



Mr Mick Gentleman MLA  
Minister for Planning  
GPO Box 1020  
CANBERRA ACT 2601  
[gentleman@act.gov.au](mailto:gentleman@act.gov.au)

21 July 2015

Dear Mr Gentleman

### **DV 343 -Residential blocks surrendered under the loose fill asbestos insulation eradication scheme**

We are very disappointed that the Environment and Planning Directorate (EPD) is reported as recommending that DV343 be approved, particularly as more than 100 of the 124 submissions did not support the variation.

By EPD's own count '*twelve (12) submissions support the draft variation. ... The majority of the submissions in support of DV343 were industry based.*' It is surely a matter for concern when the main source in support for a proposed variation is the building industry.

While it is possible that the 12 industry participants are correct and the remaining 112 submission authors are misguided, this would be a most unlikely situation in the real world. On balance, a more likely explanation of the unbalanced mix of submissions is that the draft variation is ill considered. Consequently the prudent response would be a very thorough and cautious reconsideration of the proposed changes by the Government.

We do not want to re-prosecute the full arguments we included in our submission but we would appreciate you considering what we see as two of the key issues before the draft variation is presented to the Assembly.

The first relates to the sub-division of Mr Fluffy blocks and the consequent unit titling in RZ1 zones. Despite EPD's arguments that these blocks will remain RZ1, the reality is that under the proposed variation these blocks will be treated as though they were in RZ2 zones and can be sub-divided and unit titled for blocks as small as 700 m<sup>2</sup>.

In practice this will result in RZ2 islands randomly distributed in RZ1 zones resulting in even more more complexity in the Territory Plan (particularly as an RZ1 zoning will no longer provide any guidance as to whether a block can be subdivided without further exploration of the block's legal status).

We can appreciate the financial pressures that are driving this variation but in the long run it will degrade RZ1 zones irreversibly. The responses from EPD in its report are inconsistent on this issue. On the one hand it says:

*'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.'*(2.2.2)

On the other hand it is encouraging RZ2 type developments in RZ1 zones:

*'DV343 proposes to reduce the minimum block size for dual occupancy from 800m<sup>2</sup> and above to 700m<sup>2</sup> and above. The ability to unit title the dual occupancy is considered to be an **incentive** for dual occupancy development on the surrendered blocks.'*(2.2.7)

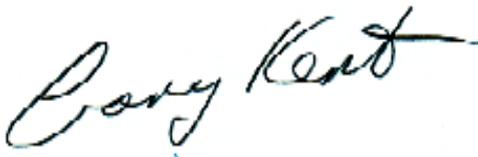
So there will be an incentive on a Mr Fluffy block to build a dual occupancy but not on similar non Mr Fluffy blocks in the vicinity.

If unit titling is good enough for Mr Fluffy blocks, why not for all blocks over 700m<sup>2</sup>? This logic is hard to fault and developers are likely to keep agitating for a change to the planning rules until all 700m<sup>2</sup> blocks can be unit titled, in spite of the statement in 2.2.2 above. Consequently the proposal to allow subdivision of dual occupancy blocks in RZ1 zones threatens the integrity of the Territory Plan and all RZ1 zones.

The second issue relates to the fundamental ethics underlying the re-development of the blocks. DV 343 encapsulates 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 them. The current leaseholders will not, neither will their neighbours who will be affected by adjacent multi-unit developments. This is not good governance, and could lead to a public perception that planning rules serve little purpose beyond delivering a privileged position to the Government in the real estate market.

Finally, we are aware of the apparent EPD view that very few blocks would be affected by DV343. If that is the case, why is the Government pressing on with this complicated and divisive variation to the Territory Plan? We therefore urge you to reconsider the draft variation.

Yours sincerely



Gary Kent  
Chair