BUILDING DESIGNERS
ASSOCIATION OF AUSTRALIA

Building Designers Association of Australia - ACT Chapter

# ACT Planning System Review & Reform Submission

Dear EPSDD,

The Building Designers Association of Australian (BDAA) is Australia's leading national NFP peak body representing the Building Design community. The ACT membership is represented by 50+ designers who work predominately in the residential sector, with a focus on single residential new homes and additions, as well as low density development.

Our members are key players in the residential design sector, collectively working on an estimated 900-1000 projects per year.

The BDAA welcomes the opportunity to respond to proposed changes to the planning system and acknowledges the work completed by EPSDD to date and the efforts made thus far in the consultation process.

Whilst there are several welcome changes in the proposed planning system, there are also some potentially serious issues that we feel need further consideration.

## Part E1 : Residential Zones Policy

**1.3 Policy Outcomes**
RZ1 Suburban Zone

BDAA supports the idea of a new approach to low density development (dual occupancy and the like), such that the current RZ2 rules are thoughtfully and carefully expanded to RZ1, to allow for better utilisation of the larger blocks commonly found in established suburbs and to minimise future urban sprawl as Canberra's population grows rapidly over the next 20-30 years.

RZ1 – Suburban Zone, Policy Outcomes states 'The fundamental desired outcome for the RZ1 zone is to achieve and/or maintain low density residential neighbourhoods in suburban areas'. BDAA feels it is important to highlight that 'low density' does not and should not mean exclusively single residential outcomes. Furthermore, that should be stated in more detail in relevant documents throughout the new Territory Plan as required so that the wider community has a better understanding of the planning objectives and benefits resulting.

In considering expanding development opportunities in RZ1, rather than simply assuming that any block greater than 800sqm is fit for purpose, we believe consideration should be given to targeting blocks within the zone that are best suited to increased density, and therefore less likely to cause discontent and disillusion within the community.

Some suggestions include;

- Corner blocks, where direct street access is more easily attained.
- Blocks with more generous widths (than currently prescribed) at the front boundary. Many 800sqm blocks do not easily accommodate a dual occupancy if they are too narrow, however that won't stop a developer from squeezing one on; commonly with poor outcomes.
- Blocks with north to the rear such that both side boundaries are not 'northern boundaries'. This means that restrictive and highly sensitive 'solar envelopes' will not be relevant to side boundaries, and in-turn have less impact on adjoining neighbours. The same consideration could also be given to blocks with north at the front, however they are inherently more difficult to design for high quality outcomes given the challenges of garaging typically being located in prime northern orientation.
- Consideration of blocks adjoining reserves and public space, where impact upon neighbours is minimised.
- Minimum block sizes for dual occupancy in RZ1 may also need to be increased to 850 or 900sqm, especially (potentially only) for blocks that have only one street frontage.
- Limit total number of dwellings per block in RZ1 to one, regardless of block size and adaptable housing provisions.

**Assessment Outcomes**

These outcomes appear to be aimed at multi-unit development and are step in the right direction, however it is concerning that the Housing Design Guides is not available for comment as these will be critical to help industry assess and prepare for the impact these changes will have.

The absence of a HDG for Single Dwellings leaves us with concerns that the assessment process will be highly subjective. One of the key benefits of the current planning system is that it offers a level of certainty for homeowners and their designers around what will get approved. Every DA submitted, in the eyes of the proponents, is a good design outcome as it responds to their unique criteria and brief, however we are concerned that in the absence of 'rules', who is to say whether a design is of good quality.

The current system of Rules and Criteria is better suited to Single Dwelling Housing than the Assessment Outcomes currently proposed given the certainty it offers.

We are also concerned about the impact an Assessment Outcomes system may have on the ability to confidently prepare designs that are 'exempt' and avoiding a 'merit' track DA process. We have further concerns that fewer exempt/code applications will lead to more merit applications, and the additional load therefore placed on already strained ESPDD resources to process applications in a timely manner.

BDAA would also like to take this opportunity to strongly endorse the 1N Minor Exemption approval process, which has industry wide benefits in keeping 'minor' rule departures out of the merit track approval process. It would be a very poor outcome if the 1N process was impacted in any proposed changes, particularly if it increases the assessment load of ESPDD and increases approval timeframes.

**Assessment Requirements**

As a collective we feel the community would be better served by neither Site Coverage nor Plot Ratio being included as Assessment Requirements.

Both should be retained in the Technical Specifications, and designers and lease holders, given the discretion to balance the two elements through the DA process; and consideration given to the importance of how best to give certainty inn approved outcomes.

**Housing Design Guide**

Several members have expressed serious concerns relating to the availability of the Housing Design Guide and the timeframe between when it will be released and the adoption of the new Territory Plan. There is much concern around the high potential of redesign work that might be required to meet new guidelines, especially for multi-unit projects which have often been in design phase for several months.

**Technical Specification 1 – Residential**

The BDAA is concerned that combining both Single Dwelling and Multi-Unit Specifications into a single document may increase the complexity of working with the documents.

We suggest retention of a two-document system, similar to that which we currently have with the SDHDC and MUHDC, and would be interested to hear the views of other industry groups on that matter.

**Side Boundary Setbacks**

We concerned that the removal of the nil setback on side boundary 2 is likely to push many minor works applications including carports, garage and some decks on established blocks into the Merit track; which seems particularly unnecessary for applications where existing structures are located closer than 1.5m and therefore result in more merit track applications and the additional approval timeframes resulting.

**Building envelopes**

TS18 – suggest replacing 'except for side or rear boundaries…' with 'except for *northern boundaries*…'

We feel this better captures the intention.

Also at TS18 – the 'Note' talks about a 'North facing boundary' being orientated between 30deg east of north and 20deg west of north. This is inconsistent with Part G1 – Dictionary, which states;

> **northern boundary** means a boundary of a block where a line drawn perpendicular to the boundary outwards is oriented between 45deg west of north and 45deg east of north.

This terminology needs clarification and a consistent approach.

**Solar Building Envelope**

TS19 - Is it intended to remove the range of angles of solar envelopes and replace with 31deg? It would be preferable to retain the existing values in Table 1 of the SDHDC or change the value from 31° to 33° or 34° as a compromised outcome.

**Landscaping**

TS33 – This requirement is extremely difficult to interpret & manage. There are far too many unknown variables and too many assumptions around tree species, health, growing conditions and applicable definitions (i.e what defines maturity?).

Depending on the orientation of the site and location of footpath, it will often be impossible to shade the footpath, even in heavily treed verges. How are deciduous trees considered? Why do we want shade on footpaths year-round; and is that the intention?

We suggest removal of this requirement in its entirety as it is unworkable in practice.

TS 35 – Further thought is required to the tree planting requirements including further scope of how existing trees are considered. For example, existing healthy mature trees of appropriate height should not also be required to have the nominated planting zone, when they are already established and healthy.

The fact that certifiers require lessees to sign a statutory declaration to confirm their intent to plant and care for tree plantings points to a floored outcome.

**Privacy**

TS52, 53 & 54 – BDAA members have expressed serious concerns about this requirement. It has been unanimously stated that providing privacy as set out will be impossible in many situations, especially on even moderately sloping blocks.
The requirement for a 12m interface is unworkable and penalises whoever builds last, as there will be situations where the location of existing dwellings requires the proponent to work within 6m side setbacks; which is completely unreasonable and unworkable on most blocks.
In the instance where an existing dwelling is setback 1.5m (now proposed to both sides), will the proponent be required to design with a 10.5m side setback to achieve compliance?
We suggest that a better way to control privacy could be dealt with in consideration of upper floor setbacks and window locations, rather than sweeping changes with significant unintended outcomes.

We suggest removal of these requirements in their entirety as it is unworkable in practice.

**Bushfire prone areas**

TS62 – The requirement to build to relevant Bushfire Construction standards is welcomed, and makes sense given Canberra's history with bushfire, however it is noted that this direction is a significant change to the current approach. The Strategic Bushfire Management Plan found on the 'Bushfire' page of ACTmapi states;

> ***Bushfire Prone Areas***
>
> *The BPA map is a single risk-based map that defines the area of the ACT that has been assessed as being at high risk to life and property due to bushfires. Canberra's built-up areas that are adjacent to forest and grassland are defined as BPAs, as is the ACT's entire rural area.*
>
> *Identifying the at-risk areas on the BPA map provides the means by which people in the community can assess their personal level of risk, assist in the development of their Bushfire Survival Plan, and provide the basis for targeted community education and awareness campaigns for bushfires.*
>
> *The Government is also considering mandating construction standards for buildings under Australian Standard AS 3959 – Construction of buildings in bushfire prone areas to all buildings within the BPA. Currently these standards only apply to buildings located in the rural area of the ACT*

To change from the current non-mandated approach to Bushfire Construction in residential areas will have significant impacts on thousands of households in 'the Bush Capital'. Many homes will be categorised as sitting in 'Flame Zones' and other high BAL ratings, which will have significant impact upon property values and home insurance alone.

BDAA suggests more time is needed to flesh out these issues before implementation in the new planning regime.

**Car parking**

TS72 – To find a better balance of outcomes including less 'unnecessary cut' within sites, we suggest that basement ramps be allowed to commence from 50% of the minimum front boundary setback (similar to how the courtyard wall rule setback is applied).

TS73 – Is it intended to remove the ability to provision for one required car space to be located on the driveway, in front of the garage and within the site boundary?

If so, this is a poor outcome and will have significant impact on existing dwellings in meetings minimum parking provisions.

We suggest the existing provisions remain unchanged.

TS74 – Suggest removal of carport widths from this requirement given the low bulk and scale characteristics of these structure generally.

**Bicycle Parking**

Is it intended that bicycle parking shall be a minimum requirement for Single Dwellings?
If so, it its surely unnecessary given the nature of single residential dwellings and should therefore be further clarified.

**Part G1 : Dictionary**

**Gross floor area** means the sum of the area of all floors of the building measured from the external faces of the exterior walls, or from the centre lines of walls separating the building from any other building, excluding any floor area reasonably used and necessary solely for fixed mechanical plant, bicycle parking and associated end-of-trip facilities, and/or basement ~~car parking~~.

- The reference to 'car parking' should be removed to avoid the existing unnecessary restrictions of basement uses.

**Lower floor level (LFL)** means a finished floor level which is 1.0 metre or less above datum ground level at any point.

- This is a significant change and has attracted a lot of negative feedback from our members as it is seen to have many significant unintended outcomes, including the prevalence of more split-level designs which will then be non-compliant with the incoming NCC Liveable Housing Provisions. It is feared that this change will push a considerable amount of applications into time consuming merit track DA's.
  We suggest that if the change is borne from issues with privacy, that it be dealt with by refocusing on window placements, deck screening and the like for floor heights that are 1m above NGL.
  We suggest that in consideration of the above, the existing LFL definition should be retained.

**Northern boundary** means a boundary of a block where a line drawn perpendicular to the boundary outwards is oriented between 45o west of north and 45o east of north.

- This is inconsistent with terminology for 'north facing boundary' at TS18 and needs clarification.

**Planting area** means an area of land within a block that is available for landscape planting and that is not covered by buildings, structures, vehicle parking and manoeuvring areas or any other form of impermeable element that impacts permeability of the ground surface (i.e. terraces, pergolas, patios, decks or pools).

- This definition needs to better clarify how permeable surfaces like gravel gardens and driveway's are considered given they satisfy the need for permeability, without being a planting area.

**Primary building zone** means the area between the front zone and a line projected 12m distant away from the front boundary in a perpendicular line.

- We assume 'boundary' is intended to read 'zone'. Clarification/correction needed.

**Site coverage** means the proportion of actual site covered by buildings, including roofed terraces, awnings, eaves, pergolas, patios, decks and balconies and the like.

- This definition is ambiguous and needs further clarification with regards to the following;
    - **Eaves** of standard width (900mm is most effective for summer shading to windows in summer for commonly specified 2.7m ceiling heights), should not be included as site coverage. This will result in eave-less buildings with poor thermal performance, particularly in summer which will increase the reliance on air conditioning to achieve thermal comfort. This will also clash with the increased stringency of incoming NCC 7-star EER requirements.
      Any portion of eaves larger than 900mm could be included as site coverage.
    - **Awnings** are also important design elements in sun control and should therefore be treated similarly to eaves; including being excluded from site coverage.
    - **Pergolas** are generally open structures, and as such should not be included in site coverage as they do not contribute to bulk and scale.
    - The use and placement of the word 'roofed' is ambiguous. Does is apply to terraces only, or 'pergolas, patios, decks and balconies and the like'?
    - Are roofed terraces, pergolas, patios, decks and balconies treated differently to unroofed examples?

**Upper floor level (UFL)** means a finished floor level, which is greater than 1.0 metres above datum ground level at any point.

- Comments in line with LFL. This is a significant change and has attracted a lot of negative feedback from our members as it is seen to have many significant unintended outcomes, including the prevalence of more split-level designs which will then be non-compliant with the incoming NCC Liveable Housing Provisions. It is feared that this change will push a considerable amount of applications into time consuming merit track DA's.
- We suggest that if the change is borne from issues with privacy, that it be dealt with by refocusing on window placements and deck screening for floor heights that are above 1m above NGL.
- We suggest that in consideration of the above, the existing UFL definition should be retained.

## Noted Omissions

### Allowable Encroachments

We have noted there is no mention of allowable encroachments in the new Territory Plan. The current nominated allowable encroachments allow for practical outcomes with minimal impact on adjoining properties.
BDAA strongly endorses the retention of allowable encroachments in the new Territory Plan.

Thank you for the opportunity to comment on these important changes, and we welcome further involvement in any subsequent consultation resulting.

Please feel free to reach out for further clarification if needed.

Sincerely,



BDAA - ACT Chapter Chairman
2 March 2023