

Consultation Report

Evaluation of the Garden City Provisions of the Territory Plan

November 2007



ACT Planning &
Land Authority

Introduction

The Garden City provisions were introduced into the Territory Plan in August 2003. The primary purpose of these provisions is to protect Canberra's Suburban Areas from residential redevelopment and moderate intensification. The intent is to maintain Canberra's suburban character and amenity by restricting where redevelopment can occur.

At the time the Garden City provisions were introduced, the Government agreed that the provisions would be evaluated two years after their introduction. The key findings of the evaluation process were included in a Discussion Paper, which was released for public comment between April and May 2007.

Seventeen submissions were received in response to the Discussion Paper. Issues raised in public submissions are outlined in more detail in the following sections of this Consultation Report.

The issues raised in the public submissions have been taken into account in the final evaluation of the Garden City provisions. The evaluation process has identified that the Garden City provisions are achieving their primary intent to protect the suburbs from residential redevelopment and moderate intensification, by focusing such development into Residential Core Areas. There are some issues, particularly in relation to multi unit development in Residential Core Areas, that can be addressed through some refinements to the Territory Plan and this will improve the overall application of the Garden City policy.

Issue Strategic Context

Concern was raised that the evaluation did not address all aspects of the intent or objectives of the Garden City provisions including housing choice and affordability, community needs and preferences and sustainability.

Other specific issues included:

- Garden City provisions are decreasing housing affordability because they're too restrictive
- Housing choice is not increasing because the provisions are too restrictive
- Community needs and preferences have not been addressed because of lack of increased housing choice or affordability.

Sustainability issues raised included water use from large private open spaces; energy efficiency limited by poor solar access; and car parking provisions encourages car use despite proximity to local centres

Comment

It is beyond the scope of the evaluation to address these strategic level matters. In this regard, issues such as housing choice and affordability, community needs and preferences and sustainability are more appropriately dealt with as part of a Territory Plan or Spatial Plan assessment.

Issue Strategic Context continued

A number of submissions raised concerns that the Garden City provisions were not evaluated in terms of responding to population and demographic change.

Specific comments related to development in both Residential Core and Suburban Areas that may not be responding to the needs of families (numbers of bedrooms in units) or the elderly (two storey dwellings and lack of adaptable dwellings).

Comment

As mentioned above, this matter is beyond the scope of the evaluation and should be dealt with as part of a Territory Plan or Spatial Plan assessment.

Issue Multi unit numbers

The Discussion Paper attracted considerable comment about the numbers of units per development in Residential Core Areas. These included:

- The amount of multi unit redevelopment was not anticipated
- The provisions focus on controlling dual occupancy and not multi unit development
- Some blocks and streets are not suited to such levels of multi unit development
- The numbers of units per development occurring in multi unit developments are resulting in impacts including:
 - ⊕ poor design responses including:
 - ~ loss of privacy and increased overlooking
 - ~ lack of attention to solar orientation
 - ~ developments not addressing the street or respecting existing amenity
 - ⊕ increased traffic and parking
 - ⊕ increased noise
- Alternatively some submitters consider the multi unit provisions to be:
 - ⊕ overly onerous limiting the extent to which development should occur
 - ⊕ stifling good design responses and innovation
 - ⊕ the street capacity is not being reached
- Some submitter supported a limit of numbers of units entirely
- Others stated that a limit on unit numbers would impact developers who had acquired land to rebuilt or would limit their own options to build multi units
- Others stated that there should be more multi unit developments if the provisions are to achieve the intent of the Spatial Plan, housing choice and affordability.
- Some submitters felt there should be a limit on density generally rather in relation unit numbers per block or development.

Comment

The Discussion Paper identified that the removal of restrictions on multi unit block sizes has assisted in making more blocks available for multi unit development. While there were only 28 multi unit developments in the first three years of the provisions, the numbers of units in each development has increased.

Redevelopment for multi units has focused on the larger blocks (1400m² and over) not all of which are necessarily suitable because of their shape and/or narrow frontages. Issues included: overlooking and privacy; poor contextual design responses; solar access and orientation; traffic, parking and services are often exacerbated on these blocks.

The Discussion Paper put forward a limit on numbers of units particularly on blocks with narrow frontages as one option to address this issue.

Issue Scale and Form of Development

There was considerable comment about the need for clarity as to the scale and form and development intended for Residential Core Areas. The comments ranged from:

- development in Residential Core Areas should be limited to scale of dual occupancy; to
- development in Residential Core Areas is already too restricted and the intent was for a much greater scale of multi unit development than is currently occurring.

Some submitters were concerned that the Residential Core objectives were not clear enough and this was leading to too many referrals to the ACT Administrative Appeals Tribunal (AAT).

Some felt that gardens and private open space were important to defining character and amenity. Others felt that character and amenity could be respected by preserving these features in public open spaces and on verges and there was no need for such large gardens or private open space provisions.

Mention was made of the need for the Character Guidelines for clarification.

Comments

The AAT has raised concerns about clarity and intent of objectives. This could be addressed by refining the objectives through a technical variation to the Territory Plan.

The 'Garden City Values and Principles' publication will provide design advice on how best to retain these values in the inner north and south suburbs where the blocks are generally more regular in shape and in street pattern. This publication will be an advisory document and will not be mandatory.

Issue Parking

On-site, on-street, basement and overflow parking are all issues raised in the submissions in relation to multi unit developments. The submissions varied widely in their views of the problem and in the solutions proposed. These included:

- on-site parking should be sufficient to accommodate the needs of the residents to avoid on-street parking which results in impacts on amenity and service delivery (emptying bins)
- on-street parking should be acceptable for meeting the needs of the residents and their guests as there no always sufficient land on-site to provide parking because they cannot park in front of the building line
- Basement parking is often the only solution and this decreases affordability.
- There is overflow from local and group centres wanting to avoid pay parking.

Comment

A key issue relates to the location of and access to visitor parking rather than parking for residents of multi units. This is a site design consideration and a limit on the number of units will also assist in addressing this issue.

Issue Terminology and definitions

The need to improve terminology and definitions within the Territory Plan have been identified in a number of submissions in order to better achieve the intent of the provisions. These relate to basements, standard block, and attics.

Comment

These refinements could be undertaken as part of a Territory Plan assessment.

Issue Plot Ratios

Plot ratios for rear dual occupancy is "*half the permissible plot ratio of all development on the block or 17.5% whichever is the lesser.*"

There is concern with this provision that if the front existing dwelling is small then the rear dual occupancy is even smaller.

Comments

The plot ratio for dual occupancy is intended to prevent large rear dual occupancy developments.

Issue Plot Ratios continued

There are suggestions that the plot ratio for rear dual occupancy should be increased (from 35%) because of an apparent inequity where both single dwellings and multi unit developments can achieve a 50% plot ratio.

Comments

While there may be some apparent inequities with plot ratios a more comprehensive analysis would need to be undertaken to assess the implications of any proposed amendments to the plot ratios. Specific attention would need to be paid to the most efficient use of the land whilst maintaining residential amenity.

Issue Plot Ratios continued

In the Residential Core Areas redevelopments for single dwellings with a plot ratio of 50% could result in very large dwelling being constructed on large blocks that may be more suited to multi unit development. In addition, it may have the potential to impact on Garden City character as a result of large dwellings on large blocks.

Comment

The decision to build is based partly on market demand and partly on personal choice of individual leaseholders. The 'Garden City Values and Principles' publication will provide design advice on how best to retain these values.

Issue Orphaned blocks

The submissions raised concerned about the creation of orphaned blocks in Residential Core Areas especially those already below 800m² as they require amalgamation before even a dual occupancy can occur on them.

Comment

The Discussion Paper raised the option of limiting redevelopment on blocks where an orphaned block less than 800m² would be created. However any such provision should be matched with incentives for amalgamation of blocks. Further investigation would be required before any amendment is made.

Issue Block sizes

Issues were raised in relation to the lack of consistency in minimum block size for redevelopment for dual occupancy and for triple occupancy.

Comment

Before any changes are made to minimum block sizes an assessment is required to determine the resulting changes to development levels across the Residential Core Areas.

Issue Private open space

The submissions raised issues with how private open space is calculated and one suggested it should be based on the size of units and be appropriate for use by the residents of the units.

One submission questioned the need for space for deep root planting.

It was mentioned that the provision of private open space was too onerous, did not add to Garden City values which can be achieved on public open space and verges and would create excess demand for water use.

Comment

Gardens and trees requiring deep root planting can be designed to be low in water consumption and they have benefits in terms of water sensitive urban design, improving privacy and for weather protection.

Issue Traffic

Issues raised with traffic include:

- inappropriate street design for such high traffic numbers
- increase in traffic impacts on amenity and safety
- the capacity of the street is not reached yet residents complain.

Comment

The proposal to limit numbers of units based on street frontage could address this issue.

Issue Consultation processes

Consultation process undertaken as part of the original Garden City Variation 200 was not effective as the submitters were unaware that their properties were affected.

Comments

The statutory process of preparing the Garden City Variation involved significant community consultation over an extended period of time, 13 weeks. The Variation was scrutinised by the Planning and Environment Committee and endorsed by the Legislative Assembly. Submissions closed on August 30, 2002 with 501 submissions received.

Issue Consultation processes continued

Consultation process for the evaluation of the Garden City provisions and in particular the Discussion Paper is insufficient and it does not cover all the key issues

Comment

Any refinements to the provisions arising from the evaluation would be subject to a consultation process.

Issue Consultation processes continued

Feedback is sought on comments and specific issues raised.

Comment

Submitters will be notified by letter that the consultation report is available on the ACT Planning and Land Authority website.

Issue Consultation processes continued

More formalised community input into any further changes is needed. This should be in the form of neighbourhood and/or master planning processes.

Comment

Refinements to the Garden City provisions can achieve the same outcome and will involve consultation.

Issue Consultation processes continued

Further and extended consultation is needed before any changes are made to the provisions.

Comment

Any refinements to the provisions arising from the evaluation will be subject to a consultation process.

Issue Consultation processes continued

The Discussion Paper did not review the adequacy of consultation in Variation 200

Comment

It was beyond the scope of the evaluation to review the adequacy of the consultation process for Variation 200.

Issue Consultation processes continued

One submission indicated that it should be mandatory to advise each and every resident and prospective buyers as to the rights on their properties.

Comment

This happens at the time of conveyancing and is publicly available on the Territory Plan at all times. In addition Variations to the Territory Plan are publicly notified.

Issue The evaluation process

Some submissions considered the timing of the evaluation was too late given the impacts that have already occurred as result of residential redevelopment in some locations. Conversely others indicated that it was too early to evaluate the provisions as very little development had occurred in their respective areas.

Comment

The timing of the evaluation was in response to a Ministerial direction.

In respect of market trends and property values, the market analysis indicated that clear indicators would not become evident until a later date (approximately 6 years from the introduction of the Garden City provisions).

Issue The evaluation process continued

One submission criticised that the Authority was responsible for evaluating its own work.

Comment

There is no requirement that independent reviews are necessary for any aspect of the Authority's statutory plans. The Authority is subject to audits.

Issue The evaluation process continued

One submitter suggested the reason for the evaluation process was to give legitimacy to developers in Residential Core Areas. Conversely two submissions felt that it was intended to give legitimacy to objectors to developments in Residential Core Areas.

Comment

The evaluation was in response to a Ministerial direction.

Issue The evaluation process continued

One submission called for a moratorium on development until the evaluation process is complete.

Comment

Suspension of development is not feasible.

Issue The evaluation process continued

There is a need to implement the findings of the evaluation. However, there is also a need for further investigations and/or consultation as part of this implementation.

Comment

Any refinements to the provisions arising from the evaluation will be subject to a consultation process.

Issue The evaluation process continued

There were issues with the nature and extent of the data collected and interpretation of the statistics presented in the Discussion Paper. Some went to the extent of providing their own interpretation of the statistics and/or suggested additional data that should have been collected.

Comment

The data collected related specifically to development applications and that was relevant to the technical evaluation of the provisions.

Issue The evaluation process continued

One submission suggested that a review of provisions in other jurisdictions should be undertaken.

Comment

A review of other jurisdictions was undertaken and considered as part of the preparing the evaluation. The practices of other jurisdictions would be used to inform any Territory Plan amendments.

Issue Other residential Areas

Some submissions referred to impacts of development from areas other than Residential Core or Suburban Areas, these included developments in commercial areas and in A11 and B11 and B12 areas.

Comment

Not applicable to this evaluation which was specific to the Garden City provisions.

Issue Specific development

A number of submissions raised issues in relation to specific development application, approvals and/or matters referred to the ACT Administrative Appeals Tribunal (AAT)

Comment

It is not appropriate to identify specific development applications and/or AAT cases in the evaluation, however consideration has been given to the issues arising from recent development applications and AAT cases.

Issue Policy and boundary review

The evaluation did not consider the intent and fairness of the Garden City policy and some suggested other means by which urban intensification could be achieved. Mostly the comments related to the location of boundaries of the Residential Core and Suburban Areas.

Comments varied from:

- The policy should not apply at all (i.e. Suburban Area provisions apply across all areas); to
- The policy should apply across all suburbs (i.e. Residential Core Area provisions apply across all areas)

The majority of comments related to specific area boundaries or to the rationale behind which they were identified in Variation 200. In this regard, some submissions called for a review of the boundaries for their area. This included requests for neighbourhood and/or master planning processes to realign the boundaries.

A number of submissions raised concerns about their property values and one called for the payment of compensation.

Comment

It was not within the scope of the evaluation process to review the Garden City policy. This includes the boundaries.

There has been no evidence that property values have been impacted by the Garden City provisions. Compensation is not payable in the ACT.

Issue Policy and boundary review continued

There are specific concerns about the viability of Residential Core Areas in light of decline and/or closure of local centres and local schools.

Comment

While some uses have ceased operation, the opportunity for these and other local centres uses to establish remains with the zoning of the land. The area around local centres is usually on feeder roads, and close to other services.

Issue Policy and boundary review continued

There are concerns about the interface between Residential Core Areas and Suburban Areas particularly where that interface is along a street.

Comment

This matter was investigated as part of the original Territory Plan Variation 200 and because the rear property boundaries traditionally include private open spaces not often visible from the street it was considered the potential for impacts to be greater than when the boundary runs along a public streetscape.