Even after recognising that some issues were really just comments, so only need noting, there is a strong indication of rejecting proposed changes, and all of the really substantive issues (ie not technical requirements) were rejected. The changes that were made in response to issues raised are almost uniformly to further deregulate development.

Page 11-12 of the Consultation Report outlines the key changes made as a result of consultation. These are:

1. Solar access technical specifications revised to provide different guidance for different height developments
2. Additional technical specifications to guide protection of existing solar collectors
3. Additional technical specifications to protect solar access to main living space
4. Technical specifications updates to clarify dwelling densities are maximums, not targets
5. Updates to subdivisions to allow without requirement for constructed building, with block size requirement of 350 m²
6. Clarification of terminology on where provisions are intended to apply to estate versus subdivision
7. Remove technical specifications for subdivided/consolidated RZ1 blocks to have street frontage
8. Change technical specifications to allow fencing closer to front boundary.

While many of these changes seem positive, they go hardly any way toward meeting the significant concerns expressed by NCCC or many submissions. For such a major reform, it appears that there was little chance of significant change through public consultation.

Item 3 is a positive step but the many submissions suggesting that proposed changes to solar angles and setbacks to preserve open space and sunlight were rejected. Items 4 and 6 are clarifications so essentially are not changes. Items 5 and

7 accept views put forward by NCCC, among others. Virtually all of these result in changes to technical specifications, which are themselves non-mandatory. Essentially, the ACT planning system is to a large degree voluntary and open to subjective judgement and potentially corruption.

9. Table 1 – Examples of misleading statements in consultation documents

Claims in Consultation Documents	Truth
Most new dwellings are detached houses or high-density apartments.	Outside of Gungahlin, nearly <u>all</u> new dwellings are missing middle or high-density apartments.
<u>Quality</u> of private open space will increase under MMHRs	POS will be smaller, more overshadowed, and setbacks will be smaller or non-existent
Impacts on neighbours are minimised; solar access requirements for neighbours continue to apply.	Different solar angles, increased building heights and reduced setbacks will reduce solar access.
There is a need for more <u>well located</u> missing middle housing .	The proposed reforms mean there is no control of where the MM housing will be built.
Impacts on infrastructure will be met through “appropriate planning and investment in infrastructure “	Impossible to plan this when location choices are with developers; also no information on planned upgrades
Changes will have only marginal impact on rates.	Rates could increase by 25% or more.
Parking issues are only an “amenity” issue.	Inadequate parking has potential for significant safety and road efficiency concerns
MMH Design Guide will address amenity and character	Design Guide is non-mandatory and unenforceable.
Planning reform in 2023 will be a “once in a generation” reform that will allow 100,000 new homes by 2050	After less than 2 years, major new change proposed as apparently new system is not working

Again, almost all of the issues raised in the NCCC submission at Attachment A remain valid. Responses to the some of the more serious concerns expressed by NCCC, a number of consulting entities, and a range of submissions are briefly discussed below:

Matching Infrastructure with Development

Under the proposed MMHRs, NCCC pointed out that it will be impossible to match infrastructure provision with development as there is no control over where or at what pace development will occur.

This mismatch was also pointed out in a number of submissions and entity comments². For example,

ACT Education Directorate “sought information on the estimated short- and medium-term population growth resulting from the policy changes,” “asked how existing urban areas will support increased residential growth through infrastructure, green spaces, community facilities, and schools”, and “queried how shifts in housing demand will influence the planning and provision of social infrastructure and non-residential land uses”. The Directorate recommended “clear data on projections to inform infrastructure and service planning”, and ensuring that “planning for residential growth is integrated with strategies for education, community facilities and green space provision.”

The Health and Community Services Directorate said that the planning agency should “continue to align residential growth with access to existing health and community services”, “monitor population growth and service demand to ensure existing facilities can accommodate increased usage” and “consider health infrastructure planning as part of broader urban intensification strategies.”

The Suburban Land Agency recommended ensuring “infrastructure capacity is assessed and upgraded where necessary to accommodate increased residential density”.

The City Renewal Authority recommended the government “conduct and share transport modelling and traffic/parking analysis to inform planning decisions, and undertake and publish economic analysis to support transparency and informed decision-making”.

Housing ACT recommended that “planning for housing reforms consider the land needs of therapeutic and community service facilities to avoid unintended impacts on service delivery”.

² All quotes in relation to entities are taken from the Missing Middle Housing Reform Consultation Report – Appendix – Part 1. There are no page numbers in this part of the appendix making specific references difficult. Overall, the set of Consultation Reports and Appendices are a confusing jumble of documents.

In essence, all of these agencies which actually deliver services recommended much more careful planning to ensure matching infrastructure with development, which is impossible under the proposed reforms.

The only agency that, ironically, doesn't seem to think planning is necessary is the Territory Planning Authority. The response in the consultation documents to this issue is summarised as:

The sufficiency and capacity of utility infrastructure continues to be considered during the DA assessment process.

The ACT Government acknowledges that investing in infrastructure capacity to support increased density is crucial.

CED continues to monitor the need for city services and facility upgrades through existing programs and will consider the need for new investment as suburbs are regenerated through redevelopment.

As part of the reforms, the MMHDG includes guidance that directs proponents and the Authority to consider infrastructure impacts, including existing infrastructure capacity.

All of these responses are really just saying "trust us, we will get this right in future". But there is no indication that there is any process to make this happen, or even any commitment that the issue needs serious attention. And fundamentally, forward planning is impossible when there is no control over where development will occur.

Parking and Traffic

The NCCC's submission raises particular concern over the parking capacity of some existing suburbs with higher densities. This is heightened by proposals to reduce parking requirements to encourage public transit use and active travel. While a noble goal, Canberra's experience is that people will continue to own and use cars at a high rate, especially in areas served poorly by public transport.

Again, this issue was reiterated in many submissions, including by Transport and City Services, who stated that "adequate street frontage is essential to support waste collection services", and "suggests exploring on-site parking solutions to reduce pressure on surrounding on-street parking."

Again, the most relevant service delivery agency recognises the need for more attention to this issue, while the TPA response is very sanguine saying on-street parking is "often ample" and this issue will be looked at during DAs (again, "trust us"). We also note that the TPA states that "investment in public transport and active travel infrastructure is outside the scope of the missing middle reforms, but the ACT Government will continue to consider these opportunities" [it's not actually clear what "opportunities" are being referred to].

The Consultation Report also states a number of times that “CED is currently undertaking further work, which includes locational suitability which may inform future rezoning opportunities for well-located blocks, such as those in close proximity to commercial centres.” It seems inconsistent that CED would recognise the need for data to inform “opportunities for well-located blocks”, while proposing a reform which would remove control over where development occurs.

Table 2 briefly summarises the Government’s response to other key issues raised in the NCCC submission.

Table 2 – response to some key issues raised by NCCC

Issue raised by NCCC	Government Response (quotes from consultation report)	Comment
There is no missing middle – it accounts for 25% or more of housing in most areas and 1/3 or more in many. And housing has recently increased at a rate consistent with government targets for dwelling growth and development in the existing urban envelope.	Over 75% of the ACT’s urban land is zoned RZ1 and RZ2, which is typified by single dwelling housing. It is acknowledged that Canberra features examples of missing middle housing, however, this highlights that increasing the distribution and availability of these housing typologies will provide substantial benefits to the community .	This is a non-answer. It does not respond to the data on the preponderance of MM housing already achieved in current planning system. Another non-answer. No one disputes the need for more missing middle housing. The question is how best to achieve this given the existing system is already delivering.
MMHRs will not lead to affordable housing.	While the missing middle reforms are anticipated to enable greater housing supply and diversity, it is acknowledged that elements outside of the planning system’s control, such as construction labour, skills and supply market constraints will continue to and supply market constraints will continue to influence the affordability of dwellings.	Appears to be an acceptance that MMHRs will not address housing affordability, but we note that the government doesn’t propose other measures to address this.
It is hard to see how the reforms will not change the character of existing neighbourhoods in	RZ1 and RZ2 will be maintained as each of these zones are intended to achieve the Policy Outcomes unique to each	Reliance on policy outcomes which are qualitative will not address the specific changes included in the reforms.

negative ways – including change in setbacks, shading, density, etc	respective zone. While the provisions provide opportunity for change in RZ1, the policy outcomes highlight that it is anticipated that change will be incremental in nature and will occur over a long timeframe.	Clearly, not all stakeholders agree the changes are “incremental”. And it is unclear how the TPA can be sure that change will occur over a long timeframe when there is no limit or control on this. There have certainly been examples of whole streets changing their character in a very short time.
Reforms will increase rates for residents even if they do not redevelop.	It is acknowledged that land values in areas which are most likely to see missing middle redevelopment may see a modest increase over time. However, any rates increases are expected to be gradual and to be limited to areas where missing middle development is the most feasible. This is primarily because rates are calculated based on a 5-year average of the unimproved value of blocks. Increases to the unimproved value will only come after sales evidence of higher price increases in those areas compared to others.	Government’s own research seemed to indicate rate rises of up to 25%. Even phased in over a number of years, this is a significant increase on top of the increases from tax reform already underway. This issue also deserved and still deserves much more attention in consulting with the community.
Building quality not guaranteed as Design Guide is non mandatory.		We couldn’t find any response to this issue in the Consultation Report. It is a key issue of the planning system as a whole, which relies on mostly non-mandatory provisions. This creates uncertainty and possibilities for corruption. It also makes it difficult for the TPA to sustain any rejection of a DA during an appeal as there is no strong legal basis for the rejection.

Regards,

Ian Hubbard, Chair NCCC



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Protecting, promoting and enhancing the economic, cultural, social and environmental well-being of the residents of North Canberra.

The North Canberra Community Council receives funding and support from the ACT Government.



Dear Madam/Sir,

Please find attached the North Canberra Community Council (NCCC) submission on the proposed Missing Middle Housing Reforms.

This final version corrects errors in one paragraph of the previous version.

The proposed reforms raise a number of serious concerns. We would be happy to discuss these with Ministers, officials and/or a Legislative Assembly Inquiry.

If you have any questions, please feel free to contact [REDACTED].

Sincerely,

Jochen Zeil
Deputy Chair

5 August 2025

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Executive Summary

North Canberra Community Council (NCCC) does not support the “Missing Middle” housing reforms to the Territory Plan (hereafter MMHRs) as proposed by the ACT Government.

NCCC considers that the MMHRs:

- are not based on a clear statement of objectives or compelling evidence that the MMHRs will deliver particular outcomes; and,
- are neither necessary nor sufficient to deliver the scale and diversity of housing the community needs; and,
- are likely to deliver a range of negative outcomes that have not been identified, assessed or explained to the communities most directly affected; and,
- would lead to haphazard, unpredictable development driven by developers rather than the community.

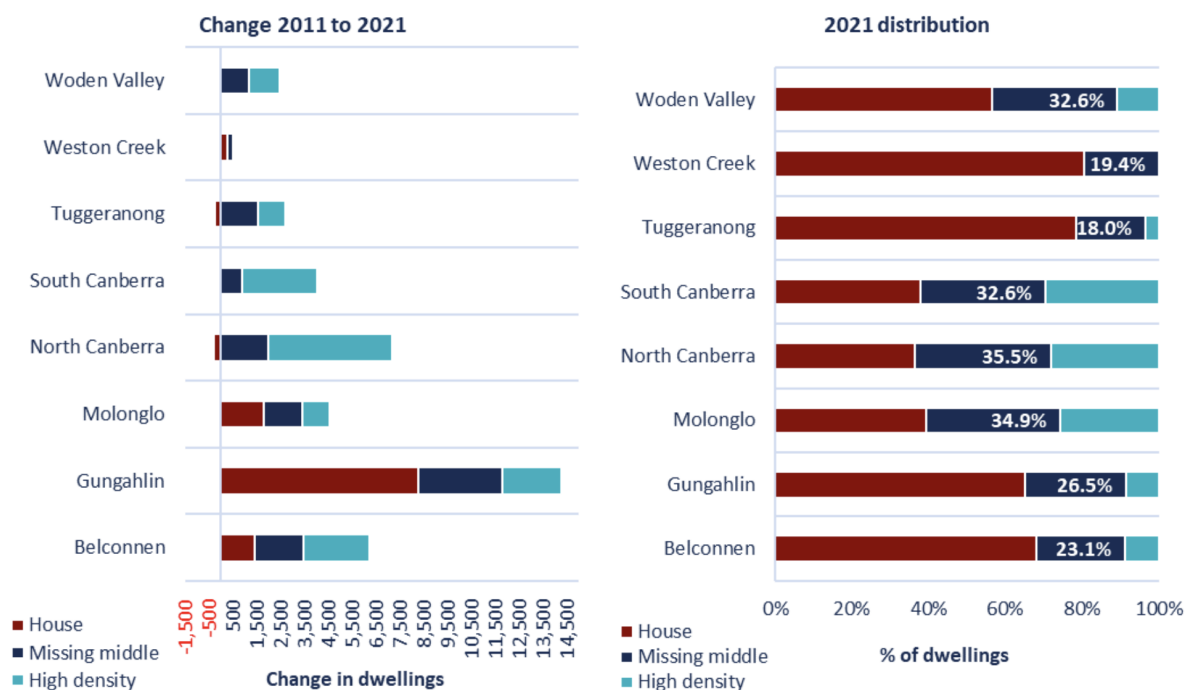
The NCCC supports appropriately planned and targeted dwelling density increases within existing suburbs with a commensurate increase in amenities and infrastructure such as schools and community services, health facilities and services, shops, parking, EV charging points, cycle paths and footpaths, playgrounds, facilities for recreation, waste collection, sewerage, maintenance etc.

The NCCC considers that decisions to relax rules in order to accelerate higher density housing in appropriate locations with appropriate support can be efficiently achieved through zoning amendments that incentivise medium density housing in RZ2, close to local shops and services, and more targeted adjustment to rules for residential zones RZ1, RZ3-RZ5. Under the existing zoning system, the ACT in recent years has delivered housing at a rate consistent with the Government’s target of 30,000 new homes by 2030. This housing has largely been delivered in appropriate locations with access to services and transport nodes, and within the Government’s stated goal of 70% of new dwellings being within the existing urban footprint. This development also has delivered a diversity of housing, as shown in Table ES1. This table shows a wide penetration of missing middle-type housing in almost all areas of Canberra, and a massive shift away from a focus on stand alone houses.

We note the rapid increase in population that has been accommodated in recent years in North Canberra, demonstrating that both the private sector and current planning system are capable of delivering urban infill in appropriately zoned locations in response to demand. We also note the potential for significant new dwelling construction in the Inner North at future redevelopment sites such as Thoroughbred Park and Yowani Country Club, thereby releasing substantial supply.

So, there seems no basis for the radical MMHRs, which represent sweeping changes to the newly minted Territory Plan, premised on assumptions that do not hold. These reforms essentially abdicate responsibility for significant planning decisions all across the city, without recognising the many costs to the community. This does not support orderly development of a well-planned and managed city, and would be in conflict with the role of the national capital to showcase best practice and sustainable planning.

Figure ES1 - Evolution of missing middle 2011 to 2021



Note: Sample excludes small and offshore locations, and other dwelling typologies such as caravan and improvised home. Source: Purdon analysis of ABS Tablebuilder, counting dwellings, place of enumeration SA3 by Dwelling Structure (2011 and 2016).

Source: Figure 8 of *Planning and Economic Feasibility: Integrating the Missing Middle in RZ1 and RZ2*, by Purdon Planning for EPSDD, October 2024

The proposal also poses substantial risks, especially:

- An inability to match infrastructure with ad hoc redevelopment, leading to inefficient use of infrastructure and infrastructure shortfalls for many areas
- Loss of valued urban character, with the character of neighbourhoods now driven by individual developer decisions rather than strategic planning with community input
- Rate increases affecting all lessees and occupants of residential land of 15-25% or more, even if they do not change their housing at all
- Proliferation of poor quality construction, noting the Missing Middle Design Guide is not mandatory, and compliance enforcement seems impossible, and noting that even the technical requirements are not mandatory
- Increased and unmanaged traffic and road congestion

- Loss of private open space quantity and quality for future residents, including substantial reductions in solar access and privacy for RZ1 and RZ2 (ie the vast majority of residential land)
- Reduced climate change resilience.

The MMHRs propose a raft of changes which, if implemented, would radically alter the amenity of most residential streets and suburbs. Much of the content is essentially deregulation of the planning system, and a shift in power that means the pattern of urban development would be largely unmanaged, being determined and driven by private land developers.

The NCCC also notes a number of technical concerns in the proposed MMHRs. These should be addressed even if changes are made to encourage higher density dwellings through the existing zoning system. These include:

- Site coverage limits of no more than 45%
- Appropriate minimum subdivision block sizes
- Clear and appropriate maximum height limits (not storey limits)
- Removal of frontage requirements for subdivided RZ1 blocks
- Removal of requirement for subdivided blocks to contain an existing dwelling
- Appropriate consolidation limits
- Minimum 30% deep soil zone requirements in all residential zones
- Requirements for at least 30% tree canopy coverage on all residential blocks
- Preserving the solar building envelope at 31° for multi-unit housing in RZ1 and RZ2
- Enhanced car parking rates

NCCC supports the government's purported interest in increasing housing affordability and access to suitable housing that delivers greater choice, but does not consider that the MMHRs will deliver these outcomes. There are more reliable approaches available to achieve these outcomes without embracing an unmanaged scenario, including working with federal government to reduce inflated housing demand, release of well-located blocks of land such as Thoroughbred Park, greater construction of public and community housing, and addressing shortages of qualified construction workers.

The NCCC finds that the government's approach to consultation on the MMHRs has lacked transparency and comprehensiveness, and has not engaged the communities most directly affected in ways that reflect the scope and magnitude of the changes being proposed. The consultation documents and YourSay page sometimes appear more as marketing exercises, and include a number of false or misleading claims, and lack any serious discussion of potential risks from the proposed reforms. A genuine attempt to engage the community's views on these complex issues is required.

A Legislative Assembly Inquiry could help to shed light on relevant issues. However, a longer-term and substantive approach to examining these issues is preferred, possibly through an independent assessment panel. Given that we are less than 2 years into a significantly restructured planning system, and that the new Territory Plan only took effect in late September

2024, it is appropriate to take more time to analyse and weigh up the impact of throwing out basic settings and safeguards in favour of letting private interests drive Canberra's planning.

Recommendations

Recommendation 1:

The ACT Government should provide a clear and logical rationale for its MMHRs, including information, supported by quantitative analysis wherever possible, covering:

- **What specific objectives the government is trying to achieve and evaluation of other options to achieve them.**
- **What the targets of the reform are, including a desired split between detached houses, missing middle dwellings and higher density apartments**
- **Modelling analysis of the timing and penetration of proposed changes, including the rate at which appropriate properties are likely to become available and the economic drivers for the proposed diversity and affordability of housing choices**
- **Descriptions of how the character of Canberra's neighbourhoods are likely to change if the MMHRs go ahead in an uncontrolled fashion**
- **Evaluations of the state of infrastructure across the Territory, how this will match up with developments under the proposed MMHRs, where there may be further infrastructure capacity, and how enhanced infrastructure in existing urban areas will be matched to unpredictable development under the proposed MMHRs**
- **Projections of housing prices into the future, and evidence on how the MMHRs are likely to affect prices, including examination of key drivers of housing availability and pricing**

Recommendation 2:

The ACT Government should undertake comprehensive consultation with the ACT Community that includes information such as that described in Recommendation 1, to ensure the community is well aware of how the proposed MMHRs may affect the character of all Canberra suburbs, what specific changes the reforms will deliver and what alternatives are available to achieve similar outcomes.

This consultation could include a role for a panel of experts and community representatives to ensure thorough consideration of all relevant issues and reasonable time for community understanding and input.

Recommendation 3:

The consultation process identified in Recommendation 2 should include consideration of the risks as well as potential benefits from proposed reforms. This should include, at least, alternative approaches to address building quality, matching infrastructure with development, how to handle losses in private open space, handling of impacts on traffic

and road capacity, and where the government expects major changes to current urban character.

Recommendation 4:

The consultation process identified in Recommendation 2 should also include information on what this proposal means for rates, and how Lease Variation Charges will be handled, so that residents understand how they are likely to be impacted. This should also include the likely impact of increased rates on house prices.

Recommendation 5:

The ACT Government should revise the Residential Zones Policy assessment requirements and tighten technical specifications for residential zones and subdivisions, including:

- Site coverage limits of no more than 45%
- Minimum subdivision block sizes
- Clear and appropriate maximum height limits (not storey limits)
- Removal of frontage requirements for subdivided RZ1 blocks
- Removal of requirement for subdivisions to contain an existing dwelling
- Appropriate consolidation limits
- Minimum 30% deep soil zone requirements in all residential zones
- Requirements for at least 30% tree canopy coverage on all residential blocks
- Preserving the solar building envelope at 31° for multi-unit housing in RZ1 and RZ2
- Enhanced car parking rates

1. What is the real objective of the proposed changes and the problem we are supposedly trying to solve?

Is there really a “missing middle”?

The rationale for the proposed reforms is not very clearly stated in the Government’s documentation, and there are no specific targets identified to assess performance. The position starts with a recognition that more dwellings need to be built on a limited land footprint, and says 30,000 dwellings need to be built by 2030. This is a slower rate of growth than what has been achieved in the recent past in the ACT. This 30,000 figure also seems to be a bit of a magical number, as it was also the government’s goal for housing construction over 5 years in 2022.¹

The total number of dwellings in the ACT grew by 19% from 2011 to 2016 and 16% from 2016 to 2021. These are annual growth rates of 3.6% and 3.0% per year. To reach the 30,000 target from the 2024 level of around 192,000², would require an annual growth rate of around 2.9%. This is a lower rate than was achieved in 2016 to 2021 and more than a half percent per year less than was achieved from 2011 to 2016.

In 2022-2024, the rate of dwelling completion seems to have slowed somewhat, but is still around 2.1% per year. So, the 30,000 dwelling target is really a rate slightly above what’s been achieved in the last few years and below recent history.

And it is worthy of highlighting, this 2.1% rate has been achieved while still achieving balanced urban consolidation. In 2023 and 2024, 73% of approvals were in the existing urban footprint, above the Government’s stated target of 70%.³

So, with existing zoning rules, the government is roughly on track to achieve its targets both in terms of housing numbers and overall consolidation. The case for a radical shift in approach to residential zones across the board does not seem clear on this basis.

The next justification for these changes is about a need for more housing diversity, including “missing middle” housing such as townhouses, medium density apartments and dual- or tri-occupancies. This is supposedly to create more choice, improve the ability to change housing within a local area as people age and household sizes fluctuate, and enable a wider mix of residents. There are valid questions about how effectively the MMHRs might achieve these goals, but let us first look at the numbers.

¹ “ACT government outlines plans to deliver 30,000 new homes over five years, including build-to-rent,” 31 July 2022, accessed at <https://www.abc.net.au/news/2022-07-31/act-government-outlines-housing-plan-for-30-000-new-dwellings/101285506>

² Dwelling numbers in 2021 from ABS, combined with half yearly completions in 2022-2024 from 6-monthly ACT Land and Property Reports

³ ACT Land and Property Reports. Data on consolidation was not available in earlier reports, and this data is for approvals rather than completions as that is how the data is presented.

It seems that the existing planning system is already also delivering more diversity. From 2011 to 2021, the percentage of total dwellings that were detached or semi-detached one storey houses fell from 82% to 72%, while “missing middle” housing’s share rose from 14% to 17%. High density apartments rose from 3% to 11%⁴. These are quite rapid changes given the large number of existing houses.

This trend has continued in recent years, with the largest number of new dwellings being apartments, and an increasing number of “missing middle” dwellings. The number of “missing middle” dwellings built in 2024 exceeded the number of detached houses built⁵.

So, when the Government’s YourSay page states that, “[c]urrently, new homes in Canberra are mostly single houses or high-density apartments in our town and city centres”, this is technically true. But it would be more correct to say that new homes in Canberra are mostly “missing middle” dwellings or high-density apartments in our town and city centres.

Figure 1 on page 9 (from a 2024 report on the missing middle completed by Purdon Planning for EPSDD) summarises why the “missing middle” does not appear to be missing at all. This shows that for the areas of South Canberra, North Canberra and Molonglo, there is already a wide diversity of housing choices, with detached houses, “missing middle” and apartments all comprising roughly equal shares of dwelling numbers. In 5 of the 8 regions of the ACT, “missing middle” already accounts for more than 25% of dwellings and in Belconnen this looks likely to happen soon. The slower growing areas of Woden, Weston Creek and Tuggeranong show a quite different pattern, although in Woden, “missing middle” also accounts for a significant share of dwellings.

The left hand part of the figure confirms that, in terms of new construction, “missing middle” and apartments were clearly dominating new development in almost all parts of the ACT from as far back as 2011, with significant growth in detached houses only appearing in Gungahlin. Tuggeranong and North Canberra have both shown a decline in detached house numbers.

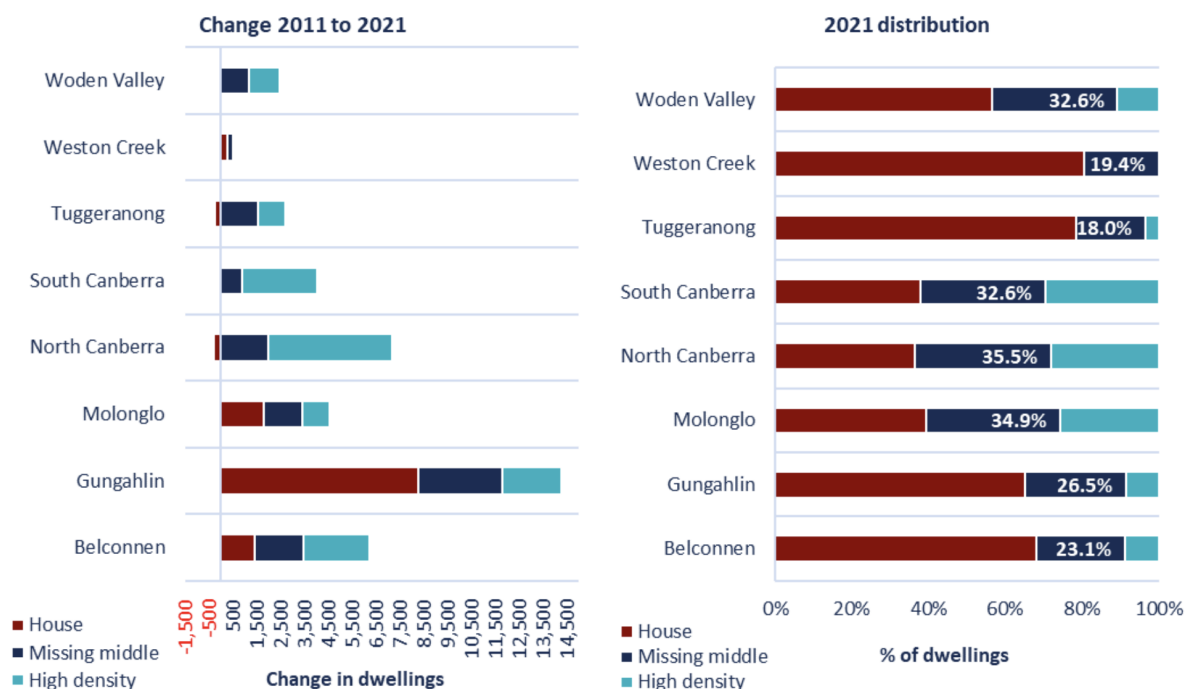
This Figure visualises how different areas of the ACT have quite different situations in terms of dwelling stock and flow. This would be even more true if a more granular level of analysis was made. This supports the view that a Territory-wide approach without differentiation is neither justified nor wise.

The current system is delivering rapid increases in dwelling numbers, along with major shifts in diversity, with detached houses accounting for smaller percentages of housing and higher density apartments increasing rapidly. Again, the rationale for any dramatic shift in the approach to residential zones and their basic settings is not apparent. It is not clear that the “missing middle” is actually missing at all.

⁴ *ABS Census of Population and Housing 2011 and 2021*. Note that these are percentages of occupied dwellings rather than total dwellings as the ABS does not break down unoccupied dwellings by type. The nu

⁵ ACT Land and Property Reports. Note that these documents use different sources of data for total dwelling completions, and multi-use developments. So, some extrapolation is required.

Figure 1 - Evolution of missing middle 2011 to 2021



Note: Sample excludes small and offshore locations, and other dwelling typologies such as caravan and improvised home. Source: Purdon analysis of ABS Tablebuilder, counting dwellings, place of enumeration SA3 by Dwelling Structure (2011 and 2016).

Source: Figure 8 of *Planning and Economic Feasibility: Integrating the Missing Middle in RZ1 and RZ2*, completed by Purdon Planning for EPSDD, October 2024 ⁶

The existing planning system also seems to be delivering higher density housing in appropriate areas. Table 1 shows the share of different housing types in North Canberra. This shows quite clearly that those suburbs closest to the city and along transport corridors have high levels of apartments and missing middle type housing. Those suburbs farther out and less well located have lower percentages. This seems exactly the pattern of development that a well-planned city would provide.

⁶ Note that the definition of missing middle used for Figure 1 includes all semi-detached housing while the number quoted above in this submission does not include 1-storey semi-detached, explaining the different percentages. The inclusion of one-storey detached housing affects mostly the stock numbers in 2021, not the changes over time, as there has been no net increase in this dwelling type since 2016.

Table 1 - Percentage of Housing Types in North Canberra Suburbs

	Houses	Townhouses	Flats and Units
City	0%	0%	100%
Acton	0%	0%	100%
Braddon	5%	14%	81%
Turner	13%	14%	73%
Lyneham	27%	36%	37%
Dickson	30%	22%	49%
Campbell	51%	11%	38%
Watson	58%	30%	12%
O'Connor	66%	16%	18%
Downer	67%	16%	17%
Ainslie	73%	17%	10%
Hackett	76%	14%	9%

Source: Allhomes.com.au - accessed 28.7.25.

Table 1 also shows that a number of suburbs — City, Acton, Braddon, Turner, Lyneham and Dickson — already have very high percentages of townhouses and apartments. In the first 4 of these suburbs, there is actually very little diversity of housing already, but this is due to the near absence of houses. If one of the goals is to promote diversity and enable people to move through their lifecycle within a single suburb, this may already be impossible in these suburbs as there are virtually no family homes to draw on during the stage of having multiple generations living in a single home.

This is where the goal of increasing dwelling numbers quickly on the one hand, and increasing diversity of housing types on the other, may be in conflict. Such conflicts are inherent in managing and planning city development. But they are best solved through evidence-based and careful active decision-making, not leaving it open to individual developers to decide the fabric of suburbs.

Table 1 also demonstrates again the ability to meet housing needs quickly without abandoning control of the planning system. While we are unable to gather quantitative data, it is clear that much of the development of apartments and townhouses in Inner North suburbs has taken place in the last decade.

The ACT Government's population projections suggest that, from 2022 to 2060, North Canberra will grow by many more people than any other area of Canberra, at a growth rate higher than any other area except Molonglo (which of course was starting from a comparatively low base). North Canberra and Molonglo are the only areas projected to comprise a greater percentage of the population in 2060 than they do now.⁷ This projected growth is likely to place significant

⁷ ACT Population Projections, 2022-2060

pressure on infrastructure in North Canberra that in the absence of urban management, could easily result in a dominance of apartments and townhouses without the diversity that the MMHRs claim to seek.

Meanwhile, among the major districts, Tuggeranong is expected to see population stabilise or decline, raising questions as to the efficiency of population spread across the Territory. Also, Woden Valley and South Canberra see only modest growth over the 40 years, despite the government's plan to build light rail to Woden. It seems quite peculiar that this massive investment in "city-shaping" infrastructure would not be expected to produce materially greater increases in terms of higher densities and population.

Overall, the Government's proposed MMHRs, despite their wide-ranging and radical nature, do not seem well supported with clear goals and rationale, compelling evidence or assurance that alternative approaches (including clearly targeted use of the existing zoning system with its inbuilt safeguards) have been carefully evaluated. For example, there is no real analysis of the complex issues affecting the rate of construction of new dwellings or to what degree the changes inherent in the proposed MMHRs would affect this outcome. Therefore, NCCC is of the view that much more detailed analysis is required before committing to such significant changes to a new planning system that the Government has spent significant time and resources bringing in. It is also vital for the Government to engage in honest unbiased evidence-based consultation with the community, when fundamental changes to what can be built next door to any resident can be reasonably expected to transform Canberra's social fabric.

Why is the planning system changing so much after such a short time?

The proposed MMHRs would remove existing dwelling density requirements 16 to 21 in the Residential Zones Policy of the Territory Plan adopted in September 2024. The current zoning system seems to be delivering outcomes broadly in line with government targets. Why is there a rush to introduce radical change at such short notice?

In November 2023, new planning legislation came into force in the ACT following a 4-year process of review and consultation. At that time, the Government stated:

Recent population projections show that Canberra needs 100,000 new homes by 2050. This *once-in-a-generation reform* will allow for this growth while leading to better outcomes for people.⁸ [italics added]

Yet less than two years after this "once-in-a-generation" reform, and less than 9 months since the new Territory Plan came into effect, the Government is already seeking to re-define the residential planning framework by stripping away the protections that apply to almost 80% of all residential land in the Territory. The government states:

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<https://www.planning.act.gov.au/professionals/our-planning-system/planning-act-2023#:~:text=The%20territory%20now%20has%20a.to%20consider%20their%20surrounding%20communities.>

These changes will help our city change over time, responding to housing demand and ensuring Canberra has a strong supply of well-designed, diverse, affordable and sustainable housing options for our growing community.

And the rationale for these changes is stated as, “Canberra is growing quickly. By 2050, we expect nearly 700,000 people to call our city home.”⁹ So, the same justification is given for this latest change as was given for the original planning system change.

Such a significant change after such a short time with the new system raises a number of questions:

- Did the government do a bad job of designing a new planning system in 2023, following 4 years of consultation and policy development, thus requiring big changes now?¹⁰
- If such significant changes are needed so quickly, what assurance is there that these latest changes are well thought through?
- Has the new planning system been given enough time to assess whether it is effective at delivering the outcomes the community wants?
- What new information has arisen since the introduction of the new planning system that means a radical shakeup is needed?
- If a “once-in-a-generation” planning system lasts less than 2 years, how much faith should the community have that current rules and systems will not change dramatically on a regular basis?

The MMHRs are a radical change to the system of planning in the ACT which will have major and long-term impacts on the character of Canberra, less than two years after the introduction of “once-in-a generation” reform of the planning system. Given the short period since the new Territory Plan took effect, the current proposal seems rushed. The documents supporting the proposals offer only a superficial and scant rationale, without any supporting analysis or evidence. The consultation is shaped as a chance to comment only on the detail of the changes (and even here, the opportunity seems limited) rather than the overall approach.

It is important to give the community a fair chance to understand the proposed changes, be able to ask questions to clarify what is intended and what that might mean in practice, and make their views felt. This would involve a deeper engagement process based on a clear delineation of advantages and disadvantages of the proposed reforms, rather than trying to “sell” the reforms

⁹ <https://yoursayconversations.act.gov.au/missing-middle-housing-reforms>

¹⁰ This question is even more relevant noting that the government’s moves to remove third party appeal rights for public housing and health facilities demonstrated that the government did not have a good understanding of the provisions for declaring Territory Priority Projects, which replaced call-in powers in the previous legislation. The Legislative Assembly Inquiry into this Bill suggested these provisions be revised.

to the community based on uncritical analysis of potential outcomes and far-reaching consequences. Until this has happened, it would be dangerous to implement such a wide-ranging package of reforms.

Recommendation 1:

The ACT Government should provide a clear and logical rationale for its MMHRs, including information, supported by quantitative analysis wherever possible, covering:

- **What specific objectives the government is trying to achieve and evaluation of other options to achieve them.**
- **What the targets of the reform are, including a desired split between detached houses, missing middle dwellings and higher density apartments**
- **Modelling analysis of the timing and penetration of proposed changes, including the rate at which appropriate properties are likely to become available and the economic drivers for the proposed diversity and affordability of housing choices**
- **Descriptions of how the character of Canberra's neighbourhoods are likely to change if the MMHRs go ahead in an uncontrolled fashion**
- **Evaluations of the state of infrastructure across the Territory, how this will match up with developments under the proposed MMHRs, where there may be further infrastructure capacity, and how enhanced infrastructure in existing urban areas will be matched to unpredictable development under the proposed MMHRs**
- **Projections of housing prices into the future, and evidence on how the MMHRs are likely to affect prices, including examination of key drivers of housing availability and pricing**

Recommendation 2:

The ACT Government should undertake comprehensive consultation with the ACT Community that includes information such as that described in Recommendation 1, to ensure the community is well aware of how the proposed MMHRs may affect the character of all Canberra suburbs, what specific changes the reforms will deliver and what alternatives are available to achieve similar outcomes.

This consultation could include a role for a panel of experts and community representatives to ensure thorough consideration of all relevant issues and reasonable time for community understanding and input.

2. Significant risks from proposed reforms

Inadequate Infrastructure

The supporting report notes the likely strain on existing infrastructure such as roads, schools, parks and public services and expects this issue to be mitigated through appropriate planning and investment in infrastructure. A common-sense approach would be to do this infrastructure planning at the same time as planning for increased density. Likewise, the investment in infrastructure should occur at the same time or even prior to investment in increased density. Failure to undertake such infrastructure planning and investment is comparable to establishing a new suburb with no planning or investment in roads, schools, parks or public services.

To date, we have not seen any planning or proposed investment for infrastructure to accompany the proposed dramatic increase in density. There are a number of examples where medium density developments have been built on rezoned community facility and sports and recreation land, reducing the availability of such land to meet the needs of a growing population.

The proposed reforms also leave many of the decisions on whether and where to build higher density housing to developers, as the proposed rules provide wide leeway for developments across all residential zones. So, it is unclear how infrastructure decisions can be well integrated with increased densities associated with MMHRs.

Loss of Neighbourhood Character

For RZ1, the MMHRs propose to retain the objective that “[d]evelopment respects valued features of the neighbourhood and landscape character of the area and does not have unreasonable negative impacts on neighbouring properties.” Notably, the only change is to remove the word “ensure” from the beginning of this objective, which may be telling.

More substantively, this objective seems incompatible with the key effects of the proposed reforms. The MMHRs would remove assessment requirements 16 to 21 in the Residential Zones Policy, which currently recognise the special nature of RZ1, and would effectively promote apartments in RZ1. These changes would significantly alter the neighbourhood and landscape character of the ACT.

And as mentioned above, it will have significant negative impacts on neighbouring properties. Our view is that these will in many cases be “unreasonable”, though for a government driven by other objectives, a different interpretation may be available.

For RZ2, a stated objective is to “[p]rovide opportunities for redevelopment by enabling a limited extent of change in density”. Again, this seems a tad misleading when the purpose appears to be to achieve a significant change in density.

And the assessment question of whether MM housing will overwhelm existing suburban character and have significant impacts on neighbours can’t be undertaken block by block

because the impacts are cumulative along a street and through a suburb. The less development control undertaken by the Planning Authority the greater the impact will be.

The proposed changes to the Territory Plan are likely to disrupt the current design and streetscapes of existing suburbs. There are many examples of this across Canberra, as there has been a gradual process of up-zoning and rezoning to increase the scope of what is allowed in each residential zone for several decades.

The ACT Government's Missing Middle website <https://yoursayconversations.act.gov.au/missing-middle-housing-reforms> provides an interactive Housing Map with exemplars of well designed Missing Middle housing types that already exist across the ACT. The examples provided on the interactive map show that housing types being built in RZ3 to RZ5 residential zones will now be able to be built in RZ1 and RZ2 zones.

The examples selected and displayed in the MMHR documentation identify some of the better examples in Canberra, and generally are of dispersed “missing middle” housing. However, experience in Canberra and other cities shows that this type of housing does not always blend easily into existing neighbourhoods. When taken up more widely across a neighbourhood, it has a completely different character - see picture below.



Rate Increases

By increasing the range of housing available to be built on residential zoned land, the value of this land will rise. Increasing possibilities for subdivision and greater density in Canberra are likely to lead to property value increases of around 15-25% on RZ1 land.¹¹ The loosening of many other quality constraints in the proposed MMHRs mean figures are likely to be higher with the Government's proposal.

Rates in the ACT are determined based on the Unimproved Value (UV) of land, which "reflects the most valuable use of the property permitted by its Crown Lease purpose clause." While it may be argued that rates will therefore not increase until the Crown Lease is varied, in practice this does not seem to be the case. Valuers refer to sale prices for similar properties in an area as a way to estimate valuations. Buyers of properties would likely be willing to pay more if they anticipate higher value.

Therefore, the proposed MMHRs may lead to an increase in rates of 15-25% for all holders of RZ1 land¹² over the next few years. However, only some landholders - those choosing to knock down and rebuild with higher densities - will realise any actual financial gain from the policy change. Similar effects will be seen on RZ2 land. So, there may be a very significant tax increase for most residential land holders, while only some land holders will benefit from the change.

Those who do choose to rebuild at higher density may be subject to Lease Variation Charges. This should be made clearer in the information provided on the proposed MMHRs. It is likely that much of the extra value of land deriving from the MMHRs will be captured by the Government through taxes and charges.

Both of these impacts make it difficult for the proposed MMHRs to deliver lower cost housing. This is consistent with recent experience in North Canberra where considerable densification has also seen rapidly rising housing prices.

Building Quality

The MMHR documentation suggests that missing middle developments will all be high quality because there is a Design Guide available for developers. However, use of this design guide is not mandatory, while being long and complex. Therefore, assuming that this design guide will be followed with any consistency seems optimistic at best, and possibly plain foolish. In any case, where a developer appeals against a decision not to approve a development, it seems highly unlikely that ACAT would uphold a decision based on qualitative non-mandatory guidelines and interpretations of what "good design" means.

¹¹https://www.environment.act.gov.au/_data/assets/pdf_file/0003/2354034/23_110921-Documents-001-008.pdf

¹² This increase is in addition to the rates increases already planned as part of the Government's ongoing tax reform.

In fact, under the new planning system, developers do not need to meet even quantitative requirements if they claim to be meeting the assessment outcomes. Therefore, not only is the MM Design Guide voluntary, but the technical specifications are also not mandatory.

Experience with planning and building regulations show that compliance is a real issue even with clear requirements, with many non-compliant proposals being put forward and many buildings failing to deliver quality and/or compliance with what is approved. Having a system based on non-mandatory guidance seems prone to massive problems.

Parking and Street Capacity

The proposed MMHRs will further reduce requirements for parking provision. This seems to follow a trend to seek to discourage car use through reduced parking. While the goal may be admirable, experience suggests that most people will retain their cars, and appear to be buying larger cars than ever. Missing middle dwellings may also have separate households with multiple cars. In addition, there are suggestions that missing middle will only be built where public transit is easily available. Aside from the fact that the ACT's limited public transit system makes this difficult, since the proposed reforms would be applicable in any location, this rationale is meaningless.

The impact of overflow parking and road congestion resulting from infill throughout the Northbourne Corridor has not been studied. A realistic analysis of congestion impacts and parking needs is required.

Many RZ1 neighbourhoods (including RZ2 zones near local shops and services) were constructed with detached housing as the expected dominant form. In many of these areas, the streets are not designed to support significant on-street parking or high traffic volumes. The proposed changes are likely to exceed the capacity of the existing street system, with safety, congestion delays, and noise consequences.

Similar issues are likely to arise in older neighbourhoods in relation to other physical infrastructure including stormwater and sewerage. This is especially so if the ratio of hard to soft ground covering increases, as it likely would.

Loss of Private Open Space and Reduced Climate Change Resilience

The Snapshot document states:

Private open space requirements have reduced in site percentage however the *quality* of space that contributes to the private open space area has increased. This is intended to see improvements in usable, high amenity spaces for residents.

Setbacks, building and solar envelopes have been modified to enable increased building area where *impacts to neighbours is [sic] minimised*. Solar access and privacy requirements for neighbours continue to apply. [italics added]

This statement seems bold at best, if not misleading. The statement that “the quality of space...has increased” seems impossible to justify. There appears to be no element of the proposed reforms that increases quality of open space. Dimensions are reduced, overshadowing will increase, and large buildings may now impinge on private open space with no setbacks.

The second paragraph of the statement above says clearly that “[s]etbacks, building and solar envelopes have been modified to enable increased building area”, which is true, but the claim that “impacts to neighbours is [sic] minimised” is simply not the case. There are no steps to minimise impacts, which are likely in many cases to be significantly negative.

Recommendation 3:

The consultation process identified in Recommendation 2 should include consideration of the risks as well as potential benefits from proposed reforms. This should include, at least, alternative approaches to address building quality, matching infrastructure with development, how to handle losses in private open space, handling of impacts on traffic and road capacity, and where the government expects major changes to current urban character.

Recommendation 4:

The consultation process identified in Recommendation 2 should also include information on what this proposal means for rates, and how Lease Variation Charges will be handled, so that residents understand how they are likely to be impacted. This should also include the likely impact of increased rates on house prices.

3. Necessary revisions to Technical Specifications and Assessment Requirements

NCCC considers that the proposed approach is both premature and flawed, and that a more open and unbiased consultation addressing real issues should be commenced before such a significant change is introduced.

If the Government proceeds with the proposed MMHRs, there are a number of key details that require revision. In general, many of the technical specifications should be made mandatory as otherwise they are easily ignored, so the changes should also be incorporated into Residential Zones Policy as Assessment Requirements.

Site coverage

Site coverage should be limited to 45% for all zones, with possibly lower site coverage limits for zones that allow higher building heights. This will help to ensure adequate open space and separation between buildings.

Minimum size of blocks created by subdivision

The proposed MMHRs remove any minimum size block requirements for subdivisions. This will lead to loss of neighbourhood and streetscape character. There should be a minimum residential block size allowed to be created by subdivision under the Territory Plan. This minimum should vary by zone, recognise local circumstances and be determined in consultation with affected communities.

Height limits

There should be fixed height limits in the Territory Plan to provide adequate protection in terms of solar access and natural light for neighbours. Storey limits are unnecessary, and counterproductive. Some of the suggested changes to building heights in the proposed residential zones' technical specification 14.1 are dramatic, with the height of RZ4 increasing from 12.5m to 21m. This may not be appropriate in all RZ4 areas.

As currently drafted, specification 14.1 limits RZ5 to 14m if it is close to RZ1, RZ2, RZ3, CFZ, PRZ1 or PRZ2, but RZ4 has no similar restrictions. The lower height limits for single dwelling housing appear to be unnecessary.

Frontage of RZ1 subdivided blocks

The new technical specification 2.4 for subdivisions requires that RZ1 blocks have a street frontage or front onto an urban open space or the community path system. This specification will result in many long skinny subdivided blocks, as well as many verge crossings, which is unlikely to be the ideal block configuration. Using easements for property access to rear blocks, where appropriate, gives greater flexibility in achieving suitable subdivision configurations and may minimise verge crossings. We recommend this specification be removed.

Requirement that RZ1 subdivided blocks contain lawfully constructed dwelling

The proposed new assessment requirement 11 of the Subdivision policy requires that subdivisions in RZ1 are only permitted where each subdivided block contains a lawfully constructed dwelling. This requirement should be removed to allow existing owners to subdivide and sell vacant blocks of land. This would allow new owners to build more appropriate dwellings suited to their needs and avoid all subdivided dwellings in RZ1 being built only by property developers. Assessment outcome 2 is sufficient to ensure that the subdivided blocks are of an appropriate size and configuration.

Limits to consolidation

The new proposed standards for block consolidation in RZ1 appear to be arbitrary and unnecessary. Perhaps a more appropriate standard would be along the lines of a single development should not be of a size or bulk that dominates or overwhelms the surrounding neighbours.

Deep soil areas

The Territory Plan should require that a mandatory minimum of 30% of any residential block in all zones be deep soil areas to encourage healthy soils and root systems with adequate room for vegetation to grow and be maintained. The current proposal only requires this in RZ1 and RZ2.

Tree Canopy Coverage

The proposed rules would require 20% tree canopy coverage for RZ1 and RZ2. While an increase from the current 15%, this remains well below the government's 30% canopy cover target, even though this is referenced as a reason for making the change.

As RZ1 and RZ2 are likely to be the easiest zones to meet the 30% canopy cover target, there should be at least a 30% target in these zones, as well as 30% in all other residential zones. The provision for greater site coverage and higher buildings mean there will be fewer blocks that "over-comply" so strong canopy cover targets are required. Without strong tree canopy cover requirements, Canberra is under increased threat from climate change impacts combined with urban heat island effects.

Solar Building Envelope

The proposed MMHRs would reduce requirements for private open space, allow for reduced (sometimes to zero) setbacks and change the way overshadowing is calculated. Together, these will lead to drastic reductions in solar access.

The seemingly minor change from 31° to 45° means that light will be completely blocked to habitable rooms on the ground floor of adjoining north-facing dwellings during the coldest part of the year. This is both a loss of amenity and an increase in energy costs for residents of affected homes.

Car Parking

The proposed MMHRs would remove requirements for visitor parking and reduce requirements for on-site parking of residents. This appears to be based on an unrealistic assumption that people will forego cars because they live in a different kind of building. This assumption is contrary to evidence, and is particularly unwise given that, under the Government's proposal, there is no restriction on where these developments could happen. This will impose an externality on all neighbours through reduced safety, restricted traffic flows and degraded streetscapes.

This should be reviewed and at the least current requirements should be retained in the short term. With a more managed development pattern, car parking requirements could be tailored to more specific circumstances.

Recommendation 5:

The ACT Government should revise the Residential Zones Policy assessment requirements and tighten technical specifications for residential zones and subdivisions, including:

- **Site coverage limits of no more than 45%**
- **Minimum subdivision block sizes**
- **Clear and appropriate maximum height limits (not storey limits)**
- **Removal of frontage requirements for subdivided RZ1 blocks**
- **Removal of requirement for subdivisions to contain an existing dwelling**
- **Appropriate consolidation limits**
- **Minimum 30% deep soil zone requirements in all residential zones**
- **Requirements for at least 30% tree canopy coverage on all residential blocks**
- **Preserving the solar building envelope at 31° for multi-unit housing in RZ1 and RZ2**
- **Enhanced car parking rates**

4. Alternative approaches

Canberra's development should be managed, not left to private sector interests alone

NCCC is strongly supportive of development in Canberra that provides appropriate and diverse housing across the Territory, based on careful evaluation of the optimal areas for higher density, supported by efficient, timely and adequate infrastructure provision. Wholesale changes to the amenity protections that underpin RZ1 and RZ2 will lead to mismatches of development and infrastructure, allow poor quality and inappropriate development in many areas, create infrastructure bottlenecks, and reduce amenity for residents causing community friction and conflict. This approach will also lead to much of the future development of Canberra being determined by developers' interests rather than by pursuit of community interests.

As identified in Section 1, the proposed MMHRs seem to be aimed at solving a problem that doesn't really exist. Outcomes to date show that the existing zoning system has delivered development at the pace and diversity required, while ensuring 70% of development occurs in the existing urban footprint. "Missing middle" housing is already a large part of a diverse housing mix, and together with apartments is the dominant form of new housing development in almost every area of the Territory.

The NCCC believes that existing zoning approaches, coupled with evidence-based and good planning can deliver the urban form that Canberrans desire.

Addressing housing prices

While it seems intuitive that changing zoning to allow for MM type housing would increase the rate of dwelling construction and lower prices, there is also analysis that shows this is not the case, as there are other factors dominating the rate of dwelling construction. For example, a study of Brisbane over 20 years showed that increasing density had limited effects on housing supply and was associated with *higher* housing prices, stating:¹³

Looking at these basic patterns in the activity-centre level data, there is no clear evidence that increasing zoned capacity increased new dwelling supply and reduced prices. ...if anything, higher rates of new dwelling supply are related to higher price growth.

A study of changes in density and house/unit prices across Australia in the last 20 years indicated density had very little impact on house and unit values and rental prices, with the direction of the relationship varying. This report noted “high population densities provide virtually no explanatory power for house values with the coefficient of determination just .001 over the past 12 months and over the past decade”.¹⁴

And recent evidence indicates that increased share of apartments and MM type housing is not leading anywhere near a situation where low- or even moderate-income people can easily access appropriate housing in the ACT.

NCCC recognises the growing challenges presented by housing prices and the need to make housing more affordable, especially for the most vulnerable members of society.

NCCC’s submission on a proposal to remove third party appeal rights for public housing (see Attachment A) included a number of suggestions on how to increase the rate of public housing construction in the ACT, noting that the Government’s current targets are manifestly inadequate. Increasing the rate of public housing construction is a key requirement for addressing the current housing crisis. Not only does it directly provide housing for the most vulnerable, but it also limits competition in the lower priced market.

But it is certainly not enough.

NCCC supports appropriate demand-side responses to stem the increase in housing prices, which could include considered changes to negative gearing and capital gains treatment to return housing to a human right rather than an investment opportunity. As part of its negotiations with the Federal Government, the ACT Government should seek to ensure such changes are implemented as part of a national housing strategy.

¹³ Murray, Cameron & Limb, Mark (2023) *We Zoned for Density and Got Higher House Prices: Supply and Price Effects of Upzoning over 20 Years*. *Urban Policy and Research*, 41(2), pp. 129-147.

¹⁴ “Population density trends and what they mean for housing”, Firstlinks, May 2024

NCCC also recognises the need for supply-side options, but is not convinced that unplanned densification, as proposed in the MMHRs, is an effective answer. There are appropriate areas for densification supported by infrastructure provisions and some of the proposed “rules” for densification could be applied in such areas.

Other approaches should include specific support for community housing. This is especially true given many commentators’ views that there is insufficient capacity in the construction sector to build all of the housing Australia needs. In such a limited environment, it is important that the housing which is delivered goes to those most in need, while also addressing these shortages.

The Government should also take advantage of large tracts of land in the existing urban area that could be used for new housing. In North Canberra, for example, this includes Thoroughbred Park and the Yowani Golf Course; both are located directly on the light rail route. The first area alone could provide up to 5000 dwellings. These could be designed based on the proposed MM Design Guide, and include requirements for significant proportions of public and community housing.

Of course, this would require this land be given over to housing rather than its current uses. Given that the current uses are only realised by a relatively small subset of the community, this is a choice of priorities that the Government could make, if it really valued the provision of more housing with appropriate infrastructure highly. It is much more likely to generate the substantial increase in public, social and other housing that is needed to address the housing crisis than a random licence for individual developers to make their own choices about where and how to build higher densities.

5. Conclusion

It is beyond the scope of this submission to identify all strategies to reduce housing costs. But the proposed MMHRs will certainly not deliver affordable housing in Canberra.

NCCC recognises the need for increased housing supply as part of a broad and comprehensive strategy to address housing availability. We support densification in appropriate areas supported by matching infrastructure provision.

The proposed MMHRs would lead to haphazard development with a range of negative outcomes.

Given the complexity and importance of the issues the proposed MMHRs raise, a much more transparent and balanced dialogue with the community is essential.

**Attachment A - NCCC Submission on Inquiry into the Planning (Territory
Priority Project) Amendment Bill 2025 - 21 March 2025**

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Executive Summary

On 5 February 2025, the ACT Government introduced the Planning (Territory Priority Project) Amendment Bill 2025, which would designate all public housing and public health facilities as Territory Priority Projects, effectively extinguishing appeal rights and administrative review by the ACT Civil and Administrative Tribunal (ACAT) for those two categories of development.

North Canberra Community Council (NCCC) opposes this legislation. It would walk back a basic right in Western democracy for independent review of government decisions, make no significant difference to the rate of supply of public housing in the ACT, and lead to lower quality housing and neighbourhood outcomes. The claimed rationale for this proposal is misguided, misleading, and misdirected. It risks opening the door to substandard public housing in the future, that would have been rejected otherwise.

The ACAT appeals process results in improved outcomes for the whole community, including public housing tenants, and helps ensure the proposals that government puts forward meet generally acceptable standards that the community has signed off on. Removing checks and balances from the system risks significantly poorer outcomes, impacting on tenants, the public housing stock and the wider community.

NCCC strongly supports more public housing in the ACT. The government's current *Growing and Renewing Public Housing Strategy* originally called for a mere 1.7% increase in the public housing portfolio from 2019-2024 when population growth was 8.8%; this extremely modest target was not met. The revised strategy calls for an increase of only 3.4% in the public housing portfolio from 2019-27 when population is expected to increase 13.4%. This ambition is simply too weak and NCCC supports a far more ambitious target. We recognise this presents budget challenges, but setting priorities is a key task for government, and we must look after the most challenged members of our society.

The government claims that appeals of public housing projects have caused considerable delays in completion, and that the outcomes do not justify this. However, the Auditor-General reported that from 2019-2023, only 7% of public housing projects were appealed to ACAT, and of these more than half were found deficient, requiring reassessment or redesign. As a direct result of the ACAT process, it is likely that many more projects were actually amended after the appeal was made, but before the case was heard. ACAT rules allow for plans to be amended while the case is being heard, and it seems that the government is incentivised to amend proposals when they realise that their decisions will be assessed through the ACAT process.

The possibility of appeals is an important check on the system. It should make government more likely to produce higher quality proposals to avoid the embarrassment of putting forward non-compliant proposals *and* approving them through the Territory Planning Authority.

The reasons why amendments and/or conditions were required through the ACAT process were varied and serious. They include inappropriate developments for people with disabilities (even in supportive housing), unsafe access, loss of privacy for neighbours, insufficient access to parking, insufficient clarity about clearance from electricity, and insufficient arrangements for effective stormwater and sewerage infrastructure management. Therefore, the appeals process helped ensure that housing provided to public housing tenants was safe, decent to live in, and met the needs of residents and the community. Without an appeals process, inappropriate substandard housing is much more likely to be built.

As to the causes for delay, while the appeals process does take time, it results in useful outcomes as discussed above. However, **the government itself has directly caused delays, without any clear benefits to the community.** For example, one of the cases that was appealed involved the demolition and rebuild of existing public housing where the previous tenants were expelled more than 4 years before a development application was lodged. In another case, a hearing process through ACAT was delayed for nearly a year, largely through waiting for the Commissioner for Social Housing to lodge revised plans. And the government continues to miss its own deadline for finalising decisions on development applications in nearly 1 in 3 cases. If reductions in delays are wanted, there are some better areas to look at than removing third party appeals. And we note that, despite the appeals process being in place, the government states it is “on track” to meet its targets in the *Growing and Renewing Public Housing Strategy*.

Minister Steel’s comments seek to mollify concerns over the removal of appeal rights by stating “[a]ny new Territory Priority Projects will still be required to adhere to all planning and design requirements under the Planning Act” and “[a]s part of that process community feedback will be considered by the independent Territory Planning Authority.” **These statements do not provide any comfort.** These are already the rules and yet appeals are successful more than half the time. Why would methods that already fail be more successful in an environment where there is far less scrutiny of outcomes?

Minister Berry has supported the proposed legislation stating that the government is “pull[ing] out all the stops to get homes built as quickly as possible”. This is clearly not correct.

The government has:

- adopted weak targets,
- proposed non-compliant developments,
- significantly delayed getting new developments up and running,
- failed to meet their own timelines for approvals, and,
- been a source of major delays in appeals processes.

Rather than pulling out all stops, the government seems to be addressing only one relatively minor issue while not resolving more significant concerns. And they have chosen the most undemocratic approach available. In essence, **it appears the government wants to blame the community for expecting planning rules be followed, rather than work to improve the timeliness and ambition of their own actions.**

Given the clear need to provide much more public housing, some steps that could be more helpful without resorting to extinguishing third party appeal rights include:

1. **Propose housing developments that meet all relevant legislative and regulatory requirements.**
2. **Speed up the government's internal processes.**
3. **Speed up the approval process.**
4. **Increase the ambition of providing public housing and provide the resourcing to meet these targets.**
5. **Ensure appropriate penalties for providing incorrect information.**
6. **Streamline the appeals process.**
7. **Require all new multi-unit developments (above a certain size) to include public housing e.g. 10-15% of all units.**
8. **Support more tradespeople entering the Canberra market.**
9. **Consider ways to lower costs and increase speed of construction.**

More detail, including on possible solutions, is included in the following submission. However, NCCC notes that, as a volunteer organisation, we lack the resources to carry out a complete evaluation of these issues or to ensure all possible solutions are identified; this is the function of government. We have pointed out that the proposed

solution is not effective or well-targeted, will cause problems for the quality of public housing built, and is a serious reduction in the democratic rights of citizens.

We note that this submission includes no real discussion of public health facilities. The government has not provided any justification for removing appeal rights for these facilities, so it is hard to see what problem is being solved, or what impacts there might be. With a clear long-term strategy for developing health facilities, removing the appeals process does not seem necessary. Given the increasing number of developments and geographical areas that government and industry players want to quarantine from the appeals process, and the importance of appeals in ensuring good outcomes, NCCC opposes quashing appeal rights for health facilities as well as public housing.

1.0 Introduction

On 5 February 2025, the ACT Government introduced the Planning (Territory Priority Project) Amendment Bill 2025 into the Legislative Assembly. This Bill would declare all public housing and public health developments as Territory Priority Projects, effectively extinguishing appeal rights and administrative review by the ACT Civil and Administrative Tribunal (ACAT) for those two categories of development.

Ministers Steel, Berry and Stephen-Smith put out a media release explaining the new legislation ([Attachment A](#)). Based on this release, the arguments for removing this democratic right to review decisions made by government appear to be three-fold:

1. Public housing and health are priorities that need to progress expeditiously.
2. Appeals are frivolous and unnecessary, as other steps ensure good outcomes.
3. The number of public housing appeals is a significant source of delay in meeting public housing needs.

The NCCC agrees with the first point, and in fact supports much greater commitment to public housing. However, there are far better ways to do this, which are not un-democratic.

The other points are not supported by the evidence.

Each of the three points is discussed below in separate sections. These discussions are focused on public housing, as there is no justification or background given in the media release for including health facilities other than that health care is important.

Section 5 includes suggestions for steps the government might take to address current issues in public housing without resorting to an anti-democratic quashing of citizens' rights.

2.0 Public housing is an important priority

NCCC agrees that much greater attention and resourcing should be given to public housing in the ACT. Ensuring adequate housing for our most challenged residents should be a key focus. Increased homelessness and extended waiting times for public housing show that this should be a greater priority for the government. NCCC also supports the “salt and pepper” approach of ensuring that public housing is spread across all of Canberra’s suburbs, does not create any concentrated areas of disadvantage in public housing and ensures a mix of housing types available.

As noted by many commentators, the ACT Government’s approach to public housing provision has been lacking in both ambition and efficiency.

In 2019, the Government released its *Growing and Renewing Public Housing Strategy*.¹⁵ This strategy committed the government to increasing the public housing portfolio stock from 11,700 to 11,900 from 2019 to 2024, after construction, sale, demolition and purchases. This was a projected net increase of 200 dwellings, and included a goal to build 1060 new dwellings.¹⁶ At the end of the 2023-24 financial year, the actual number of dwellings constructed was 614, and the stock was 11,731.¹⁷ So, these initial goals were not met, with the construction target short by 42%. The stock had increased by only 31 dwellings, or 0.3%.

Table 1 Growing and Renewing Public Housing - Original strategy for 2019-2024

	2019	2024 Target	Planned % Increase	2024 actual	Actual Increase	% of goal achieved
Public Housing Portfolio	11,700	11,900	1.7%	11,731	0.26%	16%
Dwellings to be constructed		1,060		614		58%

In 2020-21 and 2021-22¹⁸, the strategy was extended by 3 years to 2027 and targets were increased to a stock of 12,100 (a net increase of 400), and construction of 1,120 new dwellings.

At December 2024, the public housing portfolio stock was 11,845, and 764 dwellings have been constructed.¹⁹ So, even six months after the expected completion of the original strategy was reached, the original targets have not been met. The portfolio stock increased only 1.2%, over a period when the ACT population grew by around 9%.

¹⁵ See summary graphic "What will be delivered?" on page 5 (there are no page numbers marked in this document) in [Growing and Renewing Public Housing 2019-24](https://nla.gov.au/nla.obj-1207724353/view), <https://nla.gov.au/nla.obj-1207724353/view>

¹⁶ The document often refers to "houses" but given that virtually all new construction is multi-unit dwellings, we will use the term "dwellings". Note that the construction figure is much larger than the net increase as there were many demolitions/rebuilds at higher capacity, and many sales.

¹⁷ [Six monthly snapshot of public housing stock numbers](https://www.act.gov.au/__data/assets/pdf_file/0005/2554394/Public-housing-stock-snapshot-June-2024.pdf), www.act.gov.au/__data/assets/pdf_file/0005/2554394/Public-housing-stock-snapshot-June-2024.pdf

¹⁸ It is not clear precisely when these changes were made or how they were announced. [The Parliamentary and Governing Agreement for 2020-2024](https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0003/1654077/Parliamentary-Agreement-for-the-10th-Legislative-Assembly.pdf) included a target of 400 additional dwellings by 2025 – see para B2i at www.cmtedd.act.gov.au/__data/assets/pdf_file/0003/1654077/Parliamentary-Agreement-for-the-10th-Legislative-Assembly.pdf

¹⁹ [Six monthly snapshot of public housing numbers](https://www.act.gov.au/__data/assets/pdf_file/0005/2795468/Public-housing-stock-snapshot-December-2024.pdf), www.act.gov.au/__data/assets/pdf_file/0005/2795468/Public-housing-stock-snapshot-December-2024.pdf

Only 58% of the planned construction was completed by the original completion date, a shortfall of some 446 dwellings. Note that this shortfall is drastically larger than the number of dwellings that have been affected by ACAT appeals, so there were many other sources of delay.

Table 2 Growing and Renewing Public Housing - Revised Strategy for 2019-2027

	2019	2027 Target	Planned % Increase	Dec 2024 actual	Actual Increase	% of goal achieved
Public Housing Portfolio	11,700	12,100	3.4%	11,845	1.24%	36%
Dwellings to be constructed		1,120		764		68%

Table 3 Population of the ACT

	2019	2024	2027
	435,730 ²⁰	474,132 ²¹	494,017 ²²
% increase		8.8%	13.4%

To be fair, there have been a number of unexpected developments that have affected delivery of original targets, and progress has recently been faster. In its performance review of the program, the Auditor-General noted that increased costs and delays were in part due to:

- increased construction timelines and costs associated with the COVID-19 pandemic, disruptions to the Australian construction industry and atypical wet weather events; and
- ineffective implementation of relocation of tenants from public housing homes that were selected for sale or redevelopment.²³

²⁰ [ABS SLA Data Explorer](https://dataexplorer.abs.gov.au/vis?tm=quarterly%20population&pg=0&df[ds]=ABS_ABS_TOPICS&df[id]=ERP_Q&df[ag]=ABS&df[vs]=1.0.0&hc[Frequency]=Quarterly&pd=2019-Q2%2C&dq=1.3.TOT.Q&ly[cl]=TIME_PERIOD&ly[rw]=REGION&to[TIME_PERIOD]=false),

[https://dataexplorer.abs.gov.au/vis?tm=quarterly%20population&pg=0&df\[ds\]=ABS_ABS_TOPICS&df\[id\]=ERP_Q&df\[ag\]=ABS&df\[vs\]=1.0.0&hc\[Frequency\]=Quarterly&pd=2019-Q2%2C&dq=1.3.TOT.Q&ly\[cl\]=TIME_PERIOD&ly\[rw\]=REGION&to\[TIME_PERIOD\]=false](https://dataexplorer.abs.gov.au/vis?tm=quarterly%20population&pg=0&df[ds]=ABS_ABS_TOPICS&df[id]=ERP_Q&df[ag]=ABS&df[vs]=1.0.0&hc[Frequency]=Quarterly&pd=2019-Q2%2C&dq=1.3.TOT.Q&ly[cl]=TIME_PERIOD&ly[rw]=REGION&to[TIME_PERIOD]=false)

²¹ [Estimated Resident Population – June Quarter 2024](https://www.treasury.act.gov.au/__data/assets/pdf_file/0008/644813/ERP.pdf),

www.treasury.act.gov.au/__data/assets/pdf_file/0008/644813/ERP.pdf

²² [Medium series](https://www.abs.gov.au/statistics/people/population/population-projections-australia/latest-release#australian-capital-territory),

<https://www.abs.gov.au/statistics/people/population/population-projections-australia/latest-release#australian-capital-territory>

²³ [ACT Auditor-General's Performance Audit Report No.3/2024 – Management of the Growing and Renewing Public Housing Program](https://www.audit.act.gov.au/__data/assets/pdf_file/0007/2448466/Report-No.3-of-2024-Management-of-the-Growing-and-Renewing-Public-Housing-Program.pdf),

www.audit.act.gov.au/__data/assets/pdf_file/0007/2448466/Report-No.3-of-2024-Management-of-the-Growing-and-Renewing-Public-Housing-Program.pdf

While not highlighted by the Auditor-General, its report did note that “[d]elivery of some new public housing homes has also been delayed by the time required to obtain approved Development Applications for complex or sensitive urban-infill developments”. This report states that from July 2019 to June 2023, 13 of 184 Development Applications (DAs) submitted for new public housing were reviewed by ACAT. Of these, 4 required re-design and 3 required reassessment by ACTPLA.²⁴ So, 7% of all public housing DAs went to ACAT, and of these more than half were found to be deficient. The issue of the impact of appeals on public housing progress is discussed further in Section 4.

Even if we accepted there were valid reasons for massive underachievement of original goals, the ambition of the original and extended targets is simply inadequate. The original goal was for a 1.7% increase in the public housing portfolio when the population increased by nearly 9%. The extended goal is a 3.4% increase when the population is expected to increase by 13.4%. So, the ambition is a full 10% behind just keeping up with the population! Given the cost-of-living crisis we have seen over the past few years, a rate above population growth may be warranted.

In June 2023, the ACT Government signed an agreement with the Commonwealth Government for a Social Housing Accelerator Payment.²⁵ This agreement commits to an additional 20-25 medium-density social housing dwellings being built in the ACT at a cost of \$20 million, or \$800,000 to \$1 million per dwelling. This document also indicates that 35-40 privately built dwellings would also be purchased at a cost of \$30 million. Together, these 55-65 dwellings would cost \$50 million, or \$770,000 to \$909,090 per dwelling. And the impact by 2028 would be to “reduce average social housing wait times by 1 week”! The current waiting time for public housing is 26 weeks for the highest priority, and 3-5 years or more for the vast majority of the 3,002 people on the public housing waiting list.²⁶

The Auditor-General’s report mentions that the homes being built as part of the Growing and Renewing Public Housing Program “are intended to meet the changing needs of older tenants and tenants with disability. Meeting these standards means the new public housing homes built under the Program are larger and cost more to build than a comparable typical home.” This is rightfully an objective for public housing in the ACT.

However, a cost of up to \$1 million per dwelling makes public housing targets very challenging. This is a difficult issue given the government’s current budget difficulties and requires some hard prioritisation of efforts, since it is clear that the government’s ambition for

²⁴ [ACT Auditor-General’s Performance Audit Report No.3/2024 – Management of the Growing and Renewing Public Housing Program](#), page 40

²⁵ General background is at treasury.gov.au/policy-topics/housing/social-housing-accelerator. Details of the ACT program funding are given in the ACT Implementation Plan accessed from this page. We note that the ACT was the only jurisdiction to have not yet committed any funds under this program.

²⁶ [Waiting lists for public housing](#), www.act.gov.au/housing-planning-and-property/public-housing/waiting-lists-for-public-housing

public housing does not nearly match the need. But the very small percentage of public housing developments affected by ACAT appeals is negligible compared to the gross inadequacy of the government's ambition.

3.0 Appeals serve a useful purpose

The ability of citizens to appeal against decisions that affect their lives and their community is a core tenet of a democratic society. It helps ensure that unfair or illegal decisions are overturned, and also provides an incentive for governments to make and justify good decisions.

The government's joint media release (Attachment A) suggests that appeals are unnecessary as "[m]ore than 75 per cent of these appeals are ultimately resolved through mediation or with ACAT agreeing with the original decision, meaning costly delays could have been avoided." This statistic is both damning and misleading.

First of all, if at least 25% of appeals are upheld, this means the government has failed to follow requirements in at least 1 of 4 developments, even when they knew the decisions would be scrutinised.

However, stating that the remaining 75% are resolved through mediation or support for the original decision mixes up two quite different things. Mediation only occurs after an appeal is made and many times mediation results in changes to a development plan to protect neighbours' rights, safety or the quality of the housing built. So, of the 75% that are mediation plus overturning, many also demonstrate that the original approval was deficient.

Outcomes from mediation are not made public so it is hard to know precisely what percentage of appeals lead to changes. But the Auditor-General's report notes that in the 2019-23 time period, 13 public housing projects were appealed to ACAT, and 7 required redesign and/or reassessment. This is a failure rate of 54%. There seems no reason to assume that things have improved in 2024 so this seems a more reliable figure for "successful" appeals.

It is also important to consider what it means for the public to "win" on appeal more than half the time. These wins mean that two large government agencies – Housing ACT and ACTPLA – both failed to follow the rules (since ACTPLA must examine the housing proposal before issuing an approval). This happens despite each agency having many years of experience and the resources of government. Community groups or members of the public in an ACAT appeal find themselves arguing their case against senior officials, solicitors and barristers funded by *their own government*. So, even when an appeal "loses" this may reflect lack of resources and a non-level playing field rather than the applicant's case necessarily being wrong. And, once an application is filed with ACAT, proponents frequently submit revised plans during the appeal; which means that they can wait to see if there is an appeal before ensuring things are as they should be.

So, two government agencies fail to follow the rules at least half the time when scrutinised. If, through this legislation, agencies know that no appeals can be made, they are even more likely to be careless in following what rules and design guidance exist under the current regime.

The government's joint media release seeks to mollify concerns over extinguishing appeal rights when Minister Steel states "[a]ny new Territory Priority Projects will still be required to adhere to all planning and design requirements under the Planning Act" and "[a]s part of that process community feedback will be considered by the independent Territory Planning Authority."

These statements do not provide any comfort. These are already the rules and yet appeals are successful more than half the time. Why would methods that already fail be more successful in an environment where there is far less scrutiny of outcomes?

Box 1 – Issues raised in appeals

There is limited detailed information on the outcomes of appeals of public housing projects. Of the 20 ACAT cases that the government has identified, only 4 have information available on the ACAT public database of ACAT decisions²⁷. The outcomes of cases resolved through mediation are not public. However, the fact that cases are resolved through mediation suggests there were changes made to the development as a result of these mediations; otherwise, one or the other party would bring the case to completion.

What follows is a brief discussion of the outcomes of the cases that are publicly accessible.²⁸ These show a number of common elements:

- Original approvals were based on incomplete and/or inaccurate information. In all cases, amended plans and/or lease conditions were required.
- In one case, the approval was rejected even after amendments. In the others, approval was allowed based on the amended plans. So, in all cases, the original approval was found to be deficient.
- Provision of amended plans can be a significant cause of delay. In one case below, 'the hearing commenced on 21 October 2021...[but]... did not conclude until 14 September 2022 because the Commissioner sought a number of amendments to the DA.' To attribute this delay to the appeals process is unfair as it is the delay in the government's provision of appropriate plans that was the real cause of delay.
- The reasons for rejection of approval, or for imposition of conditions, are varied and serious. These include inappropriate developments for people with disabilities (even in supportive housing), unsafe access, loss of privacy for neighbours, insufficient access to

²⁷ [ACAT decisions](https://www.acat.act.gov.au/decisions2), <https://www.acat.act.gov.au/decisions2>

²⁸ While there are officially 4 ACAT cases, 2 affected the same property and were heard together, so there are only three cases listed below.

parking, insufficient clarity about clearance from electricity, and insufficient arrangements for effective stormwater and sewerage infrastructure management.

ACAT is a quasi-legislative body. It assesses whether proposals should be approved based on the Territory Plan and other relevant legislation. The fact that in all of the cases below, ACAT overturned the approval or required changes to the original plan indicates that ACTPLA had approved non-compliant proposals.

Planning laws exist to ensure that approved buildings are safe, decent to live in, appropriate for the location and meet the needs of residents. There is no reason why public housing should not meet all these requirements. Yet, without an appeals process, in the following cases, public housing would not meet some or all of these requirements if not for the appeals that were made.

ACAT case AT 41/2022, DA 202139347 – 32 Sturt Avenue, Narrabundah²⁹

This DA was to replace a single dwelling with three supportive housing dwellings. ACAT found the development was deficient in at least 10 aspects.³⁰ These included failing to meet requirements of the Multi-Unit Housing Development Code, relevant parts of the Parking and Vehicular Access General Code, and the Lease Variation General Code. Specific issues included lack of privacy, insufficient private open space, unsafe access for people with disabilities, inadequate parking (especially important for people with mobility issues), and lack of a lease condition guaranteeing the property would be used for supportive housing.³¹ ACAT concluded that “[t]here appears to be no scope for the development to be changed to make it code compliant without substantially altering the development”, and so ruled the approval must be overturned.

ACAT also raised questions about whether the development met requirements for supportive housing in terms of disabled access through visitability, manoeuvrability, ease of reach and ease of adaptation for possible future needs. ACTPLA had apparently assessed that 3 of 10 requirements were met, so this was enough, but ACAT indicated this was insufficient to state the development complied. ACAT did not finally rule on this as the DA was rejected for other reasons.

During this case, the government also provided updated drawings and plans to seek to address issues raised by the objectors. This is an interesting feature of the ACAT process where proponents can be changing aspects of the proposal even during the appeals process.

²⁹ [ACAT decision AT 41/2022](https://www.acat.act.gov.au/__data/assets/pdf_file/0008/2187296/GRIFFITH-NARRABUNDAH-COMMUNITY-ASSOCIATION-INC.-v-ACT-PLANNING-AND-LAND-AUTHORITY-Administrative-Review-2023-ACAT-13.pdf)

www.acat.act.gov.au/__data/assets/pdf_file/0008/2187296/GRIFFITH-NARRABUNDAH-COMMUNITY-ASSOCIATION-INC.-v-ACT-PLANNING-AND-LAND-AUTHORITY-Administrative-Review-2023-ACAT-13.pdf

³⁰ There were a number of other matters that may have been non-compliant but ACAT did not rule on these as there were already enough reasons to reject ACTPLA's approval.

³¹ This is important as rules allow 3 dwellings on the block only if they are supportive housing, but the requested lease arrangements would have allowed for supportive housing or other residential uses.

In this way, proponents may sometimes claim that ACAT supported their proposal, but only for changes undertaken after the approval was granted.

For example, the initial set of plans and shadow diagrams used by the proponent was found to contain errors and discrepancies and were amended and corrected *overnight*. But errors identified in these amendments made ACAT decide they were “unreliable”. Two attempts were apparently not enough to get things right, but ACTPLA was satisfied with the first set.

It’s also notable that the plans that were approved indicated a large tree existed on the property even though it had been removed. It is surprising that consultants included this “error” and that ACTPLA did not notice it.

ACAT Case AT 63/2021 – DA 202138290 – 11 Lowanna Street, Braddon³²

This DA was for the building of 10 units, including two accessible housing units.

While hearing began on 21 October 2021, it did not conclude until 14 September 2022. This delay was in major part due to the Commissioner for Social Housing making a number of amendments to the DA. The amended development was publicly notified on 28 April 2022, and the hearing then resumed on 13 September 2022. So, virtually all of the 11 months taken for the hearing of this case was due to the government filing amended plans, presumably as they realised there were deficiencies in the original plans.

The initial approval was based on including two supportive housing units. But the proposal did not provide the operational parking that is a requirement for supportive housing. During the ACAT hearing process, the Commissioner for Social Housing indicated that the development would no longer be supportive housing, so the operational parking was not required, which was accepted by both parties. However, this indicates the original proposal was not compliant with supportive housing requirements, yet was still approved as supportive housing.

Neighbours objected to a number of aspects of the original proposal, including claiming it impinged on their privacy and use of private open space. ACAT found that these issues were addressed only in the *amended* plans. They made tree planting and a privacy screen a condition of approval to deal with this. Given these changes, and the assessment of other objections, ACAT agreed for the approval to proceed, based on the amended drawings. So, even though they did not overturn the decision to approve, it appears they might have, based on the original plans that ACTPLA had approved. Again, we can only surmise that the changes were made in response to issues raised through the appeals process.

ACAT also imposed 23 new conditions on the approval, amended 3 and deleted 2. The new conditions covered a range of matters including the above trees and privacy screen,

³² [ACAT decision AT 63/2021](#)

www.acat.act.gov.au/__data/assets/pdf_file/0010/2169865/ELLIOTT-and-ANOR-v-ACT-PLANNING-AND-LAND-AUTHORITY-and-ANOR-Administrative-Review-2023-ACAT-7.pdf

shortening a wall to allow room for parking access, and a number of matters related to sewerage and electricity infrastructure. For example, conditions required:

“Development is to comply with minimum clearances to overhead conductors and poles.

The location of the proposed or existing Point of Entry/Meter Box is to comply with Evoenergy’s Service and Installation Rules.

An unobstructed access corridor minimum 2.5m wide and 2.5m high must be provided from the front of the block (street frontage) to and along the stormwater easement at the rear of the block, to the satisfaction of TCCS.

For all proposed structures close to the southwest easement (such as the proposed retaining walls), the loading zone of influence of the footings must be beneath or outside the southwest pipe and associated trench backfill. A structural engineer must certify that the structures close to the southwest easement will not impose adverse loads on the pipe, and that possible future trench excavations required to expose the pipe will not undermine, destabilise or damage the structures.

A metering equipment upgrade may be required. A licensed gas fitter should verify loads and metering equipment capacities.

A sewer maintenance structure is located on this block. Unobstructed 24/7 access a minimum of 1.5m wide is to be maintained across the land to the asset.”

It is possible that these requirements would have been met in the development without conditions. But it is striking that ACAT felt it necessary to specify these requirements for safety and infrastructure management when ACTPLA did not.

ACAT Case AT 73/2023 and 81/2023 – DA 202240431 – 5/7 Roe Street, Griffith³³

This proposal was to consolidate 2 blocks and build 4 supportive housing units. Neighbours and the local community association objected on a number of grounds, including failure to comply with technical requirements for driveway gradient, path blockage, open space, internal circulation, overshadowing and proximity of parking to bedrooms. ACAT found in these instances that the development was compliant, although in a number of cases failed to meet numeric rules but did meet the more qualitative criteria. The objectors also had a number of objections related to qualitative issues such as desired character and appropriate building materials. Again, ACAT found the proposal compliant on these aspects.

The proponents and the Commission agreed that the lease should restrict future use to supportive housing only, and this was included in a condition of the ACAT approval.

³³ [ACAT decision AT 73/2023, AT 81/2023](#), These two cases were heard together as they related to the same development.

www.acat.act.gov.au/_data/assets/pdf_file/0005/2573420/SILVEY-GRIFFITH-NARRABUNDAH-COMMUNITY-ASSOCIATION-v-ACT-PLANNING-AND-LAND-AUTHORITY-Administrative-Review-2024-ACAT-74.pdf.

Supportive housing allows for higher density development, so ensuring it remained for this use in future ensures the rules are not later breached.

While the general support of ACAT for the government's decision may appear to support a claim that this appeal was not well-founded, this really can't be justified. First, the condition on lease use was important. Second, ACAT's consideration of compliance was based on a set of amended plans submitted by the government after the appeals were made.

The first hearing was held 26-27 March 2024. The Commissioner for Social Housing then filed amended plans on 13 May 2024. It was these amended plans that were assessed to determine compliance, not the original plans. In some cases, the amended plan provided further information to allow assessment, and in some cases there were changes from the original plans that brought the proposal into compliance (e.g. adjustment of garage sizes, car parking, and size of courtyard walls). In the former case, this implies that the original plans did not contain enough information to assess compliance; in the latter, that they did not actually comply. In both cases, it seems the original approval was not well justified. ACAT agreed for the approval to stand on the condition that it be based on the amended plans.

4.0 Public housing appeals are not the problem

The government's joint media release states that since 2019 there have been a total of 20 ACAT appeals on public housing developments, accounting for 13% of all ACAT appeals. The argument seems to be that this is an expensive and widespread problem that is causing major delays to public housing development.

Again, the facts do not support this contention.

The government's joint media release suggests 13% of all ACAT appeals being public housing related is too high. The most recent public information on the total number of DAs filed as part of the *Growing and Renewing Public Housing Program* is the Auditor-General's report, which says there were 184 DAs from July 2019 to June 2023. Over the same period, the total number of residential DAs filed in the ACT was 2810, of which 749 were for multi-unit residential.³⁴

So, the 184 DAs for public housing represent 7% of residential DAs and 25% of multi-unit residential DAs. Since most public housing developments over that period were multi-unit, and since multi-unit development seem more prone to third-party appeals, it seems that on a pro rata basis, we would expect public housing to make up somewhere between 7% and 25% of all appeals, and possibly closer to 25%.

³⁴ [Development Statistics](https://www.planning.act.gov.au/applications-and-assessments/development-applications/development-statistics).

<https://www.planning.act.gov.au/applications-and-assessments/development-applications/development-statistics>

Table 4 Public housing relative to all other residential DAs

	2019-24	Public Housing DAs as a % of total
All DAs	2810	7%
DAs for multi-unit residential	749	25% ³⁵

Therefore, the fact that 13% of ACAT appeals are public housing seems broadly consistent with the percentage of developments that are public housing. In fact, the appeals rate for public housing may actually be lower than for comparable private housing developments.

It is also not clear that these appeals are a significant source of delay in meeting public housing targets.

In response to a question on notice, Minister Steel listed the 20 ACAT appeals that he referred to³⁶. While there are 20 ACAT appeals, these relate to only 16 development applications (DAs). Two DAs went to ACAT twice, and one went three times, suggesting that deficient applications continued to be put forward even after an appeal process.

Therefore, despite the implication that there are 20 cases affecting 133 dwellings, there are actually only 16 DAs affected comprising 115 dwellings. As of Dec 2024, the government has constructed 764 new dwellings as part of its Growing and Renewing Public Housing program³⁷. So, the appealed developments represent only 15% of public housing dwellings to date³⁸. And more than half of appealed cases were found to have deficiencies through the appeal process. As discussed in Section 1, the government missed its original 1994 target by 446 dwellings, nearly 4 times the number subject to appeals.

So, public housing appeals do not appear to be a major source of delays to public housing, even while assuring better quality construction. We also note that the 2023-24 Community

³⁵ If all public housing DAs are multi-unit

³⁶ [Assembly Question 121 by Shane Rattenbury](https://questions.parliament.act.gov.au/details/d5a6b13be5b74172a118fa4052f664e7),
<https://questions.parliament.act.gov.au/details/d5a6b13be5b74172a118fa4052f664e7>

³⁷ Public housing stock snapshot,
[www.act.gov.au/ data/assets/pdf file/0005/2795468/Public-housing-stock-snapshot-December-2024.pdf](http://www.act.gov.au/data/assets/pdf_file/0005/2795468/Public-housing-stock-snapshot-December-2024.pdf)

³⁸ And only 9% if we remove the 45 dwellings from developments that the government delayed significantly – see below.

Service Directorate's Annual Report states that the government is "on track" to meet its targets for 2027 under the Growing and Renewing Public Housing Program.³⁹

If the government were really concerned with delays, they might look to some other areas. For example, the government has legislated timelines for making decisions on DAs. However, these timelines are missed about one-third of the time.

Also, the final two DAs listed in Minister Steel's response to a Question on Notice account for 45 of the total of 115 dwellings claimed to be delayed by appeals. One of these, the development in Yarralumla, accounts for 33 dwellings and is the largest development on the list. This development will demolish existing public housing and replace it with a higher number of dwellings. The former public housing tenants were notified to vacate more than 4 years ago, but the government has only recently lodged a DA to replace this facility. Apparently, the property has been used for law enforcement training exercises.

Similarly, the 15 dwellings in O'Connor are also replacements for existing public housing. This facility had a fire in 2021 but the DA for rebuilding was only lodged nearly 2 years later. Again, this seems to show no focus on getting public housing built quickly.

Minister Berry has stated that the government is "pull[ing] out all the stops to get homes built as quickly as possible". This is clearly not correct as the Government has:

- adopted weak targets;
- proposed non-compliant developments;
- significantly delayed getting new developments up and running;
- failed to meet their own timelines for approvals; and
- been a source of major delays in appeals processes.

Rather than pulling out all stops, the government seems to be addressing only one relatively minor issue while not resolving more significant concerns. And they have chosen the most undemocratic approach available. In essence, it appears the government wants to blame the community for expecting planning rules be followed, rather than work to improve the timeliness and ambition of their own actions.

5.0 Alternative approaches

For all the reasons above, extinguishing third party appeal rights for public housing is an ill-informed, overly-aggressive, anti-democratic approach that will not solve what is a real crisis in public housing, and a misdirection of focus. There are alternative approaches to achieve an actual increase in public housing. Some seem like "no-brainers". Others raise complex issues that require further consideration. NCCC does not have the resources or all

³⁹ [Community Service Directorate's Annual Report 2023-24](https://www.act.gov.au/__data/assets/pdf_file/0007/2618179/CSD-Annual-Report-2024.pdf), Page 7

https://www.act.gov.au/__data/assets/pdf_file/0007/2618179/CSD-Annual-Report-2024.pdf

of the expertise to fully develop such approaches. They are included here for further consideration by government.

Both types of alternatives are discussed separately below.

Obvious solutions

- a. ***Propose housing developments that meet all relevant legislative and regulatory requirements.*** ACAT is essentially a legal review process, and assesses whether relevant proposals meet all rules and requirements. While there have only been a relatively small number of appeals of public housing proposals, more than half of these “failed” when they were effectively put to a compliance check. We do not know how many of those applications that were not appealed also failed to meet requirements but were never found out. It is very unlikely that this number is zero.

Appeals against ACT Government decisions are likely to be lower when the public has trust that the government is making legal, just decisions. With a more than 50% failure rate on appeals, the government needs to do more to earn the trust of the ACT electorate. Designing compliant public housing proposals would be a good first step.

- b. ***Speed up the government’s internal processes.*** We do not have detailed information on all public housing developments. Even of the 16 DAs that were appealed to ACAT, publicly available information is only available on a handful. But we can see that 2 developments, accounting for 45 of the 115 dwellings that the government is blaming the community for delaying, were delayed by government inaction for 2-4 years before DAs were lodged. With more expeditious progress on these houses, they could have been progressed much faster, even with an appeal.
- c. ***Speed up the approval process.*** The government has continued for more than 5 years to fail to meet approval timeline deadlines for 30% or more of approvals. Fixing this would have benefits for all developments, not just public housing.
- d. ***Increase the ambition of providing public housing and provide the resourcing to meet these targets.*** At the least, the government should ensure that the availability of public housing keeps pace with population growth. This will require a significant increase in the public housing portfolio stock, which will have significant budgetary impacts. This will require hard decisions on priority-setting and consideration of new approaches – see point g below. But this is the function of government.
- e. ***Ensure appropriate penalties for providing incorrect information.*** When lodging a development application, proponents are required to verify that “*I/we declare that all the information given on this form and its attachments is true and complete.*” Yet, as indicated in the discussion of case AT41/2022 in Box 1, proponents can and often do provide revised documentation after the appeals process is underway, when it is pointed out that information is incorrect or missing. This indicates that ACTPLA approves applications that

are incomplete and/or contain incorrect data. Yet there seems no mechanism to ensure that proponents are actually providing true and accurate information.

If anything, the current system almost encourages incorrect information. If proponents know that they can get an approval based on incorrect information, they can get away with extra benefits or lesser quality. And if they are discovered during the appeals process, they can just correct the information then.

The government should introduce legislation or regulations that would provide appropriate incentives to ensure information is correct. This could include financial penalties, public shaming and/or a sort of “three strikes” policy where proponents found to repeatedly provide incorrect information are de-licensed. Of course, there would need to be protections for honest and negligible errors. But under the current system, there seems to be no enforcement whatsoever.

More complex approaches

- f. ***Streamline the appeals process.*** Appealing decisions in ACAT is complex, time-consuming and expensive. It generally pits individual citizens and volunteer community groups against the resources of its own government. The government will often contract the services of barristers and always have the benefits of significant departmental resources and staff who are being paid to contest with their own citizens. This is in large part due to the legalistic nature of the ACAT process. This may also be one reason why appeals tend to take place in higher socioeconomic settings; it is relatively rare that people can afford to ensure scrutiny over government decisions in such a legalistic, time-consuming and expensive context.

While there is a mediation process as part of the ACAT process, this is still somewhat formal and still leads to a mismatch in resourcing.

If there were a more informal process that had the confidence of the community, there would be options for faster, cheaper and more harmonious resolution. This might include, for example, independent panels consisting of members of the general community (or perhaps Community Councils), government and independent planning experts (all paid to ensure balance). These could bring together Housing ACT and objectors in a cooperative setting, without focusing on a defence of a decision made by the Territory Planning Authority.

In some cases, the resolution of appeals seems to result in measures such as increased fence height or alternative landscaping or slight realignments of windows to avoid overlooking. These do not seem to be matters that require an adversarial system. We understand the complexities of bringing a more cooperative approach to these issues, but a system where citizens feel they are working in cooperation with their neighbours and their government might help to reach quick, mutually acceptable solutions. This would

have the added benefit of making the appeals process less expensive, so it will not be reserved only for the relatively well-off.

One of the complexities of moving to a less adversarial approach is the legally expert review that ACAT provides. It is not unknown for ACAT to essentially reject the basis for a citizen appeal but impose other conditions for approval (or insist on rejecting a DA) based on their own detailed review “standing in the shoes of ACTPLA”. It would be a loss if this type of meticulous review were entirely lost.

One solution might be to introduce a new system in a transition period where objectors can choose which system to participate in. ACAT or a similar body might also be asked to undertake random “audits” of approvals to identify any inconsistencies with regulations, and ACTPLA would need a procedure to effectively integrate all findings from such “audits” into its procedures.

- g. ***Require all new multi-unit developments (above a certain size) to include public housing.*** Granting an approval is effectively providing value to the proponent to use government owned land. It seems entirely consistent to require any resulting development to deliver on government priorities. This is in part a cost allocation exercise recognising the difficult state of the ACT budget. Moving costs of public housing to new developments would shift some costs from all citizens to those purchasing new units and to developers. But such an approach could also lead to cost reductions through economies of scale and the need for fewer bespoke public housing developments. The full economic and equity impacts of such a change would require further consideration.

This approach could better ensure scattering of public housing throughout all new developments. There currently appears to be some polarisation of housing between the public and the private sector.

- h. ***Support more tradespeople entering the Canberra market.*** It appears that costs of construction remain high, and that a shortage of qualified tradespeople is in part to blame. We understand there are various measures already underway to address this shortage. But further action may be needed to achieve reduced housing costs for all, including public housing.
- i. ***Consider options to reduce costs and timeframes for construction.*** We note that the apparently very high cost of building or buying public housing will make it very difficult financially for the government to meet appropriately ambitious public housing goals. Steps to reduce the cost of building could be a cost-effective approach.

The Productivity Commission recently reported on the construction industry, finding that productivity in this industry had stalled or even declined over a number of decades⁴⁰. The

⁴⁰ [Housing Construction Productivity: Can we Fix It?](https://www.pc.gov.au/research/completed/housing-construction/housing-construction.pdf),

<https://www.pc.gov.au/research/completed/housing-construction/housing-construction.pdf>

report suggests a number of steps to promote innovation including supporting greater use of prefabricated and modular components and houses. This could be beneficial in reducing costs and timeframes, especially in an environment where skilled labour is in short supply.

It may also be useful for Housing ACT to develop more standardised plans for social housing to reduce costs and timeframes. There will be some site-specific issues that require individual attention, but more standardisation could be beneficial.

Of course, in all of these steps it will be vital to ensure that constructed dwellings continue to meet high standards of quality and amenity.

6.0 Concluding note on health facilities

This submission is focused entirely on issues relating to public housing. But the proposed legislation would also exempt public health facilities from third party appeal processes.

NCCC again agrees that health care is a key priority and given the growing and ageing Canberra population, more health care facilities will be needed.

However, we have not seen any compelling evidence (or any real evidence at all) that there is a problem with appeals for health facilities. And we remain nervous about the government removing a democratic right to review government decisions, based on a “trust us” approach.

It does not seem impossible or even difficult for health agencies to plan well in advance, design consistently compliant new facilities, and work with the community to build trust over health facility developments.

Finally, NCCC is concerned at a “creeping” removal of third party appeal rights. Already, projects related to the light rail and developments in all town centres are exempt from third party appeals (as are certifier-approved single dwelling residential developments). It is notable that when the proposed legislation to remove appeal rights for public housing and public health facilities was introduced, both the HIA and the PCA suggested that the exemption should be extended to all residential developments.

Therefore, we do not support removal of third party appeal rights for either public housing or public health facilities.

Attachment A - Government Media Release on Proposed Legislation

Faster builds on public housing and health infrastructure

Released 05/02/2025

The ACT Government is introducing the Planning (Territory Priority Project) Amendment Bill 2025 which will automatically classify public housing and public health facilities as Territory Priority Projects, removing appeal rights to the ACT Civil and Administrative Tribunal (ACAT).

Since 2019 there have been a total of 20 ACAT appeal applications for public housing developments. In the last five years around 13 per cent of total ACAT appeals on development applications related to public housing developments.

More than 75 per cent of these appeals are ultimately resolved through mediation or with ACAT agreeing with the original decision, meaning costly delays could have been avoided.

Any new Territory Priority Projects will still be required to adhere to all planning and design requirements under the Planning Act.

As part of that process community feedback will be considered by the independent Territory Planning Authority.

Attribute to Minister for Planning and Sustainable Development Chris Steel

“This Bill is a practical measure to remove barriers to a home for families on Housing ACT’s waiting lists.

“We’ve seen far too many instances of delays to already approved public housing projects from costly appeals.

“This law means public housing and health facilities that significantly benefit the people of the ACT can be rolled out without unnecessary delays.

“Development applications will be exempt from third-party appeals and provide greater certainty for the delivery of public housing and key health infrastructure.

“Importantly, Canberrans will still be able to have their say on all development applications through the independent planning process.”

Attribute to Minister for Homes and New Suburbs Yvette Berry

“This new legislation will support the delivery of the ACT Government’s plans for 1000 new public homes by 2030.

“In the last five years, ACAT applications have delayed more than 100 public homes for those who need them most.

“With so many Canberrans on the waitlist for public housing, many of whom are experiencing a range of vulnerabilities, we must pull out all the stops to get homes built as quickly as possible.

“The Territory Priority Projects process provides a pathway to achieve this goal, while maintaining the normal development application process that enables neighbours and other parties to be consulted.”

Attribute to Minister for Health Rachel Stephen-Smith

“Whether it is the new northside hospital or a community health centre, public health infrastructure plays a vital role in supporting our growing city and region.

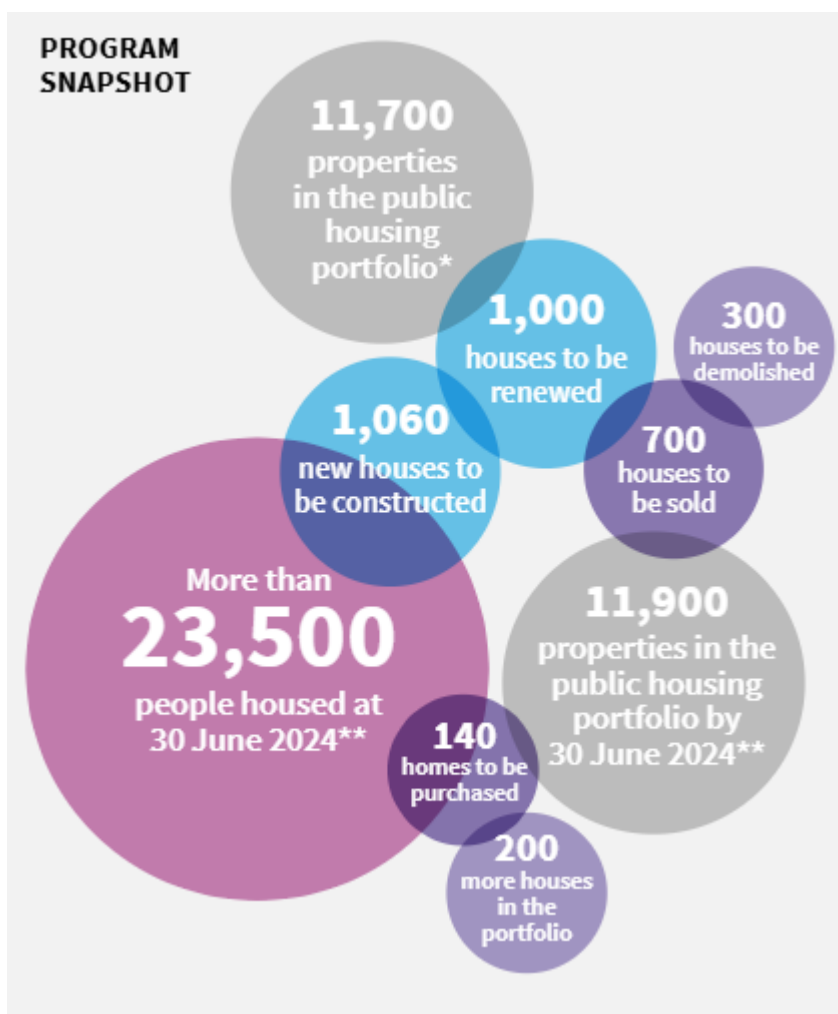
“The ACT Government is committed to delivering better health care closer to home and that means continuing to expand health services across Canberra.

“Prioritising public health infrastructure through the Territory Priority Projects process will ensure our health services can deliver the care Canberrans need, when and where they need it.”

- Statement ends -

Attachment B – Summary of Growing and Renewing Public Housing Targets and Progress Over Time

From original *Growing and Renewing Public Housing Strategy* in 2019:



Public Housing Portfolio Snapshot, June 2024:

Six monthly snapshot of public housing stock numbers

The Growing and Renewing Public Housing Program is renewing at least 1,000 homes and adding 400 homes by 2026-27.

As of 30 June 2024:



the ACT public housing
portfolio stock number was
11,731 homes.

The total number of dwellings delivered through the Growing and Renewing Public Housing Program is 790.

This includes:



**176 purchased
dwellings**



**614 dwellings
delivered via
construction**



610 end-of-use dwellings
sold to reinvest into new
public housing.

Six monthly snapshot of public housing stock numbers

The Growing and Renewing Public Housing Program is renewing at least 1,000 homes and adding 400 homes by 2026-27.

As of 31 December 2024:



the ACT public housing portfolio stock number was **11,845 homes.**

The total number of dwellings delivered through the Growing and Renewing Public Housing Program to 31 December 2024 is 972 dwellings.

This includes:



208 purchased dwellings



764 dwellings delivered via construction



643 end-of-use dwellings sold to reinvest into new public housing