



Mr Mick Gentleman MLA
Minister for Planning
Legislative Assembly for the ACT
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**Proposal to change the Planning and Development Act 2007
with respect to the Mr Fluffy issue**

Dear Mr Gentleman

This issue has been discussed at length by all seven of the Inner South Canberra Community Council's constituent residents' groups, which have unanimously agreed on the contents of this letter.

We are very concerned that the government is considering changes to the *Planning and Development Act 2007* to allow for the sub-division or unit-titling of acquired Mr Fluffy blocks in RZ1 that have an area of 700 - 800m². This action may provide short term financial benefits to the Government, but we contend that this action would not provide any long term benefits to Canberra and furthermore it would discriminate against the current lessees of affected blocks.

As you will be aware the Territory Plan currently provides that 800 m² is the minimum-sized block in the RZ1 zone that can be redeveloped as a dual occupancy, and a limit of 700 m² applies in the RZ2 zone (Multi Unit Housing Development Code Rules 1 and 2). Rules also forbid the subdivision of dual occupancy RZ1 blocks unless these were approved before 1 September 2003.

You gave evidence to the Standing Committee on Public Accounts, in your role as Minister for Planning, together with senior officers from the Planning and Environment Directorate, during the Committee's inquiry into the proposed *Appropriation (Loose-Fill Asbestos Insulation Eradication) Bill 2014-2015*. It appears from this evidence that the Government is giving consideration to reducing the minimum size for dual occupancy of blocks in RZ1 to 700 m² to match the limit in RZ2.

It also appears that the Government is considering removing the restrictions on subdivision of RZ1 blocks, for at least the blocks that it will acquire under the Mr Fluffy purchase scheme. Apparently some 771 of the 863 RZ1 Mr Fluffy blocks are over 700m² in size, and all of these are to be considered for redevelopment. This suggests that the Government is contemplating removal



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of all the other constraints that currently restrict the subdivision and retitling of RZ1 and RZ2 zoned blocks.

In the face of this evidence the Standing Committee recommended (Recommendation 22) “that the ACT Government confirm by the first sitting day in 2015 as to whether the Government will override the provisions of Draft Variation 306 to the Territory Plan to allow for the sub-division or unit titling of acquired Mr Fluffy blocks.”

The meaning and intention of this recommendation are unclear, and as no transcripts of the Committee’s hearing are yet available, it is not possible to ascertain where the reference to Draft Variation 306 comes from, or in what context the original reference was made. It is not clear which particular provisions of the Residential Zones Development Code, the Multi Unit Housing Development Code or the Single Dwelling housing Development Code the Committee believes that the Government intends to override.

While new versions of these codes were introduced as a result of Territory Plan Variation 306, Variation 306 covers more than this. Consequently this recommendation needs to be clarified because Draft Variation 306 became Variation 306 and on 8 May 2013, when the Legislative Assembly incorporated it into the *Planning and Development Act 2007*. Its commencement date was 5 July 2013, but many of the provisions in question took interim effect in June 2011. Why it is believed that the repeal of provisions introduced by Variation 306 would assist in the subdivision of blocks is also unclear, as prior to the introduction the minimum size for dual occupancy of any block was 800m².

Consequently to achieve any subdivision or unit titling of Mr Fluffy Blocks would involve changes to the *Planning and Development Act 2007* itself and not to a Draft Variation. Such changes to the Territory Plan would be a major undertaking.

The 800 m² lower limit for dual occupancy in RZ1 was adopted after several years of consultation by the Government with a range of stakeholders. The boundaries of the RZ2 zones were determined after considerable debate, and comprise areas close to Town, Group and Local Centres with good public transport.

We contend that to change the rules governing dual occupancy, even for unusual circumstances, would be a seriously retrograde step that would not add to the quality of the long term development of our city. Any subdivision or unit titling in RZ1 for areas less than 800 m² would have the effect of creating:



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1. unplanned random re-zoning throughout a suburb, where small clusters of RZ2 would be created within an RZ1 zone. Random re-zoning is not a characteristic we should encourage in any environment and in an established garden-city area; it would more than likely adversely impact on the streetscape and character of the suburb.
2. a thin edge of a wedge to enable developers to take advantage of in the future. The question will be: if 700-800 m² is good enough to sub-divide a Mr Fluffy block, then why not elsewhere? All the work done on this issue for Variation 306 and in relation to earlier amendments to the Territory Plan making provision for RZ2 zones would be undone and overall result would be chaotic.
3. an inequitable situation, whereby the government is allowed to sub-divide the block, but the private householder is not. In other words big brother government is riding rough-shod over the private individual to achieve a short term financial goal. Not good governance.

The Government should recall that the rules embodied in the Territory Plan generally reflect sound social policy. We consider that any short term financial benefit to be derived from subdivision of RZ1 blocks ranging in size from 700-800 m² is outweighed by long term undesirable consequences and we urge the government not to proceed down this path.

Yours sincerely

Gary Kent
Chair
Inner South Canberra Community Council

16 December 2014

cc Mr Rattenbury
Mr Hansen