

Mick Gentleman MLA

Manager of Government Business
Minister for Planning and Land Management
Minister for Police and Emergency Services
Minister for Corrections
Minister for Industrial Relations and Workplace Safety

Member for Brindabella

#20/96309

RESPONSE TO QUESTION ON NOTICE
Questions on Notice Paper No 01
4 December 2020
Question No. 15

MRS KIKKERT: To ask the Minister for Planning and Land Management—

- (1) Noting that the detached housing blocks on the eastern side of Lionel Rose Street, Holt, are compact blocks, only 12.5 metres wide, resulting in minimum side boundary setbacks of nil and a minimum rear boundary setback of 3m, according to Table 7 of the ACT Government's Single Dwelling Housing Development Code and that Rule 37A of this code, however, requires that 'a daytime living area is provided with a minimum 4m² of transparent vertical glazing that is oriented between 45° east of north and 45° west of north'. For a structure built on one of these blocks, the only wall that could allow for the required solar access would be the north-facing side wall. In reality, this is impossible because the north-facing side walls on all but corner blocks are contiguous with the south-facing side walls of neighbouring structures and therefore have no solar access, on what grounds did the ACT Government give approval to a housing development mainly comprised of compact blocks that cannot physically comply with Rule 37A of the Single Dwelling Housing Development Code.
- (2) In relation to detached houses already built on the eastern side of Lionel Rose Street, Holt, was a blanket exemption to Rule 37A given to these structures, or was each required to seek an individual exemption.
- (3) If each structure was required to seek an individual exemption, what was the process of seeking an exemption in each case, and how was the assessment carried out.
- (4) Why has the ACT Government begun enforcing compliance with this rule for owners of as-yet undeveloped blocks, in light of the fact that many houses that do not comply with Rule 37A have already been built on these blocks.

- (5) Can the Minister provide a clear description of how a dwelling built on a non-corner compact block on the eastern side of Lionel Rose Street, Holt, can structurally comply with the minimum rear boundary setback of three metres and Rule 37A regarding solar access.

MINISTER GENTLMAN - The answer to the Member's question is as follows:

- (1) The Holt Estate Development Plan was given development approval on 4 April 2016 prior to the introduction of Rule 37A into the Single Dwelling Housing Development Code on 7 September 2016.

- (2) No. The planning and land authority (the authority) does not have general legislative powers to issue exemptions from planning requirements.

- (3) The planning and land authority (the authority) does not have general legislative powers to issue exemptions from planning requirements. The exemptions from the requirement to obtain development approval are set out in Schedule 1 of the *Planning and Development Regulation 2008*. For residential development, a lessee needs to comply with all provisions of the Single Dwelling Housing Development Code, including rule 37A, in order to be exempt from requiring development approval.

The authority can issue an *exemption declaration* in limited circumstances, as set out in section 1.100A and 1.100AB of Schedule 1 of the Regulation. However, this does not include non-compliance with Rule 37A.

Where a development does not comply with Rule 37A, and is therefore not exempt development, a development application is required and will be assessed against Criterion 37A.

- (4) The sites were selected at random as a part of a proactive audit program. Properties that had already been issued with a Certificate of Occupancy and Use (COU) were not audited.

- (5) The Single Dwelling Housing Development Code allows a 0 metre setback on the northern boundary. However, this does not mandate a 0 metre setback and a dwelling could be designed to be set back further to help achieve compliance with Rule 37A.

It may not be possible to meet the requirements of Rule 37A in every instance. In this case, there is an ability to lodge a Development Application (DA) to be assessed on its merits against Criterion 37A.

Approved for circulation to the Member and incorporation into Hansard.



Mick Gentleman MLA, Minister for Planning and Land Management Date:.....18/1/2021.....

This response required 3hrs to complete, at an approximate cost of \$331.75.