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The Standing Committee on Planning,
Environment and Territory and Municipal Services
ACT Legislative Assembly, Canberra
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DV343 Residential blocks surrendered under the loose fill asbestos insulation eradication scheme

The Griffith/Narrabundah Community Association (GNCA) welcomes the opportunity to make a submission to the Standing Committee on Planning, Environment and Territory and Municipal Services (Standing Committee) on Draft Variation 343 (DV 343) to the Territory Plan. **We urge the Standing Committee to recommend withdrawal of the Draft Variation.**

Background

The GNCA welcomes the reference by the Minister of this Variation to the Standing Committee. On our assessment of the public submissions, only eight of the 124 responses supported DV 343, and, of those eight, most expressed some degree of reservation. Furthermore, those opposing the Draft Variation represent many constituents from all over Canberra. The two Mr Fluffy groups, for example, represent close to 500 families and the Community groups probably represent at least another 1500 households.

In reading the submissions, we are struck by the anger and frustration, not only of the Mr Fluffy house owners, but also those who live next to Mr Fluffy blocks. Those with Mr Fluffy blocks have already suffered by being up-rooted from their homes. It now appears that the Government will deal them a double blow because they will not be able to afford to buy back their original block if DV 343 is approved. In other words, the effect of Government policy appears to be actively discriminating against those who are the most adversely affected. It is therefore highly desirable that the full implications of the Draft Variation be analysed carefully by this Standing Committee.

The GNCA considers that the proposed Variation is a flawed and inequitable attempt to tackle what is really only a short term problem. What is being proposed is at variance with ACT Planning Strategy, which was adopted by the Government in 2012 and supposed to *'take Canberra to 2030 and beyond to 2060'* (Corbell, 2012). In particular, it will degrade the Garden City Values and Principles that are essential to maintaining the character of our older suburbs. If enacted, it would provide one law for the Government and discriminate against Mr Fluffy owners and their neighbours. The leafy suburbs of both north and south Canberra are already being denuded of vegetation as new residents construct McMansions that seemingly breach the letter and spirit of plot ratio rules.

The GNCA believes that the Variation should be withdrawn for the following reasons:

Planning Concerns

1. The Draft Variation is inconsistent with 2012 ACT Planning Strategy

The effect of the proposal would be to randomly rezone 770 blocks within RZ1 zones and turn them into RZ2.

Not only does this affect the individual blocks, but it changes the character of the whole of the RZ1 zones involved. RZ1 areas are supposed to

“provide for the establishment and maintenance of residential areas where the housing is low rise and predominantly single dwelling and low density in character.”

RZ2 areas by contrast *“provide for the establishment and maintenance of residential areas where the housing is low rise and contains a mix of single dwelling and multi-unit development that is low to medium density in character”* (Territory Plan, 2015).

Consequently, with the changes proposed which will lead to multi unit development amongst low density housing, there will be no more RZ1 zones if subdivided Mr Fluffy blocks are contained in those zones. They instantly become RZ2 zones, by the definition in the Objectives. In addition, allowing higher density developments would negatively affect the street character and integrity of these streets and neighbourhoods.

RZ2 areas are supposed to be close to local shops or group centres, and have easy access to public transport. Most of the RZ1 Fluffy blocks are more than 200 m from any shops and are not necessarily convenient to any bus routes and consequently will be unsuitable for at least some of the groups thought to prefer this type of housing e.g. the elderly who want to downsize.

2. The Garden City values and principles will be undermined

In 2008 the Government adopted the ‘Design Consideration for Residential Development in Inner North and South Canberra’. In the approved policy document it is stated:

“The Garden City values and the emphasis they place on the social and environmental well-being will still underpin how any new development recognises the essential layout and quality of Canberra’s older residential areas.” (ACTPLA, 2008).

Furthermore, it states:

“New development can offer contemporary living choices as well as being complimentary and sympathetic to the character of the early Garden City suburbs by recognising and incorporating the original values that sought to promote human wellbeing in a visually pleasing landscape.”

As far as we are aware, the Government has not withdrawn or changed these policies in this document or elsewhere.

The GNCA contends that the random rezoning of parts of RZ1 as effectively RZ2 will completely undermine these values and principles and lead to a decreased living environment. This consequence will remain whether or not EPD persists in its unhelpful insistence that the affected Mr Fluffy blocks will really remain zoned RZ1, but discussion of this would lead us into metaphysics beyond the scope of this submission.

3. *The impact of this Variation regarding trees on affected blocks should be clarified*

The GNCA notes that all trees add to the amenity of a block and its surrounds. Apart from the attractiveness of trees and the habitat they provide for wildlife, they ameliorate weather extremes by reducing summer temperatures. Consequently Regulated and Registered significant trees are not the only ones that have significant value to the community. However, the treatment of trees under the Variation is unclear and consequently the Draft Variation as it stands is flawed.

On the one hand the Conservator of Flora and Fauna states that:

There are no issues of concern with the proposed variation noting that any regulated trees on blocks will be taken into consideration during the assessment of the development applications.

On the other hand, we understand from earlier statements by the Government that in most cases the blocks would be completely cleared of trees before subdivision and sale by the LDA. In which case, by the time the Development Application is made, all trees, including regulated ones, will have been removed and the statement by the Conservator will be irrelevant.

Because the registration of significant trees is voluntary, many significant trees that would meet the criteria for registration will not have been registered.

Consequently, there needs to be clarification, with regard to trees, on:

- All blocks over 700m²
- Blocks where the owners have opted for the first right of refusal and may want to retain some of the trees on the block, and
- Blocks that are not regarded as suitable for subdivision.

4. *The statement on design criteria is too vague and unenforceable*

The design criteria proposed in the Draft Variation is as follows:

“The design of buildings encourages high quality architectural standards that contribute to a visually harmonious streetscape character with variety and interest, whilst not detrimental to, or overtly detracting from the existing streetscape character.”

These criteria are so vague and subjective that it would be possible to build just about anything on a Mr Fluffy sub-divided block, provided the number of storeys and the plot ratios were complied with. For example:

- ‘high quality architectural standards’ are only ‘**encouraged**’; *not* ‘**enforced**’; and

- Who decides whether any proposal is or is not ‘detrimental or overtly detracting from the existing streetscape character’? At present it appears to be a purely subjective assessment.

5. *RZ1 zones will gradually and randomly disappear if this Variation is enacted*

In the pre-ambule to the Draft Variation it is stated that it is intended to:

Introduce a design criterion for dual occupancy development on the affected blocks to maintain and support the amenity of existing residential RZ1 suburban zoned areas.

This is not possible when what is being proposed is a deliberate increase in dwelling density and the application of RZ2 building regulations within RZ1 zones. In other words a key design parameter for an RZ1 zone is being waived. As pointed out above, just the existence of dual occupancy housing in an RZ1 zoned area converts the area into RZ2, which is defined as a mix of single and multi-unit development.

Furthermore, if the Government allows RZ2 islands in RZ1 zones then the precedent will have been set to subdivide other similar blocks. If it is good enough for the Government to subdivide the blocks, then why can't anyone else? The thin edge of the wedge will have been established, and the Government will not be able to resist the inevitable pressure to increase the number of RZ2 blocks in the older suburbs. The Garden City values will suffer the death of a thousand cuts if this Variation is enacted. In fact the HIA submission already argues for dual dwellings throughout RZ1 blocks that are larger than 700m²

6. *The Variation will make the Territory Plan even more complex*

Already the Territory Plan is a very complicated document. This Variation will increase that complexity. If the Government cannot identify which blocks are held under a Concessional Lease, how can we be sure that it can keep track of what is happening to all the Mr Fluffy blocks? And what about those dwellings that were insulated with Mr Fluffy asbestos but have been subsequently privately remediated and/or re-developed? What about commercial premises which were insulated with Mr Fluffy asbestos? Will owners of such blocks be able to unit title these blocks? And if not, why not?

Is there a time limit on the dual dwelling process? Will an owner of a Mr Fluffy Block be able to develop dual occupancies on a block several years after the block has been re-developed with a single dwelling? Will the owner of a Mr Fluffy block that has changed owners one or more times since being sold by the Government be able to dual occupancy such a block? If the title to the block is not going to identify the block as a Mr Fluffy surrendered block (and we understand that this is what the Government proposes), how will the Government, and private purchasers, know which blocks within the RZ1 zoning have RZ1 planning restrictions attaching to them and which have RZ2 style planning restrictions? Again, one gets the feeling that short term exigencies have been allowed to overwhelm any consideration of how things could or should be dealt with in the longer term.

7. *Blocks of 700m² are too small to properly re-develop*

As Bryn Challis (Sub 25) points out:

“On a 700 m² block where one dwelling is to be constructed behind another, the proposed variation will limit development to two single-storey dwellings of 104.5m² each.

The plot ratio will be restricted to 35% and the rear dwelling to 17.5%, leaving 17.5% for the front dwelling. 17.5% of 700 m² is 122.5m² minus the 18m² for a roofed car space, leaving 104.5 m² for the dwelling”.

This is not much, even for a downsizer. No family room, no second bathroom. This 35% plot ratio is a real constraint, and explains why construction of dual occupancies has virtually ceased, except for corner blocks, even in the RZ2 zones supposedly established to encourage this style of denser housing. Given this experience, one can only wonder why the Government appears to believe that the possibility of subdividing a Mr Fluffy remediated block will improve its sale price. The GNCA believes that EPD should be asked to explain how the area of 700m² was arrived at.

Financial Concerns

Draft Variation 343 is all about funding the Government’s immediate Mr Fluffy commitment. Long term planning requirements have been ignored.

The long term planning requirements for Canberra have been ignored. There is nothing in the Draft Variation that relates to the 2012 ACT Planning Strategy. This Variation is all about a short term financial exigency, which originated as a result of the Government’s decision to demolish all Mr Fluffy homes.

Long term planning does not appear to have been considered. The GNCA believes that this is the wrong approach to adopt when the planning consequences will be around for the next 50 years or more.

The Government should release an analysis on how many blocks are likely to be developed as dual dwellings (yes, we realise that residents groups could do this, but assuming that it would take a minute per block to identify block and section, planning zoning and area, for 1,000 blocks this would amount to 15 to 20 hours work, more suitably done by the Government) and what the financial implications are for ACT ratepayers. The GNCA recommends that the Standing Committee seek a tabulation of planning zone and area for all Mr Fluffy blocks from EPD, together with an analysis indicating what proportion were liable to be on-sold by the Government as subdividable, and the financial consequences for the Government if these estimates prove to be in error.

Ethical Considerations

Draft Variation 343 is unethical: one law for the Government and another for everyone else

The Government will be able to sub divide their blocks and sell them or re-develop Mr Fluffy blocks. The current leaseholders will not.

Furthermore, neighbours who are affected by adjacent multi-unit developments, as a result of the Government sub-dividing a block, will not also be able to sub-divide their blocks.

Draft Variation 343 will not just be a small change to the older suburbs. As a normal block can have up to five adjacent neighbouring blocks, there could be up to 4,620 blocks affected by this Variation. These are significant numbers, and although the locations of the affected blocks have now been published the full effect cannot be quantified without very considerable time and effort.

People who purchased a house in an RZ1 zone because of the Garden City characteristics in that area, are likely to be adversely affected, not only by the increased building activity, but also because they could be surrounded by multi-unit development. There is no mention of any compensation.

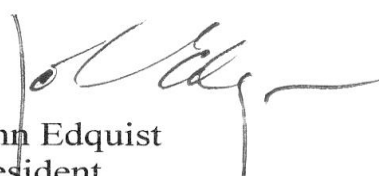
Allowing higher density developments in RZ1 zones will reduce the value of surrounding houses, as people purchasing in RZ1 zones would rather live beside single dwellings.

Conclusions

Draft Variation 343 should be entirely withdrawn. It will produce bad long term planning outcomes and discriminates against Mr Fluffy owners and neighbours in favour of the Government.

We would be pleased to appear before the Committee, if it thought we could add any value to its deliberations.

Yours faithfully


John Edquist
President

26 August 2015

References

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