# Draft Variation to the Territory Plan No. 350: Changes to definition of ‘single dwelling block’

Standing Committee on Planning and Urban Renewal

February 2019

Report 7

## The Committee

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### Resolution of appointment

On 13 December 2016 the Legislative Assembly for the ACT, when it created Standing Committees for the Ninth Assembly, resolved at Part 1(f) of the Resolution that there would be a:

Standing Committee on Planning and Urban Renewal to examine matters relating to planning, land management, the planning process, amendments to the Territory Plan, consultation requirements, design and sustainability outcomes including energy performance and policy matters to support a range of housing options.[[1]](#footnote-1)

On the same day, the Legislative Assembly also resolved at Part 3 of the Resolution that:

If the Assembly is not sitting when the Standing Committee on Planning and Urban Renewal has completed consideration of a report on draft plan variations referred pursuant to section 73 of the Planning and Development Act 2007 or draft plans of management referred pursuant to section 326 of the Planning and Development Act 2007 the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publication and circulation.[[2]](#footnote-2)

### Terms of reference

In relation to a draft plan variation to the Territory Plan, section 73 (2) of the Planning and Development Act 2007 states:

The Minister may, not later than 20 working days after the day the Minister receives the draft plan variation, refer the draft plan variation documents to an appropriate Committee of the Legislative Assembly together with a request that the Committee report on the draft plan variation to the Legislative Assembly.

The Minister for Planning, Mr Mick Gentleman MLA, referred Draft Variation No 350: Changes to the definition of ‘single dwelling block’ to the Standing Committee on Planning and Urban Renewal on 11 September 2018.

## Acronyms

|  |  |
| --- | --- |
| ACT | Australian Capital Territory |
| DV | Draft Variation |
| EPSDD | Environment, Planning and Sustainable Directorate |
| FoHV | Friends of Hawker Village Inc. |
| HIA | Housing Industry Association |
| MBA | Master Builders Association |
| MLA | Member of the Legislative Assembly |
| MUHDC | Multi Unit Housing Development Code |

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## Recommendations

[Recommendation 1](#_Toc526042)

[3.20 The Committee recommends that, subject to the following recommendations, Draft Variation 350: Changes to the definition of a ‘single dwelling block’ be approved.](#_Toc526043)

[Recommendation 2](#_Toc526044)

[3.21 The Committee recommends that the Environment, Planning and Sustainable Development Directorate consider a review of references to the *Planning and Development Act 2007* in Draft Variation 350: Changes to the definition of a ‘single dwelling block’ and in future draft variations.](#_Toc526045)

[Recommendation 3](#_Toc526046)

[4.45 The Committee recommends that the ACT Government reword the proposed definition of a *‘standard block’* so that drafting errors are corrected.](#_Toc526047)

## Introduction

### Conduct of the Inquiry

* 1. On 11 September 2018, pursuant to section 73 of the *Planning and Development Act 2007* (the Act), the Minister for Planning and Land Management, Mr Mick Gentleman MLA, referred Draft Variation No 350: Changes to the definition of ‘single dwelling block’ to the Standing Committee on Planning an Urban Renewal (the Committee) for consideration and report to the Legislative Assembly (the Assembly).
  2. The Committee released a media release announcing the inquiry on 27 September 2018 as well directly emailing those who had provided submissions to the public consultation process and others who may be affected by the draft variation. The Committee received four submissions and a list of these is provided at Appendix B.
  3. The Committee held two public hearings and heard from 10 witnesses. A list of witnesses who appeared before the Committee is provided at Appendix A. The transcripts of proceedings are accessible at: <https://www.parliament.act.gov.au/in-committees/standing-committees-current-assembly/standing-committee-on-planning-and-urban-renewal/draft-variation-no-350-changes-to-the-definition-of-single-dwelling-block>

### Acknowledgments

* 1. The Committee would like to thank the Minster for Planning and Land Management and officials from the Environment, Planning and Sustainable Development Directorate (the Directorate) for their time appearing before the Committee and responding to its questions.
  2. The Committee would like to extend its thanks to those who took the time to make written submissions and to those witnesses who appeared before the Committee.

## Planning in the Australian Capital Territory

### Introduction

* 1. This chapter outlines the planning framework in the Australian Capital Territory (ACT) and briefly outlines the evolution of the Territory Plan from its inception, through a series of reviews and restructures.
  2. The *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth) sets out the overarching legal framework for the planning of, and management of the land in, the Australian Capital Territory.[[3]](#footnote-3) It establishes the National Capital Authority, one of the functions of which is to prepare and administer a National Capital Plan.[[4]](#footnote-4) The objective of the National Capital Plan is to ensure that Canberra and the Territory are planned and developed in accordance with their national significance.[[5]](#footnote-5)
  3. The *Australian Capital Territory (Planning and Land Management) Act 1988* also provided for the ACT Legislative Assembly to make laws to establish a Territory planning authority, and to confer on that authority the function of preparing and administering a Territory Plan.[[6]](#footnote-6) These requirements were incorporated into the *Interim Planning Act 1990* (ACT)[[7]](#footnote-7) and subsequently, with expanded environmental assessment and heritage provisions, into the *Land (Planning and Environment) Act 1991* (ACT).[[8]](#footnote-8)
  4. In 2008, as part of the reform of the ACT planning system, the *Land (Planning and Environment) Act 1991* was replaced by the *Planning and Development Act 2007* (the Act)[[9]](#footnote-9), which includes the provision for the Planning and Land Authority,[[10]](#footnote-10) and the Territory Plan.[[11]](#footnote-11)
  5. The Territory Plan commenced operation on 31 March 2008 and provides the policy framework for the administration of planning in the ACT:

The object of the territory plan is to ensure, in a manner not inconsistent with the national capital plan, the planning and development of the ACT provide the people of the ACT with an attractive, safe and efficient environment in which to live, work and have their recreation. [[12]](#footnote-12)

* 1. Under section 50 of the Act, the:

Territory, the Executive, a Minister or a territory authority must not do any act, or approve the doing of an act, that is inconsistent with the territory plan. [[13]](#footnote-13)

* 1. The Act requires the Territory Plan to set out the planning principles and policies for effecting its objective in a way that gives effect to sustainability principles, including policies that contribute to achieving a healthy environment in the ACT.[[14]](#footnote-14)
  2. The Territory Plan includes:
* a statement of strategic directions;
* a map;
* objectives and development tables applying to each zone;
* a series of general, development and precinct codes; and
* structure plans and concept plans for the development of future urban areas.
  1. The Territory Plan graphically represents the applicable land use zones under the following categories:
* Residential;
* Commercial;
* Industrial;
* Community Facility;
* Parks and Recreation;
* Transport and Services; and
* Non-Urban.[[15]](#footnote-15)
  1. Recognising that land use policies may change over time, the Act provides for variations to the Territory Plan, which are prepared by the Planning and Land Authority, currently under the auspices of the Directorate, for stakeholder consultation and comment.[[16]](#footnote-16)
  2. Under the Act the Minister must refer a draft plan variation documents, within 5 working days of the notification of the public availability notice,[[17]](#footnote-17) to an appropriate committee of the ACT Legislative Assembly (the Assembly) for consideration and reporting.[[18]](#footnote-18)
  3. The Minister must not take action in relation to the draft plan variation until the committee of the Assembly has reported on it;[[19]](#footnote-19) has decided not to report on it;[[20]](#footnote-20) has not informed the minister within 20 working days of the referral as to whether it will prepare a report;[[21]](#footnote-21) or the committee of the Assembly has not reported on the draft plan variation by the end of the period of six months starting the day after the day on which it was referred to the committee.[[22]](#footnote-22)
  4. The Minister must take any recommendation of the committee into account before making his decision in relation to the draft plan variation.[[23]](#footnote-23) If the Minister approves it, the proposed plan variation and associated documents will be presented to the Assembly.[[24]](#footnote-24) Unless wholly or partially rejected by the Assembly, on a motion for which notice has been given within five sitting days of the plan variation being presented to the Assembly, the plan variation will commence on the date nominated by the Minister.[[25]](#footnote-25)

## The Draft Variation

* 1. The Draft Variation to the Territory Plan No 350: Changes to the definition of ‘single dwelling block’ (DV350) seeks to vary the Territory Plan definition for a ‘single dwelling block’ which currently states that such a block is:

a block with one of the following characteristics –

a) originally leased or used for the purpose of single dwelling housing

b) created by a consolidation of blocks, at least one of which was originally leased or used for the purpose of single dwelling housing.[[26]](#footnote-26)

* 1. DV350 proposes to change the title of the definition from ‘single dwelling block’ to ‘standard block’ and to changing the wording in the definition to include blocks that were originally leased or used for the purpose of one or two dwellings (or where there has been consolidation of blocks, that at least one of the blocks was originally leased or used for the purpose of one or two dwellings).[[27]](#footnote-27)
  2. These changes will mean that proposals for development of these blocks will now need to adhere to the Multi Unit Housing Development Code (MUHDC) and will need to ensure that the built form is ‘appropriate and complementary to the streetscape ’.[[28]](#footnote-28)
  3. DV350 seeks to make the following change to the Territory Plan Written Statement:

Omit

All references to *‘single dwelling block’* and *‘single dwelling blocks’* in the Territory Plan

Replace with

*‘standard block’* and ‘*standard blocks’* respectively.[[29]](#footnote-29)

* 1. DV350 also seeks to make the following change to the Territory Plan Definition of Terms:

Substitute

**‘Single dwelling block’** definition with new **‘Standard block’** definition as follows:

**Standard block** means a block with one of the following characteristics –

a) originally leased or used for the purpose of one *dwelling*

b) originally leased or used for the purpose of two *dwellings* on or before 18 October 1993

c) created by a *consolidation of blocks*, at least one of which is covered by a) or b).[[30]](#footnote-30)

* 1. The changes specified in DV350 are in response to an issue which arose in relation to multi-unit redevelopment of certain residential blocks in some older Canberra suburbs, wherein the residential leases on these original blocks do not specify or limit the number of dwellings permitted.[[31]](#footnote-31)
  2. During the late 1960s and early 1970s, two dwellings (one house and one small flat) were allowed to be built on these blocks, provided the development presented as a single dwelling to the street. The aim at that time was to improve the availability of housing stock while maintaining the low density suburban character.[[32]](#footnote-32)
  3. The pre-DV350 definition of ‘single dwelling block’ in the Territory Plan was found to not apply to these blocks with the extra flat. As a consequence some of the provisions in the Multi Unit Housing Development Code (MUHDC) in the Territory Plan such as restricting plot ratio, block size requirement, replacement dwellings, number of dwellings in each building and restrictions on attics and basements do not apply if multi-unit residential redevelopment is proposed for these blocks. This has resulted in a built form that is not sensitive to the neighbouring blocks and the single dwelling streetscape character of the surrounding areas.[[33]](#footnote-33)

### Interim Effect

* 1. DV350 has interim effect.[[34]](#footnote-34)
  2. As per Section 72 of the Planning and Development Act 2007 interim effect enables the provisions of Draft Variation No. 350 to apply during the defined period starting on the day the draft variation given to the Minister is notified (the notification day).[[35]](#footnote-35)
  3. The effect of section 72 during the defined period means that the Territory, the Executive, a Minister or a territory authority must not do or approve anything that would be inconsistent with the Territory Plan as if it were amended by the draft variation. Where there is an inconsistency between provisions in the current Territory Plan and provisions in the draft variation, then the draft variation takes precedence for the extent of the inconsistency.[[36]](#footnote-36)
  4. Interim effect will end on the day the earliest of the following happens:

i. the day the corresponding plan variation, or part of it, commences;

ii. the day the corresponding plan variation is rejected by the Legislative Assembly;

iii. the day the corresponding plan variation is withdrawn in accordance with a requirement under section 76 (2)(b)(v) or section 84 (5)(b);

iv. the period of 1 year after notification day ends.[[37]](#footnote-37)

### Consultation by Environment, Planning and Sustainable Development Directorate

* 1. The Directorate released the Draft Variation for public comment on 25 May 2018. The closing date for comment was 13 July 2018.
  2. The Directorate received eight written submissions from individuals, community organisations, and industry groups.
  3. The key issues of public concern included:
* Restrictions on future development opportunities as a result of DV350
* Significant financial impact on lessees of affected blocks
* DV350 contrary to policy shift towards increased density in existing suburbs
* Selective planning policy driven by specific instances of concern by individuals or small groups about particular projects in their suburbs
* Existing planning laws sufficient to prevent high-rise in older suburbs
* Lack of prior consultation on changes proposed in DV350
* Transition arrangements for current development projects should be allowed
* Dual occupancies in new subdivisions adversely affected by new definition.[[38]](#footnote-38)
  1. In response to public comments the Directorate revised the proposed definition of ‘standard block’

…to exclude blocks originally leased or used for the purpose of two dwellings on or after 18 October 1993 which is when the Territory Plan came into effect and new terminology for ‘single dwelling housing’ was incorporated into lease purpose clauses. This will ensure that, for example, new leases that are created for multi-unit blocks that are specifically to be developed for dual occupancies are not captured in the definition of standard block.[[39]](#footnote-39)

* 1. Consequently the revised definition of ‘standard block’ was changed to state the following:

A standard block is a block with one of the following characteristics –

a) originally leased or used for the purpose of one dwelling

b) originally leased or used for the purpose of two dwellings on or before 18

October 1993

c) created by a consolidation of blocks, at least one of which is covered by a) or

b)[[40]](#footnote-40)

* 1. The Directorate's report on the consultation was made available on their website.

### Understanding Of the Draft Variation

* 1. The Territory Plan is a complex document. Draft variations to the Territory Plan can reflect this complexity and it can be difficult for lay persons to understand exactly what the existing rules are and when and how they will be changed by a draft variation. A number of issues were raise by submitters in relation to consultation and understanding of the impact of the DV350 and these have been discussed in Chapter 4.
  2. There are a few inaccuracies in DV350 that relate to the content of and relevant sections of the *Planning and Development Act 2007* that may impact on the understanding of the draft variation. The Committee noted the following errors:
* the reference to *‘ACT Government’* when discussing the effect of section 72 in the recommended version of the variation (pg. 5) and when discussing section 65 in the public consultation version of the variation (pg. 8) does not reflect the wording in the *Planning and Development Act 2007* which refers to *‘The Territory, the Executive, a Minister or a territory authority’*; and
* the reference to section 76 (3)(b)(v) when discussing the effect of section 72 in the recommended version of the variation (pg. 5) and when discussing section 65 in the public consultation version of the variation (pg. 8) is not accurate as this legislative reference does not exist in the current *Planning and Development Act 2007*.[[41]](#footnote-41)

Recommendation 1

The Committee recommends that, subject to the following recommendations, Draft Variation 350: Changes to the definition of a ‘single dwelling block’ be approved.

|  |
| --- |
| Recommendation 2  The Committee recommends that the Environment, Planning and Sustainable Development Directorate consider a review of references to the *Planning and Development Act 2007* in Draft Variation 350: Changes to the definition of a ‘single dwelling block’ and in future draft variations. |

## Key Issues

### Affected Properties

* 1. The Committee were informed by the Directorate that the blocks affected by the changes to DV350 were:

…basically any block that had two dwellings on it. Commonly, they are the ones with the single dwelling house with the flat behind. It is technically two dwellings, but over time there could have been other variations of two dwellings on the block. There could be two next to each other, something like that. But the majority are in that category of one with a flat.[[42]](#footnote-42)

* 1. It was notable that no witness was able to provide an exact number of properties or blocks that would be affected by the changes to definition of ‘single dwelling block’. Whilst Friends of Hawker Village Inc. (FoHV) estimated the number of affected properties in Page and Scullin at ‘about 50’[[43]](#footnote-43) the Directorate approximated that ‘it is probably in the hundreds that can fall into this category across Canberra’[[44]](#footnote-44) and informed the Committee that:

It is challenging for us to identify the exact number. Of course, we know the time period within which these leases were granted. That gives us, certainly, an idea of where the particular provisions or the leases might occur. In terms of identifying the exact number, we would need to run through those suburbs and review each and every lease, to get a clearer picture of the exact number.[[45]](#footnote-45)

* 1. When further pressed about why the exact number of blocks affected could not be provided the Directorate indicated that:

I think my colleague made it clear earlier that the estimate is in the hundreds. But in terms of an exact number, we could certainly do that. But in terms of getting that detail, we would have to go through and review all the leases. Presumably what has happened—and Ms Kaucz may wish to elaborate—what I suspect is that we have taken a sample and extrapolated out of that sample what the total numbers might be, based on the time period for when those leases were granted. We have got an estimate. But if you are asking for the exact number then a lot more detailed work would need to be undertaken to do that. But ordinarily it is not at all uncommon, I would have thought, to take a sample and extrapolate out the numbers, which, as has been mentioned earlier, is in several hundreds.[[46]](#footnote-46)

* 1. It was estimated, through evidence provided to the Committee that up to eight proponents had been directly affected by the changes in DV350, to the extent that they had progressed plans to develop a set number of dwellings on an affected block and had to cease or significantly change their plans. It was also noted that some of these were at the development application stage.[[47]](#footnote-47)

### Effect of Change

#### General

* 1. The changes brought about by DV350 were welcomed by some sectors of the community, in particular FoHV, who informed the Committee that they had spent a number of years campaigning to remove the planning anomaly created by the pre-DV350 definition that applied to blocks in a number of suburbs in their area:

In this instance we have been raising this particular issue for over four years, and we have finally got to that point where, thankfully, something has been done about it. It seems to me—it suggests—that it was never intended for these particular blocks in any way to be treated differently from the blocks on either side of them.[[48]](#footnote-48)

* 1. They also indicated that they were ‘satisfied that the changes inherent in Draft Variation No. 350 address our concerns and will lead to better outcomes in the affected suburbs.’[[49]](#footnote-49)
  2. In reaffirming their aim for consistency within suburbs FoHV also informed the Committee that:

We accept that there are within the multi-unit housing code maximums for the number of townhouses and we accept that if one of these types of buildings and leases is in an RZ2 area the redevelopment should comply with the number of dwellings permitted in RZ2, just like it would for every other neighbour there. [[50]](#footnote-50)

RZ1 is a bit trickier, but my view would be that when a person buys a property in RZ1 and you have got the same lease as everybody around you, and there is a single house on it, you would have the same redevelopment opportunities—all of you—and therefore, it is these anomalous ones that need to be dealt with.[[51]](#footnote-51)

* 1. Whilst the Kingston and Barton Residents Group, in their submission to the public consultation process, also supported the introduction of the changes in DV350 a number of planners and industry bodies expressed significant concerns about the changes and the impacts on the owners and developers of these blocks.
  2. In this context evidence was provided to the Committee that a number of planning rules affected by the changes in DV350 were ‘within the multi-unit housing development code under the Territory Plan.’[[52]](#footnote-52) These rules included 6,7,8,10,11,12,13 and 14 which the Committee largely related to plot ratio and density of dwellings:

Rules 6, 7 and 8 relate to the plot ratio that is permitted on blocks in RZ1 zones, in RZ2 zones and specifically for surrendered blocks. Rules 10, 11, 12, 13 and 14 relate to the density of dwellings that are permitted on RZ1 and RZ2 blocks, depending on the type of development that is pursued.[[53]](#footnote-53)

* 1. Ms Jackson from Canberra Town Planning stated to the Committee that:

Prior to the draft variation, those rules did apply, but the wording of the rules was “single dwelling”, which has now been replaced by “standard block”. Because of the way the definition of “standard block” is now applied, whereas previously we would have said that those rules did not apply because it was not a single dwelling block, they are now standard blocks; therefore, these rules do apply.[[54]](#footnote-54)

* 1. However the Committee was also informed that should the change to the definition of ‘single dwelling block’ not be effected there would be an impact on urban amenity and uniformity in suburbs with affected blocks:

The first point that I would make is that, from an assessment perspective, it makes it very difficult for my team to assess the applications because the ordinary rules do not apply, which means that they need to rely very much on section 120 of the Planning and Development Act, which essentially talks about suitability of the site. If those are then appealed, that also creates other challenges in terms of arguing whether it should have been approved or refused. If we are seeking changes, it is also quite challenging.[[55]](#footnote-55)

In terms of the amenity, as I said, RZ1 zoning is about suburban development. The government has made the decision that in those zones we want to see a particular type of development which is low scale. What we are seeing here is a standard block with five, six or seven townhouses being proposed. If you had only one of those leases and the others in the street did not have the provision, you are not going to see that uniformity develop over time which you tend to see in areas that are appropriately zoned. When you start to see an area redevelop, yes, there might be one or two developments that do not quite fit but, over time, because there are the planning provisions, you will start to see uniformity.[[56]](#footnote-56)

Again it comes back to what it is that we are trying to achieve in particular zones. In this particular case, RZ1, it is about suburban character. That is what people are expecting. That is what the government is expecting. We are seeing the risk that you might have, sitting in the middle of all of that, something that does not meet expectations in terms of both what the government and the community are looking for.[[57]](#footnote-57)

#### Consultation

* 1. In evidence provided to the inquiry and in submissions received by the Directorate during the consultation period, it was noted that some submitters felt that the nature and period for consultation was inadequate, particularly for developers and lessees impacted by the change.

…this draft variation and the policy changes it introduces, have not been subject to broad community and stakeholder discussion or consultation and provide the Lessee no opportunity to consider the impact of these changes to the project…[[58]](#footnote-58)

Whilst we understand that the ACT Government wished to avoid a situation where they announced their intended changes and then experienced a rush of development applications to avoid being covered by the new requirements, we believe that public and industry stakeholder consultation should have occurred prior to any variations being implemented.[[59]](#footnote-59)

* 1. The Master Builders Association (MBA) also indicated that there was also a lack of knowledge in the sector about the proposed changes:

From my perspective I did not have any indication that the DV350 changes were being implemented. I cannot comment on whether there had been community feedback. I am sure that there was prior to that, but the MBA, certainly during my tenure there, was not provided with any industry consultation period.[[60]](#footnote-60)

* 1. It was also suggested in a submission to the inquiry that public awareness of the proposed change was restricted, effectively to those who read the Canberra Times or who can access a computer to monitor government announcements. The submitter indicated that she only knew about the change because it impacted on the sale of her property. In this context she suggested that:

Perhaps a simple letter in a rates notice to those people affected would have allowed others to voice their concerns.[[61]](#footnote-61)

#### Congruence with Policy

* 1. Concerns were raised that the changes involved in DV350 were contrary to the ACT Government housing policy which was perceived to advocate a move towards a broader infill program of development and alternate forms of housing:

The changes proposed by DV350 have pre-empted the outcome of the Housing Choices consultation. This has resulted in a mixed message being sent to the community and industry about the government’s housing policy and support, or otherwise, for alternate forms of housing (such as townhouses) in residential areas.[[62]](#footnote-62)

* 1. The Housing Industry Association (HIA) in their submission to the public consultation process argued that the position of the ACT Government has been to ‘increase density within the inner suburbs’ and that the blocks affected by the changes in DV350 would have, pre-DV350, provided:

a development opportunity that contributes to the broader goals of increasing housing supply (and therefore improving affordability), reducing Canberra’s environmental footprints and improving transport outcomes through greater density.’[[63]](#footnote-63)

* 1. Both the MBA and HIA felt that existing measures were sufficient to manage an appropriate level, type and size of development in affected suburbs:

Whilst the implementation of DV350 (with interim effect) may provide further legislative instruments to prevent these multi-unit developments from being approved in established suburbs, Master Builders is of the view that sufficient planning laws and height restrictions are already in place that prevent this from occurring.[[64]](#footnote-64)

Should a limited amount of development be allowed to occur on these blocks, there is still the opportunity for the planning authority to temper the level of development through the approval process to ensure that the rights of builders and developers are upheld, whilst being sympathetic to the character of the suburb.[[65]](#footnote-65)

* 1. In response the Directorate indicated that:

The important thing here is that we need to manage growth in a considered manner. That is the issue here. Our concern is that, because of the nature of these leases under the current definitions, we can have proposals being submitted to the planning and land authority for assessment and that, essentially, because of—for want of a better term—the loophole, the relevant provisions in terms of managing multi-unit development do not apply. That means, in terms of things like site coverage, setbacks and the like, there is very little control that the planning authority has.

I will come back to the main point in response. It is about managing growth sensibly and respecting what we hear from the Canberra community over and over again. There are certain parts of the Canberra community that recognise that their particular locality has particular features, and that is important to them. The planning system is intended to protect that, to a large extent.

Where we are seeing these types of developments, it is within essentially the RZ1 zones. They are areas that are meant to be suburban in character. Where we want to manage growth is in centres and transport corridors, and within the existing urban area that is appropriately zoned for that type of development.[[66]](#footnote-66)

#### Interim Effect and Financial Implications

* 1. A key concern raised by industry bodies was the impact of DV350 having interim effect and what they felt was the retrospective application of the changes brought about by DV350:

The interim effect provisions do not consider those people who may have been investing heavily in designs and plans for a significant period, only to find that they will no doubt have to start the process again or significantly modify the existing plans, to comply with the new requirements.[[67]](#footnote-67)

The implementation of DV350 and the essentially retrospective application may be considered to be a denial of natural justice and procedural fairness to a number of applicants who are working towards the pre-DV350 requirements.[[68]](#footnote-68)

* 1. This was echoed by the HIA in their submission to the public consultation process:

The decision to apply interim effect to draft variation in accordance with Planning and Development Act 2007, has effectively made this decision retrospective, impacting current holders of these blocks that are in various stage of development.[[69]](#footnote-69)

* 1. Whilst the HIA indicated its understanding of the overarching concept of ‘interim effect’ it highlighted the financial impacts that it believed the use of this measure was having on owners and developers in relation to DV350:

Application of an interim effect for the decision has left a small number of businesses exposed to financial loss, whereby they have purchased land with the reasonable expectation that they would be able to undertake a development in accordance with the planning rules at the time.

While these builders or developers may not have submitted a development application, they have expended significant funds to progress these plans – often in the tens of thousands of dollars –with consultants and architects, without access to the knowledge that DV350 was being drafted.

Equally, the investment in the land itself was likely to have included a premium on the basis of the unique characteristic of the land, which will be lost through no fault of their own, if the interim effect of this proposed change stands as is.[[70]](#footnote-70)

* 1. A dominant concern of planners and industry bodies was the financial impact of the effective reduction in the number of allowable dwellings on the affected blocks which had resulted from the change. With consideration of variable building costs and block size, the MBA estimated this cost at half a million dollars per development:

If we are talking about a two to three-bedroom townhouse, that would be the equivalent of $500,000, depending on which suburb that is. Obviously you would need to take into account that there would be construction costs that someone does not need to pay, so it would not be a pure $500,000. But just on the cost issue, the thing that we keep coming across in speaking to the members that are affected by this is that they are not developers in the true sense of the word; they are smaller businesses who may just be a mum and dad who have come across an opportunity and thought, “We could build three townhouses or four townhouses.” I keep using that example because in the examples and with the members that we have spoken to, that is what they were intending to do: build three or four townhouses.[[71]](#footnote-71)

* 1. Whilst acknowledging there would be some losses the FoHV did not concur with the figures approximated and stated:

We appreciate that developers who have planned to exploit the current planning loophole will not welcome this change and might suffer some reduction in their profit expectations. This will always happen when any planning rule is changed which potentially diminishes profit return for developers.[[72]](#footnote-72)

I felt that was an exaggeration to say they would be out of pocket half a million dollars. They will make a lower profit from having fewer developed dwellings but they would have the capacity to make them larger—put an extra bedroom into them or something—which would bring a higher price.[[73]](#footnote-73)

* 1. The FoHV further indicated that:

It is only the number of dwellings. They can still build a four-bedroom one where they were going to build a three-bedroom one, and they will be able to charge more for it. We are talking about reduced profit, that is all. The fact is that they have sought out these blocks where they know this lease provision has this hole in the multi-unit housing development code which does not constrain the number of dwellings. They seek these blocks out with the intent of wanting to put more than they could on under RZ2. The ones in Aranda there, they would be RZ2 blocks, all of them, and they could be developed under the RZ2 rules and dwellings. These are people who have sought out an opportunity, because they have discovered it is there, to put more dwellings on than would normally be allowed for the size of the block under RZ1 and RZ2.[[74]](#footnote-74)

* 1. The Directorate informed that Committee that DV350 had been given interim effect because:

It is really to ensure that we have in place a planning control that ensures that those people who might be considering doing this in the future are aware of the change in planning so that we can do this straight away and ensure that we have the right controls for RZ1, to ensure that we have the amenity and original purpose for RZ1 that the community expects us to uphold. We have seen, as you heard, a number of these slip through, if you like, a loophole that was not expected previously and we have had to change the Territory Plan to ensure that that does not occur in the future.[[75]](#footnote-75)

As I said, the controls are changing because that is what the community expects to see in their residential RZ1 zones. It was not expected that these particular developments would go ahead when the Territory Plan was drawn up. This is where you have two residences, if you like, on a single block and they are now morphing into perhaps up to seven residences on a single RZ1 block.[[76]](#footnote-76)

* 1. Whilst the Directorate acknowledged that the interim effect may have had some financial implications on particular individuals and organisations who may have been seeking to develop blocks under prior to the changes in DV350, they also affirmed the need to listen to the views of the ACT community:

We do not take these decisions lightly, and you would not make a comment irrespective of community views. This is why we are having this hearing right now. The community wants to have their input into planning for the future of Canberra. And this is why most of our planning—indeed, almost all of it—has a community input to ensure that we have the views of the community as we move forward.[[77]](#footnote-77)

#### Proposed Transition Period

* 1. In discussing the effects of the changes brought about by DV350 the MBA highlighted the absence of a transition period for the changes to occur:

Our concern with the change was that there was no transition period allowed. Perhaps there needed to be a change; perhaps there did not. But, at the end of the day, people were working towards a certain outcome, and before they could lodge their development application there was a change. Whether or not you fell one day either side could inherently change your development outcome. [[78]](#footnote-78)

* 1. Whilst the MBA specifically noted that they did not want a situation where ‘the government announces that there will be a change to come into effect in six months’ time and then there is a rush of development applications, with people trying to squeeze in before that deadline’ [[79]](#footnote-79) they believed that:

if a person who wanted to make an application could show that they had been working towards the previous definitions, they ought to be permitted to apply those previous definitions rather than be subject to the new DV 350, provided that they could actually show that they had engaged a designer or engaged a planner and had exerted money to get the process started.[[80]](#footnote-80)

* 1. In effect both the MBA and HIA suggested that a transition period be adopted, with the MBA proposing:

A six month transition period be provided, which allows for Owners who have already committed to development proposals (and can provide evidence of such commitment) to lodge and have their development application assessed under the pre-DV350 planning rules and requirements.[[81]](#footnote-81)

* 1. The HIA approach was similar but more prescriptive in that:

builders or developers that own blocks that will be affected by DV350, will be exempt from the variation, provided that:

* they purchased the block prior to 25 May 2018, and
* the development application is submitted before 1 January 2019, and the application is lodged with all requisite documentation required to pass the completeness check before 1 July 2019.[[82]](#footnote-82)
  1. In this context the MBA also stated to the Committee that in the interests of fairness the transition period would only apply to developers who could ‘show [they] had been working towards something’.[[83]](#footnote-83)

There would need to be a definition. It could not just be simply, “I saw that block and I thought I wanted to purchase it and put four townhouses on it.” There would need to be a defined criteria that, if you could provide evidence that you had engaged a planner or a designer and there was a development application partly approved or something to that effect, that would be sufficient. It would not be enough that you had simply purchased it and thought about it; there would need to be some evidence.[[84]](#footnote-84)

* 1. The FoHV did not agree with the need for a transition period stating to the Committee that:

when developers lodge their development application they have to be aware that there is a chance they will be knocked back and they will have to fix something or other. All that costs money. They might have to go back and redo plans. The example we quoted in Page, in RZ2, had one knocked off in the first instance and they went off and redesigned the whole thing and re-lodged the application. The example in Scullin in RZ1 did much the same sort of thing in the process of the development application—they continually revised it to try and get it approved. It all costs money, and that is without this change in the legislation. It is a fact of life.[[85]](#footnote-85)

* 1. The Directorate indicated that whilst it was administratively possible to organise a transitional arrangement that it was an unlikely outcome as:

It comes back to the reason why interim effect was applied in that. I suspect those proposals being developed for those four or five developments are in locations that are suburban in character and are being designed in a way that do not necessarily comply with the multi-unit housing code. Therefore we would end up potentially with developments being approved that do not meet community expectations, and, for that matter, do not meet government expectations, in that they do not comply with the multi-unit housing code. Yes, it is possible to apply transitional arrangements, but sometimes a hard decision needs to be made as to what is the outcome that we are looking for in our city.[[86]](#footnote-86)

* 1. The Directorate went on to explain that their decision took into consideration the concerns and expectations of the existing residents in the applicable RZ zones and sought to close the ‘loophole’ in the planning rules so that ‘the Canberra community can have confidence in the planning system and, of course, in the independent advice from the planning authority.’[[87]](#footnote-87)
  2. When queried as to what ‘would the government lose if it chose to give a grace period’ to current proponents [[88]](#footnote-88) the Minister responded that:

It is not what the government would lose; it is what the community expects us to do: take a position on their behalf to ensure that they have the suburban amenity that they expect in those areas. I think it is hypothetical to say that the government would lose anything. Certainly, if we are to ensure that the Territory Plan is effective and that the community sees what they expect to see in the Territory Plan and in those residential zones, that is very important to us as a government.[[89]](#footnote-89)

* + 1. Committee Comment
  1. The Committee acknowledges that the use of ‘interim effect’ could be perceived as “too blunt an instrument” on occasion but recognises that there are circumstances where an immediate change to the Territory Plan is necessary to prevent unintended consequences.
  2. Whilst the Committee also recognises that the changes to definition of ‘single dwelling block’ in the Territory are necessary, not all members of the Committee believe that the changes that have been brought about through the interim effect of DV350 have been fair to proponents of affected blocks who have significantly progressed their development plans. Consequently questions have been raised as to the appropriate use of ‘interim effect’, particularly without a transition period, on this occasion.
  3. Whilst the concept of a transition or ‘grace’ period was seen as a viable option in some circumstances the majority of Committee members were not supportive of the implementation of a transition period in this instance.
  4. The Committee acknowledges that there have been financial impacts for proponents and lessees, brought about by the changes in DV350, however the Committee feels that the impact on surrounding residents and urban amenity in the affected residential areas without these changes is equally pertinent. To ensure ongoing fairness and equity to both proponents and residents in residential areas the majority of the Committee feels that the need for consistency in planning rules and criteria in residential areas is paramount.

### Drafting of ‘standard block’ Definition

* 1. It was brought to the Committee’s attention that whilst the change in the definition of ‘*standard block’* following the consultation period had resolved some issues raised during the public consultation process, there appeared to be a drafting error which could potentially create additional issues.
  2. Mr Young explained in his submission that:

Conditions a) and b) of the definition are not mutually exclusive and therefore a block may have both characteristics. For example, a block originally used for a single dwelling but leased for the purpose of two dwellings before 1993. An example of such a block is Block 10 Section 88 in the division of Narrabundah. Such blocks satisfy two (not one) of the conditions and are therefore not classified as a ‘standard block’ by a literal interpretation of the definition which stipulates only ‘one’ condition can be satisfied. This literal interpretation is notwithstanding the Legislation Act 2001, Section 145 which states ‘words in the singular number include the plural…’ as ‘one’ is to be interpreted as numeric rather than a word in a singular number.[[90]](#footnote-90)

* 1. He went on to explain that this error could be overcome by the use of the following definition:

A standard block is a block with one of the following characteristics

a) originally leased on or before 18 October 1993 and originally leased or used for the purpose of one or two dwellings

b) originally leased after 18 October 1993 and originally leased for the purpose of one dwelling

c) created by a consolidation of blocks, at least one of which is covered by a) or b)[[91]](#footnote-91)

* 1. Whilst conceding that an alternative definition could simply state ‘one or more of the following characteristics’ Mr Young was at pains to point out that his suggested definition

‘…has the advantage of excluding new blocks specifically permitting two dwellings from being forever classified as a standard block if a single dwelling is first erected or staged development occurs.’[[92]](#footnote-92)

* 1. In response the Directorate indicated that:

With what Mr Young had suggested, we agreed with what he was saying. Yes, we just make sure that it is consistent with the terminology we generally use in the Territory Plan. But yes, it was a good suggestion for us.[[93]](#footnote-93)

Recommendation 3

The Committee recommends that the ACT Government reword the proposed definition of a *‘standard block’* so that drafting errors are corrected.

## Conclusion

* 1. The Committee has made 3 recommendations
  2. The Committee would like to reiterate its thanks to the Minister, officials, witnesses and submitters who contributed their time and effort to this inquiry.

Caroline Le Couteur MLA

Chair

12 February 2019

## Appendix A - Witnesses

### 5 December 2018

* Ashlee Berry - MBA
* Nichelle Jackson – Canberra Town Planning/Member of MBA
* Robyn Coghlan - Friends of Hawker Village
* Christine Gingell - Friends of Hawker Village
* Peter Young

### 12 December 2018

* Mr Mick Gentleman MLA, Minister for Planning and Land Management
* Mr Ben Ponton, Director-General, EPSDD
* Dr Erin Brady, Deputy Director-General, Land Strategy and Environment, EPSDD
* Ms Alix Kaucz, Senior Manager, Territory Plan Unit, EPSDD
* Ms Rumana Jamaly, Manager, Residential, EPSDD

## Appendix B – Submissions

|  |  |  |
| --- | --- | --- |
| **Submission Number** | **Submitter** | **Received** |
| 1 | Sue Martin | 31/10/18 |
| 2 | Master Builders Association (MBA) | 5/11/18 |
| 3 | Friends of Hawker Village Inc. | 5/11/18 |
| 4 | Peter Young | 6/11/18 |

## Dissenting Report – Mark Parton MLA

**STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL**

**DRAFT VARIATION TO THE TERRITORY PLAN, No. 350**

**CHANGES TO DEFINITION OF ‘SINGLE DWELLING BLOCK’**

**DISSENTING COMMENTS – MARK PARTON**

I concur with the basic premise of this report regarding the desirability of a standardised definition for a dwelling block in order to remove ambiguity and improve clarity for consumers of information in the Territory Plan.

My concern, and a serious one, is the impact of the Interim Effect provision which makes Draft Variation 350 enforceable from its Notification Date of 25 May 2018. The retrospective nature of Interim Effect unfairly disadvantages those who had commenced a bona fide development process, or had taken reasonable steps towards redeveloping one of the affected properties. These steps may have included the purchase of an affected block, expenditure on works to prepare a block for redevelopment or securing credit finance to enable these activities.

The retrospective impact of DV 350 imposes a sudden and unforeseen loss on small companies and individuals who had a genuine expectation that they could proceed under pre DV 350 assumptions. In many cases, owners may have incurred a premium to buy such blocks based on previous planning rules and are now confronted with significant deprivation through no fault of their own.

As it stands, DV 350 does not provide a transition period to cover those caught up in the ‘guillotine effect’ of the Notifiable Instrument. In a previous version of the draft report (circulated in mid-January 19), there was a comment on the absence of transitional arrangements and the inability to invoke interim effect after an appropriate transitional period. The same draft had a recommendation seeking adjustment to Section 72 of the Planning and Development Act 2007 to address this deficiency. The Committee comment and the associated Recommendation 3 were as follows:

* 1. The Committee notes that section 72 of the *Planning and Development Act 2007* currently does not envisage transitional arrangements – rather, ‘interim effect’ is either in pace or not in place. This appears to mean that the Directorate does not have the option of commencing ‘interim effect’ after a transitional period or excluding existing development applications from interim effect.

Recommendation 3

* 1. The Committee recommends that the ACT Government consider amending section 72 of the *Planning and Development Act 2007* to provide for transitional arrangements during interim effect.

The version of the Committee’s Report prepared for the Chair’s signature omits the Committee’s observation on Section 72 of the Planning and Development Act and Recommendation 3. If Recommendation 3 had remained in the Report, there would have been a fair and reasonable proposal for the government to act on. This omission removes any possibility of relief or a fair and reasonable outcome for those caught up by the sudden impact of Interim Effect.

I believe the Committee should:

1. Support reinstatement of the previous Recommendation 3;
2. Recommend a transition period (some reasonable duration prior to 25 May 2018) to allow relief for those caught up and disadvantaged by the Interim Effect provision;
3. Agree that such relief be prescribed to allow pre DV 350 planning rules to apply for those who had commenced a bona fide process to redevelop a block now denied by DV 350;
4. Agree that applicants who can demonstrate reasonable evidence be provided with relief within a prescribed transition period;
5. Agree that reasonable evidence include but not be restricted to;
   1. An owner who can prove they were committed to a development proposal including purchase of an affected block, completion of works to enable redevelopment prior to lodging a Development Application or committed to other related actions;
   2. Proof that preparation was being undertaken to lodge a Development Application including completion and payment for site plans and drawings; and
   3. Other steps deemed to be reasonable proof, for example, entering into credit finance or other loan arrangements or commissioning consultants or architects.
6. Agree, that in the event of government refusal to provide relief, that the government provide adequate compensation for those who can demonstrate bona fide proof of their commitments and intentions in relation to affected blocks.

Signed

Mark Parton MLA

13 February 2019

1. Legislative for the ACT, *Debates*, 13 December 2016, *Proof Transcript of Evidence,* 10 March 2017, p., 40. [↑](#footnote-ref-1)
2. Legislative for the ACT, *Debates*, 13 December 2016, *Proof Transcript of Evidence,* 10 March 2017, p., 41. [↑](#footnote-ref-2)
3. Accessible at <https://www.legislation.gov.au/Details/C2016C00482>. [↑](#footnote-ref-3)
4. *Australian Capital Territory (Planning and Land Management) Act 1988*, sections 5 and 6. [↑](#footnote-ref-4)
5. Australian Capital Territory (Planning and Land Management) Act 1988, section 9. [↑](#footnote-ref-5)
6. Australian Capital Territory (Planning and Land Management) Act 1988, section 25. [↑](#footnote-ref-6)
7. Accessible at <http://www.legislation.act.gov.au/a/1990-59/default.asp>. [↑](#footnote-ref-7)
8. Accessible at <http://www.legislation.act.gov.au/a/1991-100/default.asp>. [↑](#footnote-ref-8)
9. Accessible at <http://www.legislation.act.gov.au/a/2007-24/current/pdf/2007-24.pdf>. [↑](#footnote-ref-9)
10. Planning and Development Act 2007, section 10. [↑](#footnote-ref-10)
11. Planning and Development Act 2007, section 46. [↑](#footnote-ref-11)
12. Planning and Development Act 2007, section 48. [↑](#footnote-ref-12)
13. Planning and Development Act 2007, section 50. [↑](#footnote-ref-13)
14. Planning and Development Act 2007, section 49. [↑](#footnote-ref-14)
15. Territory Plan, accessible at <https://www.legislation.act.gov.au/ni/2008-27/Current>. [↑](#footnote-ref-15)
16. Planning and Development Act 2007, Part 5.3. [↑](#footnote-ref-16)
17. Under section 70 of the Planning and Development Act 2007, the planning and land authority must prepare a public availability notice advising that draft variation documents, which have been provided to the minister, are available for public inspection. This notice, which is a notifiable instrument, may be accessed via the ACT Legislation Register website at http://www.legislation.act.gov.au/. [↑](#footnote-ref-17)
18. Planning and Development Act 2007, section 73; The Standing Committee on Planning and Urban Renewal is currently the appropriate committee. [↑](#footnote-ref-18)
19. Planning and Development Act 2007, section 74. [↑](#footnote-ref-19)
20. Planning and Development Act 2007, section 73A. [↑](#footnote-ref-20)
21. Planning and Development Act 2007, section 73. [↑](#footnote-ref-21)
22. Planning and Development Act 2007, section 75. [↑](#footnote-ref-22)
23. Planning and Development Act 2007, subsection 76(3). [↑](#footnote-ref-23)
24. Planning and Development Act 2007, section 79. [↑](#footnote-ref-24)
25. Planning and Development Act 2007, section 83. [↑](#footnote-ref-25)
26. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 1 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-26)
27. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 3 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-27)
28. Draft Variation 350 Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 3 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-28)
29. Draft Variation 350 Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 7 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-29)
30. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 7 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-30)
31. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 1-3 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-31)
32. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 1-3 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-32)
33. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 1-3 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-33)
34. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 5 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-34)
35. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 5 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>; Planning and Development Act 2007, section 72 (2). [↑](#footnote-ref-35)
36. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 5 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>; Planning and Development Act 2007, section 72 (2). [↑](#footnote-ref-36)
37. Planning and Development Act 2007, section 72 (3)(b). [↑](#footnote-ref-37)
38. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 4 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-38)
39. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 5 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-39)
40. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 5 <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>. [↑](#footnote-ref-40)
41. Draft Variation 350: Changes to definition of ‘single dwelling block’ – recommended version, August 2018, p. 5. <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1244564/Draft-variation-350-recommended-version-to-MInister.pdf>; Draft Variation 350: Changes to definition of ‘single dwelling block’ – public consultation version, May 2018, p. 8. <https://www.planning.act.gov.au/__data/assets/pdf_file/0008/1245392/Appendix-1-Draft-variation-350-single-dwelling-blocks-change-to-definition.pdf> . [↑](#footnote-ref-41)
42. Ms Kaucz, *Proof Transcript of Evidence,* 5 December 2018, p. 21. [↑](#footnote-ref-42)
43. Ms Gingell, *Proof Transcript of Evidence,* 5 December 2018, p. 16. [↑](#footnote-ref-43)
44. Ms Kaucz, *Proof Transcript of Evidence,* 5 December 2018, p. 21. [↑](#footnote-ref-44)
45. Mr Ponton, *Proof Transcript of Evidence,* 12 December 2018, p. 21. [↑](#footnote-ref-45)
46. Mr Ponton, *Proof Transcript of Evidence,* 12 December 2018, p. 24. [↑](#footnote-ref-46)
47. Ms Berry, *Proof Transcript of Evidence,* 5 December 2018; , Ms Jackson, *Proof Transcript of Evidence,* 5 December 2018; Submission No. 2, Master Builders Association. [↑](#footnote-ref-47)
48. Ms Coghlan *Proof Transcript of Evidence,* 5 December 2018, p. 13. [↑](#footnote-ref-48)
49. Submission No. 3, Friends of Hawker Village Inc. [↑](#footnote-ref-49)
50. Ms Gingell, *Proof Transcript of Evidence,* 5 December 2018, p. 12. [↑](#footnote-ref-50)
51. Ms Gingell, *Proof Transcript of Evidence,* 5 December 2018, p. 12. [↑](#footnote-ref-51)
52. Ms Jackson *Proof Transcript of Evidence,* 5 December 2018, p. 4. [↑](#footnote-ref-52)
53. Ms Jackson, *Proof Transcript of Evidence,* 5 December 2018, p. 5. [↑](#footnote-ref-53)
54. Ms Jackson, *Proof Transcript of Evidence,* 5 December 2018, p. 5. [↑](#footnote-ref-54)
55. Mr Ponton, *Proof Transcript of Evidence,* 12 December 2018, p. 22. [↑](#footnote-ref-55)
56. Mr Ponton, *Proof Transcript of Evidence,* 12 December 2018, pp. 22-23. [↑](#footnote-ref-56)
57. Mr Ponton, *Proof Transcript of Evidence,* 12 December 2018, p. 23. [↑](#footnote-ref-57)
58. Canberra Town Planning, Public Consultation Submission. [↑](#footnote-ref-58)
59. Submission No. 2, Master Builders Association. [↑](#footnote-ref-59)
60. Ms Berry, *Proof Transcript of Evidence,* 5 December 2018, p. 6. [↑](#footnote-ref-60)
61. Submission No. 1, Sue Martin. [↑](#footnote-ref-61)
62. Submission No. 2, Master Builders Association. [↑](#footnote-ref-62)
63. Housing Industry Association, Public Consultation Submission. [↑](#footnote-ref-63)
64. Submission No. 2, Master Builders Association. [↑](#footnote-ref-64)
65. Housing Industry Association, Public Consultation Submission. [↑](#footnote-ref-65)
66. Mr Ponton, *Proof Transcript of Evidence,* 12 December 2018, p. 22. [↑](#footnote-ref-66)
67. Submission No. 2, Master Builders Association. [↑](#footnote-ref-67)
68. Submission No. 2, Master Builders Association. [↑](#footnote-ref-68)
69. Housing Industry Association, Public Consultation Submission. [↑](#footnote-ref-69)
70. Housing Industry Association, Public Consultation Submission. [↑](#footnote-ref-70)
71. Ms Berry, *Proof Transcript of Evidence,* 5 December 2018, p. 4. [↑](#footnote-ref-71)
72. Submission No. 3, Friends of Hawker Village Inc. [↑](#footnote-ref-72)
73. Ms Coghlan *Proof Transcript of Evidence,* 5 December 2018, p. 15. [↑](#footnote-ref-73)
74. Ms Gingell, *Proof Transcript of Evidence,* 5 December 2018, p. 14. [↑](#footnote-ref-74)
75. Minister Gentleman, *Proof Transcript of Evidence,* 12 December 2018, p. 24. [↑](#footnote-ref-75)
76. Minister Gentleman, *Proof Transcript of Evidence,* 12 December 2018, p. 24. [↑](#footnote-ref-76)
77. Minister Gentleman, *Proof Transcript of Evidence,* 12 December 2018, p. 25. [↑](#footnote-ref-77)
78. Ms Berry, *Proof Transcript of Evidence,* 5 December 2018, p. 6. [↑](#footnote-ref-78)
79. Ms Berry, *Proof Transcript of Evidence,* 5 December 2018, p. 4; Submission No. 2, Master Builders Association. [↑](#footnote-ref-79)
80. Ms Berry, *Proof Transcript of Evidence,* 5 December 2018, p. 4. [↑](#footnote-ref-80)
81. Submission No. 2, Master Builders Association. [↑](#footnote-ref-81)
82. Housing Industry Association, Public Consultation Submission. [↑](#footnote-ref-82)
83. Ms Berry, *Proof Transcript of Evidence,* 5 December 2018, p. 8. [↑](#footnote-ref-83)
84. Ms Berry, *Proof Transcript of Evidence,* 5 December 2018, p. 8. [↑](#footnote-ref-84)
85. Ms Coghlan *Proof Transcript of Evidence,* 5 December 2018, pp. 15-16. [↑](#footnote-ref-85)
86. Mr Ponton, *Proof Transcript of Evidence,* 12 December 2018, p. 27. [↑](#footnote-ref-86)
87. Minister Gentleman, *Proof Transcript of Evidence,* 12 December 2018, p. 28. [↑](#footnote-ref-87)
88. Mr Parton MLA, *Proof Transcript of Evidence,* 12 December 2018, p. 29. [↑](#footnote-ref-88)
89. Minister Gentleman, *Proof Transcript of Evidence,* 12 December 2018, p. 29. [↑](#footnote-ref-89)
90. Submission No. 4, Peter Young. [↑](#footnote-ref-90)
91. Submission No. 4, Peter Young. [↑](#footnote-ref-91)
92. Submission No. 4, Peter Young. [↑](#footnote-ref-92)
93. Ms Kaucz, *Proof Transcript of Evidence,* 12 December 2018, p. 26. [↑](#footnote-ref-93)