
ACT Planning System Review 2022

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PERSONAL SUBMISSION

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Introduction

The ACT Government's announcement of a review into the ACT Planning System including the Planning Act, related Rules and Guidelines is timely.

Australia is facing a severe housing crisis. This has been a problem that has been building over a long period of time; however, it is now culminating in the most acute and severe ways.

“Australia is facing a severe housing crisis... an integrated response across federal, state and local governments would be ideal.”

Relevant bodies and experts will be able to provide the Review with a more complete picture of the evidence. Still, for instance, recent [ABS statistics](#) indicate that housing costs adjusted for inflation increased by 40 per cent for home owners with a mortgage in the two decades from 1999-00 to 2019-20, and increased by 50 per cent for private renters. Similarly, [Productivity Commission](#) data estimates that in 2021, 45.7 per cent of Commonwealth rent assistance recipients experienced housing stress (usually described as spending 30 per cent of their household income on housing) – that figure rises to 72.5 per cent of low-income households experiencing housing stress in the absence of CRA. House prices have increased by [20 per cent in 2021 alone](#). Thus the crisis is affecting people broadly – renters and owners, low income and others.

The case for decisive action cannot be clearer. I acknowledge that an integrated response across federal, state and local governments would be ideal, ranging from macroprudential policy responses to tax reform. In that regard, it is good to see the ACT is leading the nation in transitioning from stamp duty to land tax to help reduce the transaction costs of moving homes; however, it is blatantly obvious that the key solution to Australia's severe housing crisis is to increase the housing supply.

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This response should not be limited to governments increasing public housing stock; instead, the focus should be on modernising planning systems to prioritise a significant increase the construction of new dwellings generally.

UPDATED OBJECTIVE

To this end, it is good to see that the proposed Planning Act will take an objective-based approach to the planning system, describing six new objectives of the Planning Act including wellbeing and prosperity of residents. But more focus is required.

Relevantly, the Planning Bill recognises that the following concepts are important including ‘planning for population growth alongside the protection of the natural, cultural and built aspects of the Territory that make it an attractive place to live’.

This statement is deeply concerning. Whilst appropriate in ‘normal’ times, when faced with a severe housing crisis, the Planning Act should be focused on massively increasing the supply of housing – limited only by the capacity of the construction industry to safely and effectively build dwellings across the ACT.

“The time for timidly balancing objectives is over. When your hair is on fire, you must prioritise the important things.”

The time for timidly balancing objectives is over – when your hair is on fire, you must prioritise the important things. The magnitude of the housing crisis is such that minor tweaks to the system will be insufficient to resolve the problem. Through trying to balance a range of competing objectives, NIMBYism will pose a real threat to taking the decisive action required to credibly respond to the housing affordability crisis.

Until this mindset change is made, then attempts to reform the system are going to fail the stated objectives of the proposed Planning Act – namely to enhance the wellbeing and the prosperity of ACT residents – and the most vulnerable will suffer the most.

Recommendation 1:

That the objectives of the Planning Act be changed to explicitly include a new objective that is focused on directly addressing the housing crisis, which ideally can override the other objectives if deemed expedient.

The specific form can vary, but could include:

- Overcoming impediments to improving housing affordability in the ACT; or
- Significantly increasing the ACT housing supply in a timely way.

KEY PRINCIPLES

It is good to see that the proposed Planning Act will have a range of key principles in mind, particularly relating to ‘flexibility’. It is my sincere hope that this principle will overcome a myriad of problems that currently afflict the ACT planning system that has motivated me to make this personal submission.

Currently, the Multi Unit Housing Development Code requires block sizes to be greater than 800m² before a dual occupancy dwelling can be constructed in RZ1 areas. However, RZ1 properties that are ‘surrendered residential blocks’ (ie, Mr Fluffy homes) have set a minimum of 700m² for dual occupancy dwellings; as are blocks zoned as RZ2.

It is entirely illogical that a Mr Fluffy home – owned by the Government – can have dual occupancy built on a smaller block, but an ordinary block held by a private citizen cannot. This only impedes the provision of badly-needed housing stock.

Recommendation 2:

That the proposed Planning Act actively support increasing the housing density of existing suburbs, including through making dual occupancy houses more prevalent through making relevant changes to ‘mandatory’ requirements for block sizes.

There are a range of ways that the proposed Planning Act could be improved to permit an increased prevalence of dual occupancy housing, including:

- Removing the ‘mandatory’ requirements for block sizes generally, allowing the flexibility principle to overcome silly impediments to increasing the housing supply during a housing crisis;
- Lowering the threshold for RZ1 dual occupancy from 800m² to at least 700m² which should be achievable without any pain or obvious problems given the Mr Fluffy precedent; and/or
- Some administrative discretion below the relevant threshold to allow blocks that have other relevant features – such as being a corner block, or with large front verges providing green and/or parking spaces – to have a dual occupancy development application approved, rather than the existing hard-number limit with no recourse for review or discretion; or
- Removing the current RZ1 zone entirely, and move all existing RZ1 zoned blocks to RZ2 in order to achieve greater suburban density over time.

For older suburbs where the average block size is materially larger than recently released suburbs like Taylor, appropriate dual occupancy housing should be an option below the current 800m² threshold; at a minimum, there should be some allowable discretion rather than a mandatory rule. The gradual reduction in block sizes over time is consistent with broader trends in urban development – changes in community expectations over the last 50 years regarding smaller yard and family sizes also improves efficiency of public transport and other government services. Furthermore, I note that the proposed reduction in threshold for dual occupancy is entirely consistent

with Recommendation 12 of the 2019 Housing Choices community consultation, which was agreed to in principle by the ACT Government.

There are a range of modern dual occupancy designs, developed by a range of firms, that fit the RZ1 objectives entirely (see two examples below). They are low rise, low density, single buildings that can even look like just one house from the outside. However, unlike a single dwelling, dual occupancy houses have the obvious and key benefit of increasing the number of dwellings available for Canberra residents, and effective and efficient way to alleviate housing supply shortages that drive concerns about housing affordability and homelessness. The negative impacts on amenity and private living space, if any, are minimal – particularly given they are similar to (or better than) alternative housing options like townhouses or apartments, or even some of the micro-blocks such as those released in Taylor.



Recommendation 3:

That the proposed Planning Act and related materials not proscribe artificial ‘rules’ that make designing compliant houses that are cost effective difficult, including removing the ‘Private Open Space’ and ‘Principal Private Open Space’ mandatory requirements. If necessary, these instead could be made optional objectives.

Currently, the Single Dwelling Housing Development Code requires a minimum area equal to 6 per cent of the block area less 50m² as open space, of which at least 50 per cent of the area is planting area (see Rule 38, R39 and R40). R41 requires that a

block have at least one area of ‘principal private open space’ which has a range of additional requirements.

As block sizes reduce, consistent with my earlier recommendation above, the private open space requirement will need to be substantially revised down in order to physically fit a modern 3 bedroom house on blocks of 600m² or so. Furthermore, this general reduction in size is consistent with general social trends, where smaller families tend to spend less time outdoors, making the old requirements out of date even if other objectives of ‘liveability’ exist. In my view, the planning authority should not be prescriptive in how people choose to live by imposing broad-brush ‘liveability’ standards on people; instead, they should be free to choose including through their design choices.

Regardless, as a matter of policy design and administration, instead of such detailed Rules that stack requirement on top of requirement, the flexibility principle should also apply to provide some general guidance (eg, 20 per cent of a block to be private open space) and to allow the planning department the authority to apply such a requirement in a broad way to individual applications.

Separately, the planting area should optionally recognise the green space that certain blocks have between the front of their blocks and the road, which can be substantial, given the home owner is required to maintain that space as greenery, and given this space still contributes to the objectives as described in C38.

Recommendation 4:

That the proposed Planning Act and related materials define terms in a way that does not artificially distinguish between dwelling type, such as single storey and two storey homes, including by reforming the definition of ‘Gross Floor Area’.

Currently, the definition of ‘gross floor area’ used in various ratio Rules includes the top floor of a two-storey house (but strangely excludes other things like garages). This obviously penalises two-story houses as their ground floor footprint is obviously smaller than their actual floor area. As a result of the current definition, in practice a single-story house may have less planting area than a two-storey house of the same ‘gross

floor area'. This outcome is particularly perverse given that two-storey houses are typically more expensive to build per square metre. The solution to this problem is simple and should be easy to fix – the definition of gross floor area should only count the ground floor.

Conclusion

I realise that these recommendations are a combination of the strategic level and the micro level. However, it is important to understand how they combine in practical ways that impede sensible and entirely necessary development in the ACT.

I had recently investigated knocking down by 1970s era ex-government house and replacing it with a dual occupancy dwelling, but was prevented because the RZ1 block is under 800m². My motivation for pursuing a dual occupancy is largely not financial – though obviously I would seek to at least break even on the capital expenditure. Currently, the house is used irregularly – whilst my partner and I work in Canberra, we have animals that need care most days in Braidwood NSW, so we stay a few nights a week in both and weekends in NSW. Thus, the ACT house is not fully occupied but nor is it able to be rented out. That is inefficient and decadent when others face real hardship.

“The current ACT Planning System gives the distinct feeling that it isn’t properly designed to handle (or doesn’t seem to care) that there is a housing crisis, provided its private open space ratio is met.”

A dual occupancy solution would be a perfect resolution to this scenario – if only it wasn’t for the outdated and arbitrary hard cap of 800m². The other silly rules outlined in this submission are of secondary concern and could be overcome through patient and clever design, but contribute to the distinct feeling that the ACT planning system isn’t properly designed to handle (or doesn’t seem to care) that there is a housing crisis, provided its private open space ratio is met.

Hopefully, my recommendations can be expanded upon by practitioners or other experts to resolve in a systemic way – and perhaps the stated objectives combined with the flexibility principle (if properly applied) might just be the way to achieve that.

Still, in a practical way the main beneficiaries of the Review implementing recommendations along the lines I have outlined will actually be a Canberra family who could live at a new house situated between two schools, near to a shopping centre and public transport hub in Erindale.

I will then be able to make my own small but meaningful contribution to relieving the housing crisis in the ACT. And others will be able to do the same across the city.

I would be most grateful if your Review could empower us to do so.

Sincerely,

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