



ACT
Government

Environment and Planning

Planning and Development Act 2007

REPORT ON CONSULTATION

Draft Variation
to the Territory Plan
343

Residential blocks surrendered under the loose fill
asbestos insulation eradication scheme

July 2015

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1. INTRODUCTION

This consultation report was prepared in accordance with s 69 of the *Planning and Development Act 2007* (the P&D Act).

The report describes the consultation undertaken on the draft variation with the public, the National Capital Authority (NCA), the Conservator of Flora and Fauna, the Environment Protection Authority (EPA), ACT Heritage Council and Land Custodian, and responds to the issues raised.

2. COMMENTS FROM THE PUBLIC

2.1 Details

Draft variation 343 (DV343) was released for public comment on Friday 10 April 2015. The closing date for comments was Monday 25 May 2015. DV 343 released for public comments is at **Appendix 1**.

A total of 124 written submissions were received A total of 124 written submissions were received, which included submissions from individuals, industry representatives and community groups.

Main issues raised by submitters included:

- More than 100 submissions objected to DV343 in full or in part. Those that objected in full raised concerns about:
 - the fairness of the planning process to the existing owners and neighbours (Govt revenue, disclosure of the location of the surrendered blocks and justification on planning grounds);
 - impacts on the residential amenity (character, traffic, noise, trees etc) of the RZ1 suburban zones; and
 - potential impacts on adjoining neighbours (overlooking, overshadowing etc).
- Of the individual submissions that objected to the draft variation in part, most generally suggested that:
 - the existing minimum block size is not reduced to 700m² (retain the 800m²); and/or
 - that the single storey height limit should apply to all dual occupancy redevelopment (i.e. No 2 storey elements).
- A small number of individual submissions suggested expanding the DV343 provisions in full or in part to all RZ1 suburban blocks (not just those subject to the eradication scheme).

- There were eight submissions lodged by the following community organisations:
 - Mr Fluffy homes full disclosure group
 - Griffith Narrabundah Community Association
 - Woden Valley Community Council
 - Inner South Canberra Community Council
 - Fluffy Owners and Residents Action Group
 - Turner Residents Association
 - Weston Creek Community Council
 - Yarralumla Residents Association.

- Six of the eight submissions from community organisations objected to DV343. Two objected to part of the draft variation. One suggested the provisions should not apply to blocks under 800m². The other suggested the existing sliding scale plot ratio should be retained and that single storey provisions should apply where 50% plot ratio applies.

- There was one submission from the Asbestos Response Taskforce Community Expert Reference Group.

- There were ten submissions from the following industry groups:
 - Sekisui House
 - Philip Leeson Architects
 - DNA architects
 - REIACT
 - Adam Hobill Designs
 - Morschel architects
 - Housing Industry Association
 - Nulookrenovations
 - Master Builders Association
 - 5AAP.

- The industry submissions generally supported DV343, however, most felt the provisions were too restrictive. There were suggestions to remove the single storey height limit and to apply a plot ratio of 50%. Some also suggested it should be applied to RZ1 suburban zoned blocks outside the eradication scheme.

The comments from the NCA, Conservator of Flora and Fauna, EPA, ACT Heritage Council and the Asbestos Response Taskforce received and assessed prior to release of DV 343 are addressed in the copy of DV343 that was released for public comments (**Appendix 1**). Additional comments were sought from the land custodian – the Asbestos Response Taskforce in relation to matters raised in the public submissions. The Taskforce’s additional comments are located as part of the responses to these issues in the following sections of this report on consultation.

Copies of submissions received from the public are provided at **Appendix 2**.

2.2 Issues and responses

The key issues raised are summarised below, and responses provided.

2.2.1 Support for DV343

Approximately twelve (12) submissions support the draft variation primarily on the basis that it will assist to reinvigorate the existing RZ1 suburban zoned areas. It will increase housing choice and density and provide opportunities for older residents to down size within their own suburb. The majority of the submissions in support of DV343 were industry based.

Response

The comments are noted.

2.2.2 Precedence set by DV343

Eleven (11) submissions indicated that the provisions proposed in DV343 should be applied to all of the RZ1 suburban zoned areas. Some suggested this would be fairer to the owners of surrounding blocks, others considered the provisions would be appropriate to the RZ1 suburban zone generally and therefore should not just apply to affected blocks.

However, forty nine (49) submissions have raised concerns that DV343 could set a precedent for further amendments to the RZ1 suburban zone provisions which could erode the integrity of the zone.

Response

It has been made clear from the outset that DV343 is specific to the residential blocks surrendered under the loose fill asbestos insulation eradication scheme.

Any proposal to extend the provisions to other RZ1 suburban zoned blocks or areas is more appropriately undertaken as part of a strategic review of housing opportunities in suburban areas and/or the relevant residential zones. DV343 is not representing a strategic review of residential zone provisions more broadly.

2.2.3 Planning processes

2.2.3.1 Community consultation

Seven (7) submissions indicated that more community consultation is required. This is in addition to the twenty seven (27) submissions that raised concerns about not having access to the list of the surrendered blocks when DV343 was publicly notified.

Response

The statutory public notification requirements of the *Planning and Development Act 2007* have been complied with. In addition representatives of the Environment and Planning Directorate (EPD) have attended public forums with the Asbestos Response Taskforce to respond to any issues relating to the draft variation. This includes meeting with the community councils as follows:

- Belconnen Community Council – 17 February 2015
- Inner South Canberra Community Council Public Forum – 5 March 2015
- Weston Creek Community Council – 19 March 2015
- Woden Valley Community Council – 1 April 2015
- North Canberra Community Council – 21 April 2015
- Tuggeranong Community Council – 5 May 2015
- Belconnen Community Council – special meeting – 7 May 2015.

2.2.3.2 Accountability

Five (5) submissions indicated that DV343 is a foregone conclusion. One submission doubted that draft variations are ever knocked back and questioned the independence of the planning and land authority within EPD.

Five (5) submissions queried the role of the legislative assembly standing committee in the draft variation.

Four (4) submissions indicated that DV343 is contrary to Government policy and/or election commitments.

One (1) submission indicated the approach to DV343 could be challenged in the judicial system.

One (1) submission indicated the approach to DV343 contravenes the code of conduct of the Planning Institute of Australia.

Response

Draft variations are subject to statutory requirements of the *Planning and Development Act 2007*. This includes the process that is to be followed such as agency and public consultation, referral to the Minister for Planning and, if deemed appropriate, referral to the relevant Assembly standing committee. Ultimately it is the Legislative Assembly that determines whether a variation can commence or not.

The *Planning and Development Act 2007* stipulates the circumstances in which a draft variation may be referred to the standing committee. This information is outlined in draft variations.

The planning and land authority only releases draft variations to the Territory Plan for public notification if it considers the proposed changes to have planning merit. When changes are made to draft variations after public notification they are documented in the recommended version of the draft variation. All variations can be tracked on the EPD webpage at: www.act.gov.au/draftvariations.

DV343 has been prepared due to extraordinary circumstances that have impacted on a number of dwellings in the ACT. The variation is a Government specific response to increase options for the affected sites. The preparation of this draft variation did not contravene the Planning Institute of Australia's code of conduct.

2.2.4 Motives for DV343

2.2.4.1 Financial considerations

Fifty five (55) submissions indicated that DV343 was aimed at recouping the cost of eradicating the asbestos from the surrendered blocks.

Two (2) submissions indicated that DV343 is designed to benefit the development industry and real estate agents.

Response

DV343 has planning merit. It has been supported on the basis that the objectives of the RZ1 suburban zone encourages a range of housing choices provided it is consistent with the low density character of the zone.

Dual occupancy development is already permitted in the RZ1 zone for blocks 800m² and above. DV343 decreases the minimum block size for dual occupancy to 700m² and above. In order to protect the low density character of the RZ1 zone DV343 also includes a plot ratio requirement and building height limit. It would be remiss of the Government not to try and minimise some of the costs to the ACT community associated with the asbestos eradication scheme. The Government anticipates a shortfall of some \$400million as a result of the eradication scheme.

2.2.4.2 Planning merits

Twenty nine (29) submissions questioned the planning merits of DV343 where the provisions will apply to blocks based on the type of roof insulation.

Response

Not all the surrendered blocks are subject to DV343. DV343 is specific to those surrendered blocks that are 700m² and above. In this regard, the majority of blocks subject to DV343 are over 800m² and as such already able to be redeveloped for dual occupancy. The decision was made to reduce the minimum block size to 700m², a provision currently applicable in the RZ2 zone. The RZ2 zone example indicates that the 700m² is suitable for dual occupancy provided additional controls are implemented to minimise potential impacts consistent with the RZ1 suburban zone objectives. For this reason a building height limit of one storey for all dual occupancy subject to the 35% plot ratio has also been included in DV343. Additionally a design criterion has been introduced to ensure that future development of dual occupancy minimise impacts on the existing character and residential amenity of the surrounding areas.

2.2.5 Urban intensification and infill

Six (6) submissions indicated that urban intensification and infill should be focused around town, group and local centres. One (1) submission indicated that the ACT Planning Strategy 2012 was written with the asbestos blocks in mind.

Response

Urban infill and intensification is focused around the various commercial centres and major transport corridors consistent with the ACT Planning Strategy 2012. However, this does not exclude urban renewal and modest levels of intensification in other locations.

DV343 has been supported on the basis that the objectives of the RZ1 encourages a range of housing choices provided it is consistent with the low density character of the zone. Dual occupancy development is already permitted in the RZ1 zone for blocks 800m² and above. DV343 decreases the minimum block size for dual occupancy to 700m² and above. In order to protect the low density character of the RZ1 zone DV343 also includes a plot ratio requirement and building height limit.

DV343 has been prepared due to extraordinary circumstances that have impacted on a number of dwellings in the ACT. The variation makes modest changes to the Territory Plan and is a Government specific response to increase options for the affected sites.

2.2.6 Territory Plan - Statement of Strategic Principles

Three (3) submissions indicated that DV343 breaches the planning principles of the Territory Plan 1.3 - *'Economic, social and environmental objectives will be pursued in a balanced and integrated way, having regard to both short-term and long-term factors, such that present needs can be met without prejudicing the welfare of future generations, and without serious or irreversible loss of life-supporting natural resources or damage to the environment'* and 2.5 - *'A wide range of housing types will be permitted in identified residential areas close to commercial centres and some major transport routes to increase choice; maximise opportunities for affordable housing; and secure some intensification of development consistent with maintaining residential amenity. Outside of these areas, planning policies will protect the typically low density, garden city character of Canberra's suburban areas.'*

Response

DV343 seeks to reduce the size of blocks able to be redeveloped for dual occupancy from 800m² to 700m². In doing so it adds a building height restriction and a design criterion to protect the existing low density amenity and character of the surrounding areas. It will assist in resolving the asbestos problem and will increase housing choice in existing areas which are and will remain 'predominantly' low density in character.

DV343 does not prejudice the welfare of future generations, nor will it result in serious or irreversible loss of life-supporting nature resources or damage to the environment. Nor does it detract from the key policy of focusing urban renewal and intensification primarily in strategic locations within and surrounding town centres and major transport corridors.

2.2.7 Consistency in RZ1 – suburban zone planning provisions

Forty seven (47) submissions indicated that DV343 will result in two different sets of planning provisions for the RZ1 suburban zone. There is concern that this is inequitable. The submissions recommended the planning provisions for RZ1 suburban zone be consistent throughout the zone.

Response

The ability to develop dual occupancy in the RZ1 suburban zone already exists for all blocks 800m² and above. DV343 proposes to reduce the minimum block size for dual occupancy from 800m² and above to 700m² and above. The ability to unit title the dual occupancy is considered to be an incentive for dual occupancy development on the surrendered blocks. It is not mandatory. Nor is it expected that all the surrendered blocks will be redeveloped for dual occupancy either due to the constraints of the block or due to the intentions of the lessees.

2.2.8 RZ1 suburban zone objectives

Eighty six (86) submissions indicated that DV343 compromises the RZ1 zone objectives. It is argued that the RZ1 suburban zone is intended for low rise single dwellings and that any departure from this will significantly impact on the residential character and amenity currently protected by the RZ1 suburban zone objectives. Particular reference is made to the zone objective a) stating that ...' *housing is low rise and predominantly single dwelling and low density in character.*'

Concerns have been raised that DV343 will make the RZ1 suburban zone more akin to the RZ2 suburban core zone.

Fifty nine (59) submissions indicated that DV343 will result in some form of medium density redevelopment. Concerns were raised about multi unit, town houses and apartments.

One (1) submission indicated that DV343 will reduce housing choice for people wanting to live in low density single dwellings.

Response

The RZ1 zone objectives encourage residential development that is predominantly single dwelling but does not exclude other forms of residential development provided that it is predominantly low density in character. The RZ1 zone objectives also encourage a range of housing choices to meet changing community needs.

Regardless of the size of blocks, the blocks subject to DV343 can only be redeveloped for up to two dwellings. There will be no apartments or other forms of multi unit development other than dual occupancies permitted on the surrendered block.

The current building height limit for RZ1 suburban zoned areas is two storeys and DV343 does not seek to increase that height limit. Rather DV343 proposes a single storey height limit for dual occupancies subject to the 35% plot ratio. This is more stringent than the current provisions for single dwellings and for dual occupancy in the RZ1 suburban zone.

The ability to develop dual occupancy in the RZ1 suburban zone already exists for all blocks 800m² and above. DV343 proposes to reduce the minimum block size for dual occupancy from 800m² and above to 700m² and above. The ability to unit title the dual occupancy is considered to be an incentive for dual occupancy development on the surrendered blocks. It is not mandatory. Nor is it expected that all the surrendered blocks will be redeveloped for dual occupancy.

A design criterion has been included in DV343 to ensure that any development for dual occupancy is consistent with the residential character and amenity of the surrounding residential area. This criterion will apply in addition to the existing RZ1 suburban zone provisions.

2.2.9 Clusters of surrendered blocks

Twenty four (24) submissions raised concerns about the level of impact in streets where there are clusters of surrendered blocks.

One submission indicated there are provisions in the Territory Plan that limit the number of dual occupancies that can occur in any one section and that DV343 conflicts with this.

Response

There is no existing limit in the Territory Plan on the number of dual occupancies in any given area (street, section or neighbourhood).

In locations where there are clusters of surrendered blocks there will be a significant amount of urban renewal just by virtue of the fact that the existing surrendered dwellings will be demolished. This would be the case even if DV343 does not proceed.

The newer dwellings will be different to older housing stock, but the proposed design criterion to protect the residential amenity and character of the RZ1 areas is intended to retain the key elements of original built form. Any new single dwelling or dual occupancy would also be required to comply with the Territory Plan provisions relating to building height, setbacks to boundaries, building envelopes, plot ratio and the like.

DV343 further imposes a single storey building height for any dual occupancy on surrendered blocks subject to the 35% plot ratio.

2.2.10 Land values of surrounding blocks

Fifty seven (57) submissions are concerned that land values will decrease as a result of dual occupancy development in their immediate area. There is concern that the residential amenity and character of the surrounding areas will be impacted and this will make the area less attractive for people to live.

Response

The ability to develop dual occupancy in the RZ1 suburban zone already exists for all blocks 800m² and above. Land values in the vicinity of blocks 800m² and over have not been impacted by the existing provisions.

DV343 proposes to reduce the minimum block size for dual occupancy from 800m² and above to 700m² and above. The ability to unit title the dual occupancy is considered to be an incentive for dual occupancy development on the surrendered blocks. It is not mandatory. Nor is it expected that all the surrendered blocks will be redeveloped for dual occupancy.

The provisions in DV343 seek to maintain the low density character of the RZ1 suburban zone through a single storey building height limit for dual occupancy redevelopment subject to the 35% plot ratio and through the introduction of a design criterion.

2.2.11 Proposed definition of surrendered blocks

One(1) submission supported the proposed definition of surrendered blocks in DV343

Response

Noted.

2.2.12 Block size for dual occupancy

Sixteen (16) submissions objected to the reduction of blocks size from 800m² to 700m² for dual occupancy redevelopment. The concerns raised related to the ability to minimise the potential impacts of the dual occupancy on the smaller blocks.

Four (4) submissions support the reduction in block size from 800m² to 700m².

Two submissions indicated the need for a minimum block size in the RZ1 suburban zone and/or the number of dwellings based on the area of the blocks rather than a blanket two dwelling limit.

Response

Dual occupancy development can already occur on blocks 800m² or larger. In the RZ2 zone dual occupancy can occur on blocks 700m² or larger. DV343 reduces the block size for dual occupancy consistent with the RZ2 zone. However, it places a height limit on the dual occupancy subject to the 35% plot ratio and includes a design criterion to protect the residential amenity and character of the RZ1 zone. In addition, any redevelopment of the blocks will need to comply with the provisions of the Territory Plan including setbacks, solar access, private open space and the like.

2.2.13 Plot Ratio

A range of comments were received in relation to plot ratios.

Five (5) submissions indicated the plot ratio proposed in DV343 is too rigorous and it should be lifted to a blanket 50% which is the requirement for a single dwelling on the same blocks.

Alternatively, another five (5) submissions indicated the current sliding scale plot ratio for RZ1 suburban zone should be retained.

Two (2) submissions indicated that 35% plot ratio should also apply to blocks over 800m².

One (1) submission questioned the plot ratio applying to corner blocks.

Three (3) submissions queried whether the 35% plot ratio applies to both dwellings or just the rear.

One (1) submission supported the plot ratios proposed in DV343.

Response

The 35% plot ratio provision applies to both dwellings in a dual occupancy where they both do not directly front the street. These plot ratio requirements are intended to minimise the impact of the dwellings on surrounding residential amenity and RZ1 low density character. Any proposal for dual occupancy redevelopment will require a development application. Each will be assessed on its merits consistent with the Territory Plan requirements. In this regard, not all blocks will necessarily be able to accommodate dual occupancy redevelopment if they cannot meet the requirements of the Territory Plan, including the plot ratios for surrendered blocks contained in DV343.

2.2.14 Building heights

A number of issues were raised in relation to building heights for replacement dwellings as well as for any future dual occupancy development.

Ten (10) submissions indicated that the single storey building height limit should apply regardless of the plot ratio. Some also indicated it should apply to replacement dwellings as well as dual occupancy development.

An additional two (2) submissions indicated the single storey building limit should be imposed only on the rear dwelling and not on the entire dual occupancy subject to the 35% plot ratio.

One (1) submission indicated there is a need for guidelines on what a storey is. This is in light of sloping blocks, basements and attics.

Another one (1) submission indicated that there needs to be more flexibility with the provisions relating to attics and basements.

One (1) submission supported the building height provisions in DV343.

Response

The current building height for the RZ1 suburban zone is two storeys. A storey is clearly defined in Part B of the Definitions section of the Territory Plan, as are basements and attics. The RZ1 zone has provisions that limit the location of basements and attics in a dwelling that are in addition to 2 storeys.

DV343 imposes a 1 storey height limit for the dual occupancy development subject to the 35% plot ratio. This is intended to minimise the impact of dual occupancy development on surrounding neighbours.

The building height for all other dwelling in the RZ1 is and remains at 2 storeys subject to compliance with the other provisions of Territory Plan including building envelope, solar access and setbacks.

2.2.15 Setback requirements

Six (6) submissions raised various concerns about the set back requirements for future dual occupancy development and potential impacts this may cause. Some indicated that existing structures are already very close to the boundary and this may result in any redevelopment also being close to the boundary line.

Alternatively two (2) submissions indicated that the side setback requirements should be relaxed for future dual occupancy development.

Response

Regardless of the location and size of existing structures, any redevelopment of the blocks will need to comply with the Territory Plan provisions for dual occupancy including the front, side and rear setback requirements for the RZ1 suburban zone. DV343 does not propose to alter the setback requirements that apply in the RZ1 suburban zone and there are no proposals to relax these requirements. These setback controls (both for lower floor levels and upper floor levels where permitted) are in place to reduce the impact on properties in regards to bulk and scale as well as overlooking.

Any redevelopment of the blocks for dual occupancy would require a development application and would be assessed against the relevant Territory Plan code provisions as well as those introduced by DV343. Any dual occupancy proposal will be subject to public notification providing an opportunity for the adjoining and surrounding neighbours to comment on the proposal.

2.2.16 Controls for the size of buildings

Three (3) submissions raised concerns that replacement dwellings will maximise the plot ratio, where previously that was not the case.

One (1) submission indicated that the size of buildings generally should be controlled.

Response

Plot ratios, building envelopes, setbacks, solar access requirements and open space requirements along with the other relevant provisions of the code aim to control the bulk and scale of a development, as well as minimising its impact on neighbouring properties.

2.2.17 Design criterion

Twelve (12) submissions suggested it is inadequate at achieving the desired character and amenity of the surrounding residential areas.

Four (4) submissions supported the design criterion in DV343.

Response

During the consideration of a development application for a dual occupancy, the planning and land authority assesses it against the relevant provisions relating to plot ratio, building height, building envelope, setbacks, private open space, solar access and the like. The design criterion proposed in DV343 is in addition to the existing controls. This will enable the design of the development and its context

within the street to be taken into consideration. The design criterion introduced by DV343 gives the planning and land authority the ability to assess the appropriateness of a development to its surroundings.

2.2.18 Unit titling

A range of comments were made in the submissions in relation to subdivision for unit titling as proposed in DV343.

Four (4) submissions indicated they did not support unit titling as proposed in DV343. Of these, one (1) submission indicated that unit title is contrary to the Real Property Act introduced by Torrens in 1858.

An additional three (3) submissions indicated that unit titling would encourage the development of larger scale dual occupancy dwellings than may have been developed if unit title was not permitted.

Two (2) submissions indicated that unit titling would result in development of larger dual occupancies.

One (1) submission indicated that unit titling would attract non attached dwellings when they should be semi detached to minimise impacts of the two dwellings.

One (1) submission indicated that an alternative to DV343 is to allow unit titling of secondary residences.

Two (2) submissions indicated that Lessees should not be forced to subdivide.

Five (4) submissions indicated support for unit titling.

One (1) questioned why the blocks have not already been subdivided.

Responses

The comments have been noted. Subdivision for unit titling is currently not permitted in the RZ1 zone. The ability to unit title is to assist in stimulating redevelopment for dual occupancy in the RZ1 suburban zone. However, DV343 does not make it mandatory to redevelop the blocks for dual occupancy nor does it mandate a dual occupancy to be unit titled. It will be at the discretion of the future lessees.

Secondary residences are intended for a much smaller dwelling type and are more akin to a granny flat than dual occupancy. As the intention is for a secondary residence to maintain an interaction with the primary residence, unit titling of this form of housing is not permitted, nor is it recommended.

The size of dual occupancy is limited by the provisions contained in DV343 and the existing provisions of the Territory Plan codes. Ultimately, the size and form a dual occupancy development takes is at the discretion of the lessee, as long as it meets the Territory Plan requirements for plot ratio, building heights, building envelopes, setbacks, solar access and open space.

The Territory Plan includes provisions relating to the separation distances between windows within a block to protect visual and acoustic privacy of residents in the dual occupancy development. Depending on the characteristic of a block (such as block width, slope or orientation) and/or constraints on a site, a development may lend itself to being a detached or semi attached dual occupancy. Both types of

built form are permitted by the Territory Plan. However, it should be noted that apartment development is not permitted in the RZ1 suburban zone.

2.2.19 Consolidation

Four (4) submissions indicated a preference for consolidation of blocks to higher density redevelopment. Two (2) submissions do not support consolidation of blocks.

Response

Consolidation of blocks is not proposed in DV343. It is currently only permitted in the RZ1 suburban zone in certain circumstances. DV343 proposed to deal with the blocks individually to facilitate the buyback program which will offer the original owners of the blocks first refusal to purchase the blocks.

2.2.20 Potential impacts from dual occupancy development

A range of concerns were raised in the submissions about the impacts that could arise from dual occupancy development in the RZ1 zone.

2.2.20.1 Traffic, parking and access

Fifty eight (58) submissions raised concerns about the impact on the residential amenity and character of the surrounding streets due to increased traffic, parking and access created by dual occupancy development. Some submissions indicated that driveway access for rear dwellings are problematic, land expensive and brings traffic closer to adjoining dwellings. There were also concerns about driveway access and shared driveways for battleaxe blocks.

Response

The ability to develop dual occupancy in the RZ1 suburban zone already exists for all blocks 800m² and above. DV343 proposes to reduce the minimum block size for dual occupancy from 800m² and above to 700m² and above. The ability to unit title the dual occupancy is considered to be an incentive for dual occupancy development on the surrendered blocks. It is not mandatory. Nor is it expected that all the surrendered blocks will be redeveloped for dual occupancy.

Traffic, parking and access arrangements are determined at the detailed design stage at the time of development application. This allows each proposed dual occupancy development to be assessed on its merits on a site by site basis in response to the specific characteristic of the block and the specific details of the development proposal.

2.2.20.2 Noise

Fifty six (56) submissions indicated their preference for RZ1 suburban zoned areas to remain quiet, tranquil and/or peaceful. Concerns were raised that dual occupancy development would increase noise generally in the areas.

Response

The ability to develop dual occupancy in the RZ1 suburban zone already exists for all blocks 800m² and above. DV343 proposes to reduce the minimum block size for dual occupancy from 800m² and above to 700m² and above. The ability to unit

title the dual occupancy is considered to be an incentive for dual occupancy development on the surrendered blocks. It is not mandatory. Nor is it expected that all the surrendered blocks will be redeveloped for dual occupancy.

There is no evidence to suggest that a dual occupancy development has an increased noise level than a single residential development.

2.2.20.3 Solar access/ overshadowing

Twenty one (21) submissions raised concerns about potential impacts of overshadowing as a result of dual occupancy development. One (1) submission indicated that the solar provisions introduced through Territory Plan variation 306 will protect existing residences from overshadowing.

Response

The solar provisions of the Territory Plan introduced as part of Variation 306 will apply to any proposal for either a single dwelling or dual occupancy redevelopment. DV343 does not propose any changes to those provisions.

2.2.20.4 Privacy/ overlooking

Eighteen (18) submissions raised concerns that their privacy will be impacted due to overlooking by the adjoining dual occupancy development.

Response

There are existing setback controls (both for lower floor levels and upper floor levels where permitted) in the Territory Plan that are intended to reduce the impact on properties in regards to bulk and scale as well as overlooking. The Territory Plan includes provisions relating to the separation distances between windows within a block to protect visual and acoustic privacy of residents in the dual occupancy development. Additionally, DV343 places a building height limit of one storey on any dual occupancy subject to the 35% plot ratio.

Any redevelopment of the blocks for dual occupancy would require a development application and would be assessed against the relevant Territory Plan code provisions as well as those introduced by DV343. Any dual occupancy proposal will be subject to public notification providing an opportunity for the adjoining and surrounding neighbours to comment on the proposal.

2.2.20.5 Views

Ten (10) submissions indicated that dual occupancy on sloping blocks could impact on views.

Response

DV343 proposes a building height limit of one storey on any dual occupancy subject to the 35% plot ratio. This is more stringent than currently applies to any development in the RZ1 suburban zone.

Any redevelopment of the blocks for dual occupancy would require a development application and would be assessed against the relevant Territory Plan code provisions as well as those introduced by DV343. All will be subject to public notification providing an opportunity for the adjoining and surrounding neighbours to comment on the proposal.

Views are matters that are taken into consideration when assessing development proposals, but the extent to which a particular view may be lost or altered must be weighed against an individual's right to maximise the potential of their own block. If a development complies with the provisions in the Territory Plan, the height and scale of the proposed development is considered to be of an acceptable residential scale.

2.2.20.6 Trees, open spaces and gardens

Twenty seven (27) submissions raised concerns about the potential loss of mature trees, open space (gardens) as a result of dual occupancy redevelopment.

Two (2) of these submissions also raised concerns about the loss of bird and wildlife habitat.

One (1) submission raised concerns about the loss of gardens for active recreation and exercise.

Response

Proposals for a single dwelling or a dual occupancy are required to comply with provisions relating to private open space on a block. The control aims to reserve a portion of the site for open space as well as deep root plantings. A dual occupancy development is also required to include a landscape intentions plan.

It should be noted that landscaping work for a single dwelling is exempt from development approval.

Tree removal is a matter for development assessment.

2.2.21 Site specific considerations

2.2.21.1 Dual occupancy not appropriate in some areas

Thirty seven (37) submissions indicated that dual occupancy provisions are not appropriate for their particular street or area.

An additional three (3) submissions indicated that all surrendered blocks need to be assessed in terms of their suitability for dual occupancy.

Three (3) submissions indicated that dual occupancy is most appropriate on corner blocks.

Seven (7) submissions indicated that driveway access for the rear dwelling, shared driveways, blocks with narrow frontages and battleaxe blocks all present difficulties for future dual occupancy development.

Response

The ability to develop dual occupancy in the RZ1 suburban zone already exists for all blocks 800m² and above. DV343 proposes to reduce the minimum block size for dual occupancy from 800m² and above to 700m² and above. The ability to unit title the dual occupancy is considered to be an incentive for dual occupancy development on the surrendered blocks. It is not mandatory. Nor is it expected that all the surrendered blocks will be redeveloped for dual occupancy

In determining whether a dual occupancy can be developed on a site, the characteristics of the site, such as block width, slope and orientation as well as any constraints on the site such as location of easements or other physical features are taken into consideration. It is anticipated that not all blocks will be feasible for dual occupancy development when considered against the Territory Plan requirements.

Any redevelopment of the blocks for dual occupancy would require a development application and would be assessed against the relevant Territory Plan code provisions as well as those introduced by DV343. All will be subject to public notification providing an opportunity for the adjoining and surrounding neighbours to comment on the proposal.

2.2.21.2 Other development pressures

Three (3) submissions indicated that DV343 comes on top of other development pressures in their area of Yarralumla (Brickworks), Macgregor (West Belconnen) and Pearce (supportive housing).

Response

DV343 only applies to blocks in the RZ1 suburban zone that have been surrendered under the loose fill asbestos insulation eradication scheme.

2.2.22 Other considerations

2.2.22.1 Infrastructure and utilities

Two (2) submissions indicated that the infrastructure and utilities in the RZ1 suburban zone are underutilised and would be used more sustainably if density increases are permitted.

Alternatively, three (3) submissions indicated that utilities would be impacted by dual occupancy development and their capacities considered at the time of redevelopment.

Response

The ability to develop dual occupancy in the RZ1 suburban zone already exists for all blocks 800m² and above. DV343 proposes to reduce the minimum block size for dual occupancy from 800m² and above to 700m² and above. When a development application is submitted for a dual occupancy, it is referred to the relevant utilities providers for their comments. If there are any issues regarding the capacity of the existing infrastructure, it is raised at this time.

2.2.22.2 Population increase

Five (5) submissions indicate that the population will increase and will be higher than anticipated in the RZ1 suburban zone.

Response

DV343 only applies to blocks in the RZ1 suburban zone that have been surrendered under the loose fill asbestos insulation eradication scheme. The increase in population as a result of DV343 is not likely to greatly increase in the RZ1 zones.

2.2.22.3 Stigma attached to surrendered blocks

Two (2) submissions indicated there will be a stigma attached to the surrendered blocks as a result of the provisions contained in DV343.

Response

The list of blocks referred to in the variation has been published by the Asbestos Response Taskforce and therefore will not appear in the Territory Plan. By not 'mapping' the blocks in the Territory Plan, any potential stigma attached to the surrendered blocks is reduced. As blocks are removed from the list, the provisions applicable to surrendered blocks will no longer apply.

2.2.22.4 Inconvenience during construction

Five (5) submissions raised concerns about the inconvenience during construction of the new dwellings.

Response

The demolition program will be conducted by the Asbestos Response Taskforce and construction associated with redevelopment of the sites will be determined by the lessees. All development applications for dual occupancy redevelopment on the surrendered blocks will be subject to public notification.

Standard conditions placed on the approval of the development application include measures to minimise dust and mud runoff during demolition and building work. These measures include all unsurfaced entry and exit points being consolidated with crushed aggregate or similar extending from the road kerb to the building line, and the installation of temporary sediment controls to prevent sediment from reaching the stormwater mains system.

Issues concerning excessive noise during the demolition and construction phase can be referred to the Environment Protection Authority for investigation when they occur.

2.2.22.5 Impacts on water flows

Two (2) submissions indicated there may be changes to natural water flows as a result of the dual occupancy development.

One (1) submission raised concern about runoff during demolition.

Response

The site characteristics will be taken into account at the time of development application. The relevant Territory Plan provisions for water sensitive urban design will also apply to any future development.

3. COMPLIANCE WITH THE PLANNING AND DEVELOPMENT ACT 2007

3.1 Release for Public Comment (section 63)

DV 343 was made available for public comment from Friday 10 April to Monday 25 May 2015 and a consultation notice under s 63 of the P&D Act was published in the ACT Legislation Register on Friday 10 April 2015, in the Canberra Times on Monday 13 April 2015.

3.2 Consultation with the Agencies (section 61)

Under section 61 (b) of the Planning and Development Act 2007, the National Capital Authority (NCA), the Conservator of Flora and Fauna, the Environment Protection Authority, The ACT Heritage Council and the Asbestos Response Taskforce provided comments that were included in the draft variation No. 343 that was released for public notification (**Appendix 1**).

A range of non planning issues were raised and these have been referred to the Asbestos Response Taskforce. Responses to the issues raised are available in factsheets on the Asbestos Response Taskforce.

3.3 Notice of Submission to the Minister (section 70)

In accordance with s 70 of the P&D Act, a public availability notice will be placed in the ACT Legislation Register and *The Canberra Times*, stating that DV 343 has been submitted to the Minister and that the documents are available for public inspection.

4. APPENDICES

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APPENDIX 1
Draft variation 343 public release version

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APPENDIX 2
Copies of public comments received on draft variation 343

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