ACT Government

REGULATORY IMPACT STATEMENT

Planning and Development (Solar Access) Amendment Regulation 2016 (No. 1)

Subordinate Law 2016 - 24

Environment and Planning Directorate

August 2016

Contents

Terms Used

In this Regulatory Impact Statement the following terms are used:

ACAT	The Australian Capital Territory Civil and Administrative Tribunal
Amendment Regulation	The amending regulation that is the subject of this Regulatory Impact Statement and which amends the Regulation
DA	Development Application under the ACT *Planning and Development Act 2007*
Exempt	Development that is exempt from the requirement to obtain development approval under the *Planning and Development Act 2007*
Exemption declaration	A exemption declaration (commonly referred to as a 1N) under the *Planning and Development Regulation 2008*
EPD	The Environment and Planning Directorate
'New' areas	Blocks approved under an estate development plan on or after 5 July 2013
Planning and Development Act	*Planning and Development Act 2007*
Regulation	*Planning and Development Regulation 2008*
RIS	This Regulatory Impact Statement

Executive Summary

The purpose of this Regulatory Impact Statement (RIS) is to assess the impact of the *Planning and Development (Solar Access) Amendment Regulation 2016* (No 1) (the amendment regulation) which is related to implementation of solar access provisions introduced through Variation to the Territory Plan No 346 (V346).

Policy Problem

The current development assessment regime under the *Planning and Development Act 2007* (the Act) requires proponents to meet a number of planning rules in order to be exempt from lodging a development application or seeking an exemption declaration. When new estates are released, government and industry have in mind the type of dwelling that is able to be approved without additional planning approval under the Act.

A number of new residential estates in Canberra have an undulating topography. These site conditions mean that on some blocks it is not possible to develop a modest single dwelling and meet the requirements of the Territory Plan in relation to solar access without an assessment and approval by the planning and land authority (Authority). It has also been found that a significant proportion of homes in new areas are undertaking extensive excavation in order to meet the requirements without the need for assessment and approval by the Authority.

In addition to issues on these blocks, consultation with the community and industry has identified a number of issues for development across Canberra as a result of the current solar access provisions (e.g. poor design outcomes).

Objectives for V346 and the amended regulation

The objectives of V346 are to ensure good solar access for residential development, to improve design outcomes, to improve affordability and to streamline regulatory approvals under the Act. This will be achieved by changes to provisions in the Territory Plan's *Single Dwelling Housing Development Code* (SDHDC) which will improve design outcomes and affordability and reduce the number of exemption declarations (1Ns) and development applications (DAs) required for developments to comply with the solar access provisions.

The objectives of the proposed change to the regulation are to ensure construction tolerances outlined in Schedule 1A of the regulation are used as a contingency for error during the building process, and not relied upon to achieve building design outcomes. In addition, the regulation aims to ensure the application of construction tolerances, and exemptions for some exempt developments outlined in Schedule 1 of the regulation, do not further encroach on the solar access of neighbouring blocks.

Amendments to V346

On 28 July 2016, the Minister for Planning and Land Management directed the Authority to consider changes to the recommended version of V346. This resulted in V346 being amended to limit its application to blocks in subdivisions approved on or after 5 July 2013. As such, this RIS considers the regulatory impacts to these 'new' areas only.

Proposed changes to the regulation

To effectively implement V346, it is proposed that Schedule 1 and Schedule 1A of the regulation be amended to restrict permitted construction tolerances and select types of exempt development once they exceed the solar building envelope. As is the case with V346, the amendment regulation will be limited to 'new' areas only.

Three options to restrict construction tolerances were considered. The preferred option was proposed by the Community in information sessions held in June 2016 and will restrict construction tolerances in the regulation to only apply where they are able to be accommodated within the permitted solar building envelope. The amendments will not provide any exempt construction tolerance once the solar building envelope is exceeded.

In addition, it is proposed that skylights, external heaters and coolers, and external photovoltaic panels are no longer exempt structures should they exceed the solar building envelope.

Additional targeted consultation with industry has indicated that these amendments are only feasible if the changes to the solar building envelope outlined in V346 are passed.

Regulatory analysis

A detailed analysis of 100 development projects[1] from the 12 month period of May 2015 – April 2016 estimates that V346 will result in:

- a reduction of 45% for 1Ns in 'new' areas relating to Rule 7 of the solar access provisions (this equates to a reduction of 26% of all 1N applications relating to Rule 7 of the solar access provisions and 7% of all 1N applications), and
- a reduction of 60% for DAs in 'new' areas relating to Rule 7 of the solar access provisions (this equates to a reduction of 4% of all DAs relating to Rule 7 of the solar access provisions and 1% of all DAs)
    - For these projects, the delay time for project commencement will be significantly reduced (from an average of 59 days to no more than 10 days) as projects will now either be exempt or be able to commence following a 1N approval.

Summary of outcomes

There are a number of economic, social and environmental benefits as a result of the proposed changes from V346 and the amendment regulation. Any potential costs (for detail refer to sections 4 and 5) are justified as they are reasonable and proportionate.

Economic

There will be broader economic benefits for government, industry and the community as the proposed changes will result in a reduction in the administrative and delay costs associated with development. These changes provide greater certainty for industry and the community about how the regulatory process will apply to their developments.

The proposed changes to solar access provisions outlined in V346 and the amendment regulation are estimated to result in regulatory savings of over $133,300 a year.

[1] Including 95 projects requiring a 1N application and five projects requiring a DA under the Act.

Social

The overall social impacts of the proposed change to V346 and the amendment regulation are considered to be positive. The proposed changes will result in reduced protection of solar access for some members of the community but will result in improved solar access for increasing numbers of the community as new estates are developed. In this respect, the proposed changes introduce greater equity for all Canberrans. The proposed changes will result in improved design outcomes in residential neighbourhoods which will result in improved quality of life for Canberra residents.

There will be a slight reduction in the number of projects which are subject to compulsory community consultation through the formal development application process. It is the Authority's experience that many members of the community consult with their neighbours on proposed redevelopments regardless of a statutory requirement to do so. There will be no reduction in third party appeal rights as a result of the proposed changes. A human rights analysis is included at section 5.2.

Reductions in administrative and delay costs will also benefit members of the community building, redeveloping or extending their homes. It is estimated that 52% of projects likely to benefit from the proposed changes are undertaken by home owners (i.e. self-developers).

Environmental

The proposed changes will have positive outcomes for the environment. Prior to the introduction of V346, extensive excavation of soil was required for many new developments to meet solar access provisions. The environmental impact associated with excavating, transporting and disposing of this soil will be reduced under V346. Additionally, any impacts to solar energy gains are also expected to be positive. Reduction in energy gains in existing dwellings (although not expected) is expected to be ameliorated by an increase in energy gains in new dwellings.

1. Introduction

1.1 Purpose

The purpose of this Regulatory Impact Statement (RIS) is to assess the impact of the *Planning and Development (Solar Access) Amendment Regulation 2016* (No 1) (the amendment regulation) which is related to implementation of solar access provisions introduced through Variation to the Territory Plan No 346 (V346).

The aim of the amendment regulation is to effectively implement V346 to ensure that application of construction tolerances and some exempt developments outlined in the *Planning and Development Regulation 2008* (the regulation) do not result in unintended planning outcomes such as impeding a neighbour's solar access, and that the final form of constructed dwellings is more likely to reflect the prior expectations of community and government.

As such, this RIS considers both the effect of changing the regulation and the effect of implementing V346 so a full picture of the regulatory change is given.

1.2 Background

In 2009 the ACT planning and land authority (the Authority) commenced a general review of the policy content of the Territory Plan, including the development of new mechanisms to improve solar access for residential development. As a result of this process, on 5 July 2013, new residential solar access provisions were introduced into the Territory Plan through Variation to the Territory Plan No 306 (V306).

The provisions introduced through V306 apply to all blocks over 500m^2 (large blocks) and to blocks of 500m^2 or less (mid-size and compact blocks) if they were approved on or after 5 July 2013. The previously existing provisions continue to apply to mid-sized blocks that were approved before this date. For compact blocks approved before this date, no solar access provisions apply.

Following the introduction of these provisions, the Authority undertook to closely monitor their impact and effectiveness in order to ensure that they were achieving the desired outcomes. This process included research and consultation with key stakeholder groups including industry and community representatives.

In March 2014 the Authority invited people from the Canberra community to participate in a workshop focused on the northern boundary and solar access provisions in the Territory Plan. Participants included architecture, building and planning industry professionals and community association representatives. This led to the establishment of a working group to consider and explore a range of options put forward by the authority to embrace the solar access objectives and seek to resolve the issues identified.

The working group members included representatives of community associations and industry groups. The group met once in 2014 and three times in 2015. A wide range of options and approaches were developed and explored by the Authority and tested with the working group.

Proposed changes were presented to community and industry representatives at a forum held in December 2015. Further sessions were held with industry and the community in May, June and July 2016 to discuss the proposed changes to the Territory Plan and regulation.

On 28 July 2016, the Minister for Planning and Land Management directed the Authority to consider changes to the recommended version of DV346. This resulted in DV346 being amended to limit its application to blocks approved under an estate development plan on or after 5 July 2013. Following further consultation with industry and community groups, the application of revised solar access provisions will be considered for 'existing' areas. As such, this RIS is restricted to considering the regulatory impact of the final V346 (i.e. is limited to 'new' areas only).

As a result of the processes outlined above, amendments to the residential solar access provisions were proposed through V346. The amended provisions better meet the needs of industry and the community without adversely impacting on the principle of ensuring good solar access for residential development. In addition to these changes to the Territory Plan, the subsequent amendments to the regulation have been discussed with the working group and are considered to be required to ensure V346 is effectively implemented.

1.3 Objectives of V346 and associated regulatory changes

The objectives of V346 are:

- to ensure good solar access for residential development,
- to improve design outcomes and housing affordability, and
- to streamline regulatory approvals under the *Planning and Development Act 2007* (the Act) by reducing the number of exemption declarations (1Ns) and development applications (DAs) required for developments to comply with the solar access provisions in the Territory Plan's *Single Dwelling Housing Development Code* (SDHDC).

The objectives of the proposed change to the regulations are to ensure:

- construction tolerances outlined in Schedule 1A of the regulation are used as a contingency for error during the building process, and not relied upon to achieve building design outcomes, and
- application of construction tolerances and exemptions for some exempt developments outlined in Schedule 1 of the regulation does not additionally encroach on the solar access of neighbouring blocks.

These objectives are consistent with the objectives of the Act and the Territory Plan, which aim to manage land use change and development in a manner consistent with strategic directions set by the ACT Government, Legislative Assembly and the community.

1.4 Extent of developments affected

A review of 1Ns and DAs referred to the Authority under the SDHDC over the 12 month period of May 2015 – April 2016 indicates the proposed changes through V346 have broad application.

The changes proposed in V346 will result in a total increase in the height of the solar building envelope. As such, a greater number of developments will be able to meet the requirements of the Territory Plan, without needing to gain an approval from the Authority. It is not expected that the changes introduced through V346 and this amendment regulation will result in a change to the type of dwelling being constructed. As such, developments over the past 12 months are considered to be representative of developments over the next 12 months.

Developments likely to be affected by the proposed changes include all developments assessed under the SDHDC, relate to solar access rules (specifically Rule 7), and are located on blocks approved under an estate development plan on or after 5 July 2013 (excluding Coombs and Wright).

A summary of the number of relevant developments is at Table 1. Additional information on the number of 1Ns and DAs which have required approval relating to solar access provisions (by suburb) is provided at Attachment A.

Table 1: relevant applications received under the SDHDC from May 2015 – April 2016

Type	Total	All Solar Access Provisions	Rule 7 Provisions (ex Coombs & Wright)	'New' suburbs only (ex Coombs & Wright)
1N exemption declarations	634	230	165	95
Development applications (merit track)	448	137	85	5

1.5 Identifying the Problem

The current development assessment regime under the Act requires proponents to meet a number of planning rules in order to be exempt from approval. When new estates are released, government and industry have in mind the type of dwelling that is able to be developed without additional planning approval under the Act.

Where the rules outlined in the Territory Plan are unable to be met (for example, the solar access provisions of the SDHDC), one of the following must occur:

- proponents are able to apply under sections 1.100A and 1.100AB of the regulation for a 1N where the non-compliance is for an allowable encroachment into a dimension (for example, a setback) and is:
    - minor; and
    - will not adversely affect someone other than the applicant; and
    - will not increase the environmental impact of the dwelling or alteration more than minimally.
- where the non-compliance does not meet the tests outlined in sections 1.100A and 1.100AB of the regulation, a DA is required in accordance with section 139 of the Act.

A number of new residential estates in Canberra have an undulating topography. These site conditions mean that on some blocks it is not possible to develop a modest single dwelling and meet the requirements of the Territory Plan without an assessment and approval by the Authority. Consultation with the community and industry has identified that:

- cut and fill is required on a number of blocks to meet current solar access requirements.
- application of current solar access provisions has resulted in instances where houses: are being dug into the site; are located away from their southern boundary - this creates 'lopsided' houses in the streetscape and underutilises space along the southern boundary; or have reduced ability to maximise northern open space.

- there are administrative and delay costs as a result of needing to seek additional approval to develop these blocks. The Authority has anecdotal feedback that had developers and owners understood the extent of these costs, they would not have purchased the block.

The level of community and industry concern about the solar access provisions introduced in V306 is reflected in the 103 submissions received during DV346's public consultation period. Of these, 68 support the proposed changes, one further submission supports the proposal on the condition that the regulation is changed, and 34 submissions did not support the proposed changes. [2]

It is noted that targeted consultation was undertaken on a number of options following the recommended version of DV346. Following this consultation, the Minister for Planning and Land Management directed the Authority to consider changes to the recommended version of DV346. This resulted in DV346 being amended to limit its application to blocks approved under an estate development plan on or after 5 July 2013.

Following further consultation with industry and community groups, the application of revised solar access provisions will be considered for 'existing' areas.

This RIS considers changes to the Territory Plan and Schedule 1 and Schedule 1A of the regulation to restrict permitted construction tolerances and selected exempt developments once they exceed the solar building envelope. As is the case with V346, the amendment regulation will be limited to 'new' areas only.

[2] For further information on the range of issues raised refer to DV346 Report on Consultation available on the ACT Government website.

2. Variations to the Territory Plan and Regulation

2.1 Ensuring effective implementation of V346

The changes proposed under V346 include:

- increasing the height of the solar fence for selected blocks from 2.4m to 3m in the primary building zone and from 1.8m to 2.3m in the rear zone.
- introducing a requirement to provide at least 4m² of transparent, unshaded north facing glazing to a daytime living area.[3]
- introducing a range of changes to clarify and simplify rules and criteria relating to solar access.

To effectively implement these changes it is proposed to amend the regulations to:

- limit vertical and horizontal construction tolerances outlined in Schedule 1A of the regulation once the solar building envelope is exceeded. The effect of this change is that developments which exceed the solar building envelope will not be exempt.
    - Under the current regulation, construction tolerances are permitted in addition to the approved height of a dwelling and can exceed the solar building envelope.
- current construction tolerances will remain where they are able to be accommodated within the permitted solar building envelope. A summary of current horizontal and vertical construction tolerances are at Table 2.
- It is also proposed to limit encroachment into the solar building envelope from selected exempt developments. The relevant structures are outlined in Table 3.

It is expected that these changes will ensure solar access provisions are implemented as intended by V346 (i.e. solar access is provided without being significantly impacted by additional construction tolerances or selected exempt developments post approval). It is not intended that these proposed changes will apply to existing structures.

It is expected that these changes will result in the final form of constructed dwellings being more likely to reflect the prior expectations of community and government, and provide greater certainty regarding solar access for neighbours.

Of note, these proposed changes to the Territory Plan and the amended regulation will only apply to blocks approved under an estate development plan on or after 5 July 2013.

[3] Where this is not practical DV346 allows an applicant to demonstrate that daytime living areas are provided with reasonable access to direct sunlight through alternate means.

Table 2: Current construction tolerances outlined in Schedule 1A of the regulations

Schedule 1A of regulations	
1A.10	**1A.11**
Horizontal siting tolerances for buildings and structures (2)(a)(i)&(ii) if within 900m of the boundary of a block tolerance is not more than 50mm (2)(b) if greater than 900mm of the boundary of a block tolerance is not more than 340mm For exemption declarations the 340mm tolerance is reduced: (3)(a) if the criterion is extended by not more than 290mm—by the extended distance stated in the exemption declaration for the criterion; or (3)(b) if the criterion is extended by more than 290mm—by 290mm.	**Height tolerances for buildings and structures** (2)(a)(i) not more than 340mm above or below where the applicable height criteria allow or require the point to be sited (2)(a)(ii) if the point is the sill of an exterior window—the sill is not more 50mm closer to the finished floor level immediately adjacent to the window's sill For exemption declarations the 340mm tolerance is reduced: (3)(a) if the criterion is extended by not more than 290mm—by the extended distance stated in the exemption declaration for the criterion; or (3)(b) if the criterion is extended by more than 290mm—by 290mm.

Table 3: Schedule 1 Roof-mounted structures proposed to be amended under the amendment regulation

Schedule 1 of regulations	
Relevant Clause	**Proposed Amendment**
1.26: Buildings skylights	Currently skylights are able to project up to 150mm above the surface of the roof adjacent to the skylight (subsection (b)). This provision is proposed to be amended to ensure that this projection is not able to exceed the solar building envelope.
1.27: External heaters / coolers	Currently roof mounted external heaters and coolers are able to be up to 1.5m from the top of the closest point of the roof (subsection (b)). This provision is proposed to be amended to ensure that these structures are not able to exceed the solar building envelope.
1.27A: External photovoltaic panels	Currently roof mounted photovoltaic panels are able to be up to 300mm above the closest point of the roof; or cannot restrict solar access to another block (subsection (b)(i) and (ii)). This provision is proposed to be amended to ensure that these structures are not able to exceed the solar building envelope. The definition of 'restrict' will also be reviewed so it reflects the solar building envelope defined in the Territory Plan.

2.2 Outline of proposed changes to the regulations

The primary objectives of the amended regulation is to ensure V346 is implemented effectively, that planning outcomes are as intended, and that the final form of constructed dwellings is more likely to reflect the prior expectation of community and government. The changes are also expected to provide greater certainty regarding solar access for neighbours.

The proposed changes to the regulation will be applied to blocks approved under an estate development plan on or after 5 July 2013 (i.e. 'new' areas) and are outlined in Table 4 below.

Table 4: ACT Planning and Development Regulation 2008 Changes

	Legislative proposal	Comment on impact
1.	**Horizontal and vertical construction tolerance** Construction tolerances will be removed where they exceed the permitted solar building envelope. The current construction tolerances will remain where it is able to be accommodated within the permitted solar building envelope.	The impact of reduced construction tolerances is negligible. The overall impact of V346 and the proposed change to the regulation will be an increase in the permitted solar building envelope. The majority of developments will retain current construction tolerances as the cumulative height of the approved dwelling and tolerance is not expected to exceed the increased solar building envelope.
2.	**Roof-mounted structures** A number of structures are currently able to be exempt from development approval if they meet a series of requirements outlined in Schedule 1 of the regulation. It is proposed that three types of roof-mounted structures will not be permitted to exceed the solar building envelope without approval.	The impact of restricting these three types of roof-mounted structures to within the solar building envelope is considered to be minimal as: • The overall impact of V346 and the changes to the regulation will be an increase in the solar building envelope, and • It would be unusual for most of these structures to be mounted on the southern side of a dwelling.

3. Options Analysis

Three options available to the ACT Government have been investigated:

- maintaining the status quo and keeping the current regulations (Option 1); and
- effectively implement V346 by reducing construction tolerances when they exceed the solar building envelope (Option 2 and Option 3).

These options are illustrated in Figure 1.

Legislative process

Variations to the Territory Plan are a separate legislative process to amending a regulation. V346 was:

- approved by the Minister for Planning and Land Management in accordance with section 76 of the Act on 1 August 2016, and
- tabled in the Legislative Assembly in accordance with section 79 of the Act on 2 August 2016.

As such the options outlined below are limited to changes to the regulation to support the implementation of V346.

3.1 Maintain the Status Quo (Option 1)

Option 1 maintains the status quo of the current regulation and does not result in change to construction tolerances or selected exempt developments outlined in Schedule 1A and Schedule 1 of the regulations respectively. Maintaining the status quo will result in:

- the potential for final approved dwelling heights to be much greater than permitted prior to V346 (this could be up to 340mm over the permitted solar building envelope).
- some structures and exempt developments exceeding the solar building envelope.
- unintended impacts to solar access of neighbouring blocks.

The concern of these impacts was raised through the public consultation process for V346.

While it is not expected that these outcomes will occur regularly, amending the regulation will ensure these outcomes do not occur.

Option 1 is not recommended.

3.2 Amend the regulation to reduce construction tolerances (Option 2 and 3)

Amending the regulation achieves an appropriate balance between reducing regulatory burden for home owners and developers and ensuring solar access provisions are implemented as intended. The changes are also expected to provide greater certainty regarding solar access for neighbours.

Under the solar access provisions introduced through V346, a development is more likely to meet the requirements of the Territory Plan without the requirement to obtain development approval from the Authority (i.e. more likely to be exempt).

Options 2 and 3 result in a more efficient and effective regulatory process, without compromising intended planning outcomes.

Option 2: Construction tolerances no more than 50mm outside the solar building envelope

Option 2 reduces the construction tolerances in the regulations to:

- limit vertical and horizontal construction tolerances to 50mm once the solar building envelope is exceeded.
- apply current construction tolerances where they are able to be accommodated within the permitted solar building envelope.
- where construction tolerances are less than the permitted tolerance from the solar building envelope, the tolerance will be this distance plus 50mm (e.g. where a building is 200mm from the solar envelope a tolerance of up to 250mm would be permitted).

Option 2 aimed to reduce construction tolerances, while still providing some contingency for errors in the building process. Community stakeholders did not support this option as they did not approve of the additional 50mm impact. It was considered by other stakeholders to be unnecessary given the increased height of the solar building envelope and overly complex when compared to Option 3.

Option 2 is not considered as preferable as Option 3.

Option 3: Construction tolerances only permitted within the solar building envelope

Option 3 further reduces the construction tolerances in the regulations to:

- apply current construction tolerances where they are able to be accommodated within the permitted solar building envelope.
- not permit construction tolerances to be exempt once the solar building envelope is exceeded.

This option was proposed by community groups in information sessions held in June 2016. Additional targeted consultation with industry in July 2016 indicated that this amendment is only feasible if the changes to the solar building envelope outlined in V346 are passed.

Option 3 is recommended as it provides a simplified approach to managing exempt developments, was supported by the community, and will result in the benefits outlined in section 4.

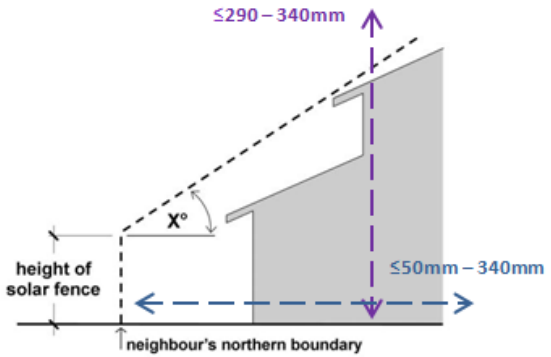
Figure 1: Options considered for amending construction tolerances

Option 1: Do nothing

Construction tolerances remain as they are currently:

- Vertical: 340mm for exempt development and DAs; 290mm for 1Ns.
- Horizontal: 50mm when 900mm to boundary and 340mm for exempt development and DAs; 290mm for 1Ns.

There is no change to the regulation for exempt developments.

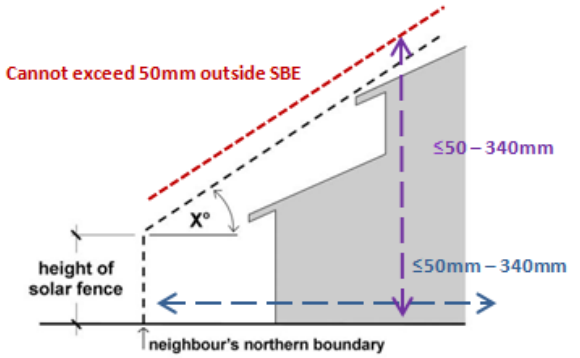


Option 2: Reduce tolerances to 50mm when outside the solar building envelope

Construction tolerances are reduced:

- Limit tolerances to 50mm once the solar building envelope is exceeded.
- current tolerances apply where they are able to be accommodated within the solar building envelope.
- where tolerances are within the building envelope, the tolerance will be 50mm in addition to this distance (e.g. when 200mm from the solar building envelope a tolerance of up to 250mm would be permitted).

Exemptions for three types of structures are amended.



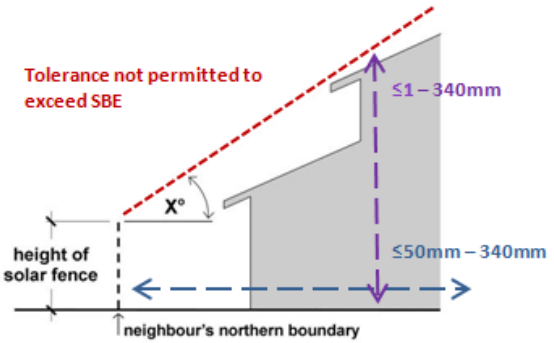
Option 3: Reduce tolerances to not exceed the solar building envelope

Construction tolerances are reduced:

- restrict vertical and horizontal tolerances to zero once the solar building envelope is exceeded.
- current tolerances apply where they can be accommodated within the solar building envelope.

Exemptions for three types of structures are amended.

Based on feedback from information sessions - option 3 is the preferred option.



4. Impact Analysis

The Authority has undertaken an impact analysis of implementing Option 3. To ensure a full picture is given of the expected regulatory change, the analysis considers both the effect of amending the regulation and the effect of implementing V346.

This analysis focused on the outcomes under the SDHDC as this is where the majority of the benefits are likely to be realised. While the proposed changes outlined in V346 and the amendment regulation will result in improved certainty and design outcomes under the Multi-unit Housing Development Code (MHDC), the changes will not result in reduced regulatory burden as developments under the MHDC are unable to be exempt from assessment and approval under the Act.

4.1 Methodology

The Directorate's method for calculating savings from V346 and the amendment regulation consists of two broad steps:

1. identifying expected changes under V346 and the amendment regulation, and
2. estimating the value of the changes.

The Directorate's method for calculating savings is detailed at Attachment A. A summary is provided below.

Savings are likely to be realised in two main areas: administrative savings and delay savings.

- *Administrative savings* are any costs incurred by regulated entities primarily to demonstrate compliance with regulation. V346 will result in administrative savings through a reduced number of developments that require an approval to meet the requirements of the Territory Plan. A number of developments which previously required a 1N will now be exempt, and developments which required a DA will now be exempt or able to proceed with a 1N approval.
- *Delay savings* are expenses incurred through delayed approvals. 'Delay' includes any expected changes to timeframes as a result of implementing V346 and the amendment regulation.

A number of assumptions have been used to derive the estimates of the potential change in administrative and delay costs. Application of these assumptions is expected to result in a conservative estimate of the potential economic benefits of implementing V346. The assumptions applied are outlined at Attachment A.

Administrative savings

The main changes generating administrative savings under V346 are that an increase solar building envelope will result in more developments meeting the requirements of the Territory Plan without the need for a development application (i.e. they will either be exempt or have a minor non-compliance which only requires a 1N). This will result in:

- reduced paperwork for proponents, including application forms and specialised plans
- reduced 1N and DA fees paid by proponents to the Authority, and
- reduced number of applications requiring processing and assessment by the Authority.

Delay savings

The main changes generating delay savings under V346 are that developments are able to commence sooner as they will either:

- no longer require planning approval by the Authority (i.e. they will be exempt), or
- no longer require a DA (i.e. they will be exempt or able to commence following a 1N approval).

4.2 Limitations of economic savings estimate

Deregulation savings estimates are conservative and based on evidence obtained from past approvals.

There are a number of factors that may influence the estimate that have not been directly accounted for in the calculations, due to an absence of reliable data, leading to an estimate which is inherently conservative. Factors that would increase the estimate include:

- fewer DAs lodged as development projects were compliant with solar access provisions
    - The Authority has anecdotal evidence that, due to the time and cost of seeking development approval, proponents often request approval for a number of elements in addition to those required by an initial design when they are non-compliant with one requirement (i.e. if developments are unable to meet solar access requirements, proponents will use the DA process to seek approval for other non-compliances).
    - If proponents are able to meet solar access requirements, they will be more likely to construct a development which meets the other requirements of the Territory Plan.
    - This trend is expected to result in additional savings under V346 and supports this estimate being conservative.
- reduced cut and fill, and reduced requirements for retaining walls, required for undulating estates (e.g. Moncrieff, Taylor, and sloping sites in existing suburbs)
    - The economic and environmental cost of this practice have not been costed as part of this analysis although the savings are expected to be significant.
    - Industry feedback has indicated that this cost is significant and the estimated cost of ground works, including excavation and retaining walls, for an average size block in Moncrieff is $40,000 per block.
    - In addition, the requirement to construct split level houses across sites reduces the residential market for these sites as a number of residents looking to down size their homes, or with accessibility requirements, are unwilling or unable to live in these dwellings.
    - This outcome does not support other ACT Government policies for ageing in place and accessible living. These impacts have not been costed.
- reduced delays resulting from seasonal weather events or contractor availability

- unexpected delays in regulatory approvals can often result in construction being further delayed as a result of seasonal weather events or contractor availability.
- The economic cost of these added delays has not been included as part of this analysis.

- the value of increased investment certainty has not been estimated, although it is recognised that increased market certainty has broad ranging benefits for the ACT economy.

4.3 Analysis of preferred option

Regulatory analysis

Real information from 100 development projects[4] from the 12 month period of May 2015 – April 2016 was analysed to estimate V346 will result in:

- a reduction of 45% for 1Ns in 'new' areas relating to Rule 7 of the solar access provisions (this equates to a reduction of 26% of all 1N applications relating to Rule 7 of the solar access provisions and 7% of all 1N applications), and
- a reduction of 60% for DAs in 'new' areas relating to Rule 7 of the solar access provisions (this equates to a reduction of 4% of all DAs relating to Rule 7 of the solar access provisions and 1% of all DAs)
- For these projects, the delay time will be significantly reduced as projects will now either be exempt or be able to commence following a 1N application.
    - For projects which previously required a DA this will reduce the average delay of 59 days[5] to no more than 10 days[6].

There is no regulatory impact expected from the change in regulation as:

- the increased solar building envelope means that construction tolerances for dwellings built over the past 12 months will now be accommodated within the solar building envelope
    - That is, there will be no additional regulatory burden for the same dwelling built prior to, and following, the change in regulation.
- The impact of restricting three types of structures to within the solar building envelope is minimal as the height of the solar building envelope has increased and most of these structures are not expected to be mounted on the southern side of a dwelling.

The analysis of economic savings as a result of V346 indicates administrative savings of $66,445 and delay savings of $66,869. When combined the total expected savings under V346 and the amendment regulation is over $133,300 a year.

Broader impact analysis

An analysis of broader impacts to government, business, community and the environment is provided at Table 4.

[4] Including 95 projects requiring a 1N application and five projects requiring a DA under the Act.
[5] Based on average timeframes for five projects assessed under the analysis undertaken for DV346.
[6] Based on the statutory timeframes for the Authority to make a 1N determination. Of note, the average timeframe for 1N decisions is 6 days based on 74 projects assessed as having a reduced regulatory burden under DV346.

Figure 2: Comparison of exemption declaration (1N) applications (May 2015 – April 2016)

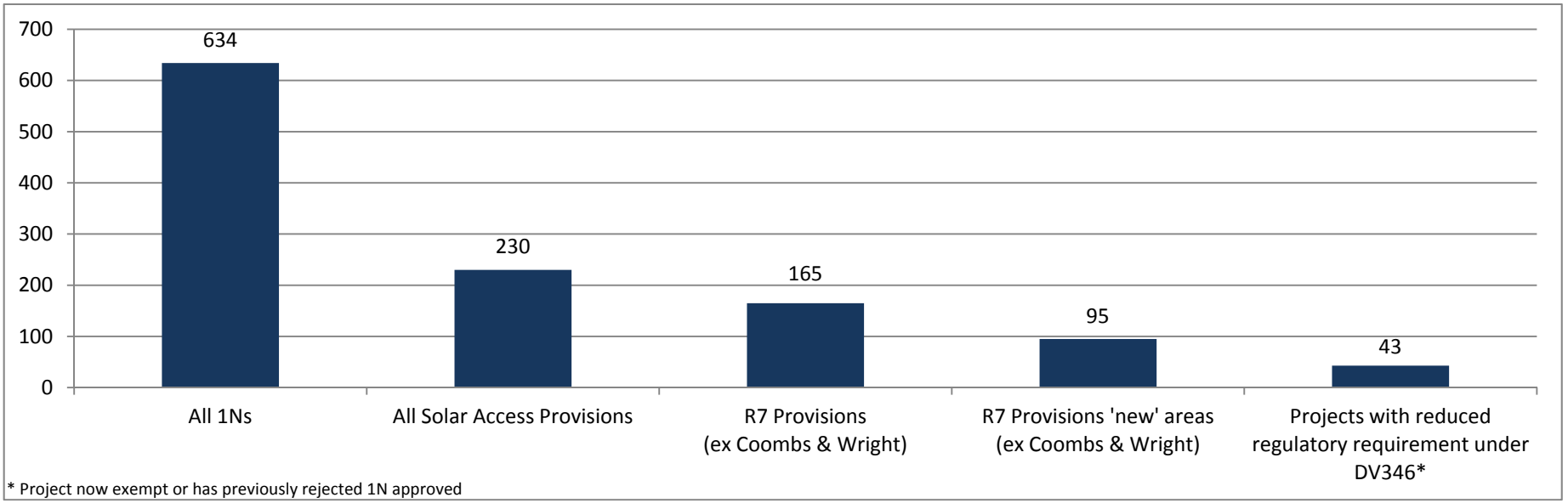


Figure 3: Comparison of Development Applications (May 2015 – April 2016)

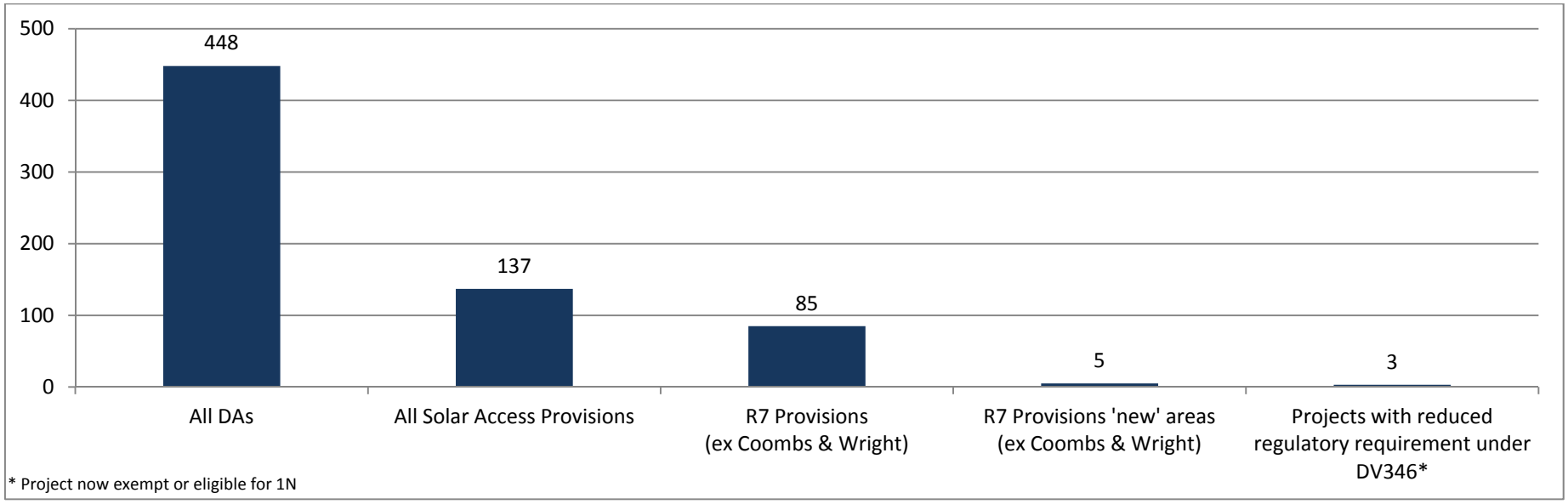


Table 4: Analysis on impact and benefits of V346 and the amendment regulation

	Summary	Cost	Benefits
Government	The changes from V346 and this amendment regulation will result in the Authority processing and assessing fewer exemption declarations and development applications. The Authority estimates a reduction of almost 7% of all 1Ns (this is a 45% reduction of 1Ns in new areas relating to R7 of the solar access provisions) and 1% of all DAs (this is a 60% reduction of DAs relating to R7 of the solar access provisions) as more developments will be exempt under the Act. The impact to government is expected to be neutral.	There will be a short-term time cost associated with communicating the proposed changes.	Reduced administrative cost of processing and assessing 1Ns and DAs. The loss of fees under the proposed change is expected to be outweighed by the reduced cost of processing and assessing 1Ns and DAs. Rates, land tax and payroll tax revenues brought forward as a result of reduced delay.
Business	The changes to solar access provisions as a result of V346 will result in a reduction in the administrative costs to business through fewer 1Ns and DAs as more developments will be exempt under the Act. Savings will arise from reduced fees paid to the Authority, and reduced documentation required for assessment. The proposed changes will also result in a reduction in the days delay, allowing developments to commence earlier. These changes provide greater certainty for business about how the regulatory process will apply to their developments. The impact to business is expected to be positive.	None.	*Administrative:* reduced fees and assessment documentation required to commence development. *Delay:* reduced project delays leading to earlier financial flows and better decision making.
Community	The proposed changes will result in improved solar access for Canberra residents, which will also result in reduced dwelling maintenance costs (e.g. heating and cooling). The proposed changes will also result in improved planning outcomes as they allow, particularly in new estate areas, dwellings to be located more centrally on the block, creating a more regular built form outcome. In the longer term, these reforms protect existing homes by ensuring long-term solar access is maintained and not significantly impacted by future alterations, additions or redevelopments on the adjoining site. Any reduction in access to sunlight for existing dwellings will be ameliorated by increased access to sunlight to new dwellings. In balancing the outcomes on both sides of the fence the proposed changes ensure everyone has reasonable access to sunlight. The effect of the changed provisions is to balance the current situation where an existing home has a level of protection which impedes their neighbour's ability to develop their site. In this respect, the proposed changes introduce greater equity for all Canberrans. As such, the overall impact to solar access is considered to be positive.	Some existing residential developments will have a reduction in solar access.	New residential developments will have an increase in solar access. These changes introduce greater equity for all Canberrans. Reductions in administrative and delay costs will also benefit members of the community building, redeveloping or extending their homes. It is estimated that 52% of projects likely to benefit from the proposed changes are undertaken by home owners (i.e. self-developers).

	Summary	Cost	Benefits
	The proposed changes will also have significant savings for home owners and self-developers as it is estimated that 52% of projects likely to benefit from the proposed changes are undertaken by home owners. The proposed savings in building costs (e.g. soil works and retaining walls) will reduce the overall cost of developments and make housing more affordable. The reduction in delays will help home owners move into their new homes quicker. There will be a slight reduction in public consultation processes as a result of the changes. These changes are considered to be reasonable and proportionate and a human rights analysis is included at section 5.2. The overall impact to the community is expected to be positive.		
Environment	The proposed changes will result in improved environmental outcomes. Prior to the introduction of V346, extensive excavation of soil was required for many new developments to meet solar access provisions. The environmental impact associated with excavating, transporting and disposing of this soil will be reduced under V346. Additionally, any impacts to solar energy gains will be positive. Any reduction in energy gains in existing dwellings (although not expected) would be ameliorated by an increase in energy gains in new dwellings. The impact to the environment is expected to be positive. The proposed changes are also expected to reduce storm water run-off as there will be a greater level of consolidated land on the northern side of blocks where landscaping (including plantings) can be more easily maintained.	Some existing residential developments may have a reduction in energy gains.	New residential developments will have an increase in opportunity for energy gains. Reductions in soil excavation transport and disposal will also have environmental benefits. Reduced storm water run-off and opportunities for plantings.

5. Consistency with ACT laws

5.1 Consistency of the proposed law with the authorising law

Section 133(1)(c) of the Act states that exempt development means *'development that is exempt from requiring development approval under a regulation'*.

The amendment regulation is within the parameters of the authorising law. A number of developments are currently exempt from requiring development approval. In addition, the introduction of V306 was not intended to result in the planning outcomes that are outlined in Section 1.5 of this RIS. The proposed law is also consistent with the objects of the Act.

The amendment regulation does not create an entirely new category of exempt development, rather it modifies the qualifying criteria. The proposed law is not inconsistent with the policy objectives of other laws in the ACT.

5.2 Consistency of the proposed law with Scrutiny of Bills Committee principles and Human Rights analysis

The Committee's terms of reference require it to consider whether (among other things) any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law):

1(a) is in accord with the general objects of the Act under which it is made;

1(b) unduly trespasses on rights previously established by law;

1(c) makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions;

1(d) contains a matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

The Legislation Act requires a brief assessment of the consistency of the proposed law with the scrutiny committee principles (see section 35(5)). This amendment package is consistent with the scrutiny committee principles as detailed below:

1(a) The package of V346 and the amendment regulation is consistent with the object of the Planning and Development Act in that contributes to the orderly and sustainable development of the ACT and is consistent with the social, environmental and economic aspirations of the people. The changes proposed in V346 and the amendment regulation will result in the improved application of provisions outlined under the Territory Plan and greater certainty regarding solar access for neighbours. It finds an appropriate balance for the rights of all members of the community.

1(b) V346 and the amendment regulation do not unduly trespass on rights previously established by law as outlined below. Any limitations on rights are reasonable, proportionate and justified. The changes ensure that the planning system balances the rights of all members of the community and does not preference one group living in an affected suburb over another.

1(c) While the amendment regulation itself does not result in a reduction or encroachment into pre-existing rights, when coupled with the associated V346, the total amendment package will potentially result in the reduction of third party consultation by limiting the requirement to notify third parties of development taking place. This could be taken to impact on the human right of

taking part in public life, protected by section 17 of the *Human Rights Act 2004.* However, human rights may be subject to reasonable limits, as set in section 28 of the Human Rights Act. The discussion below demonstrates that any potential engagement with human rights is appropriate and reasonable.

1(d) The changes are appropriately dealt with through the statutory Territory Plan variation process and a regulation. The Act explicitly provides for these processes and contemplates that these types of changes would be made through these instruments.

Reduction in third party consultation

With reference to section 28(2)(a) of the Human Rights Act, the Planning and Development Act has a requirement to notify adjoining premises of minor developments and the broader public of major developments. This notification alerts the community to the opportunity to provide comment on how they may be affected by the development proposal.

The requirements for public notification for merit track development applications are set out in section 152 of the authorising law. Under section 152(1)(a), the Authority may prescribe that a certain matter requires:

(a) Major public notification under sections 155 and 153 (and in some cases 154) of the Act involving public notice of 15 or in some cases 20 working days through public notice (newspaper or government website), physical signs on the relevant property and letters to owners of neighbouring properties; and
(b) Minor public notification under section 153 (and in some cases 154) involving notice of 10 working days through letters to owner of neighbouring property (or in some cases public notice through newspaper or government website).

Under section 27(3) of the regulation, applications in the merit track set out in schedule 2 of the regulation must be notified in accordance with the requirements for minor public notification as per (b) above that is as required by section 152(2)(b) and 153 of the Act.

Section 28 of the regulation made under section 157 of the Act, states that a limited public (i.e. neighbour) notification matter has a public consultation period of 10 working days. The proposed law relates to a matter set out in item 4 of schedule 2 to the regulation and as such it relates to a matter that currently requires minor public notification under the Act. Item 4 of schedule 2 refers to *"The building, alteration or demolition of a single dwelling, if the development would not result in more than 1 dwelling being on a block".*

The requirement to notify development applications and to consider third party comments is an avenue for the public to contribute to the conduct of public affairs and to have a say on how development may affect them. The proposed changes outlined in V346 will reintroduce equality into the planning system and strike a fairer balance between the rights of existing homeowners and those proposing new development. This will reduce the unintended burden of the planning system for developers, home owners and government (see section 28(2)(b) of the Human Rights Act).

With reference to section 28(2)(c) of the Human Rights Act, V346 and the amendment regulation will see a minor increase in the number of developments that are exempt from development approval. This will result in fewer developments being subject to compulsory third party consultation through the development application process as these developments will no longer be in the assessment

process that requires notification of adjoining premises of minor developments and the broader public of major developments. EPD's analysis indicates that through V346 and the amendment regulation there will be a reduction of approximately 1% in the number of Development Applications under the Act as these will now be exempt development (i.e. they will either be exempt, or will be able to proceed following the grant of an exemption declaration).

Addressing section 28(2)(c) and (d) of the Human Rights Act, this is considered to be a reasonable limitation on existing rights of the community as the solar access provisions introduced under V306 did not intend for modest developments to require additional planning approvals and subsequent consultation. The developments are of a kind that should not be subject to administrative burden given their limited capacity to impact on third parties.

The effect of V346 and the amendment regulation is that developments will have an increased solar building envelope, which means they are more likely to be able to proceed as either exempt, or once an exemption declaration is granted. This is a reasonable limitation as these types of development are considered to be modest and were not expected to be subject to unnecessary administrative burden. In addition, it is recognised that a number of proponents and home owners undertake targeted consultation on proposed developments with affected members of the community as a matter of best practice and regardless of a statutory requirement to do so. Of note, of the developments that will be subject to a reduced regulatory burden as a result of the proposed changes, many sought and received the support of their neighbours prior to lodging an application with the Authority.

There will be no changes to existing rights of third parties to seek merit review by the ACT Civil and Administrative Tribunal (ACAT) in respect to these matters as there are currently no existing rights of review for these developments under the SDHDC. This is because under current legislation these developments are of the type set out in item 4 of schedule 2 to the regulation. Schedule 2 items are excluded from third party ACAT merit review (refer to item 4 column 2 paragraph (b) of schedule 1 to the Act and section 350 and item 1 of Part 3.2 of schedule 3 of the regulation). These changes are not relevant for developments under the MHDC as these developments are not able to be exempt from assessment and approval.

The proposed changes outlined in V346 will reintroduce fairer outcomes into the planning system by balancing access to sunlight on both sides of the fence.

The above processes are provided for under the Planning and Development Act. There are no less restrictive means to reasonably achieve the variation and regulation amendment given the statutory process outlined in the Act (see section 28(2)(e) of the Human Rights Act).

Due to these reasons the proposed changes are considered to be reasonable and proportionate.

Reduced access to sunlight for some dwellings

The changed provisions will result in a reduced amount of solar access for some existing dwellings. While this is a reduction in the statutory rights of residents in existing dwellings, this is not considered to be an unreasonable limitation on these existing rights as the application of the current provisions unreasonably favour only a proportion of the community (i.e. those in existing dwellings have greater rights than those proposing new development).

When V306 was introduced, it sought to limit the development that could impact on the solar access of neighbours. This was important, as at the time, there was no solar building envelope. However, it was not the intention of V306 to have such a significant impact on the ability of new homes to be built. In this respect, it is considered that V306 unfairly elevated the rights of existing residents over the rights of neighbours wishing to redevelop or undertake extensions. As such, the provisions introduced through V346 aim to balance the community's access to sunlight and restore equity amongst the community.

Any reduction in access to sunlight for existing dwellings will be balanced against the need to increase access to sunlight to new dwellings as access to sunlight will be shared amongst the community. Owners of existing dwellings will also benefit from these changes should they choose to redevelop or extend their homes. In balancing the outcomes on both sides of the fence, the proposed changes ensure everyone has reasonable access to sunlight.

For these reasons, the proposed amendment regulation is considered to be consistent with the Scrutiny of Bills Committee's principles.

5.3 Transitional arrangements

The proposed regulation does not have retrospective effect. No transitional arrangements are necessary.

5.4 Mutual Recognition

Mutual recognition is not applicable in this circumstance.

6. Conclusion

6.1 Review

The Authority regularly reviews the policy content in the Territory Plan. Reviews aim to ensure the Territory Plan remains a contemporary best practice document outlining planning requirements in the ACT.

Regular reviews identify policies that may need amending and any provisions that need to be added. Minor changes to the Territory Plan can be made by technical amendment, while more complex changes or those requiring policy changes are made via full variations to the Territory Plan.

In accordance with existing processes outlined in the Act, the changed solar access provisions introduced under V346 and the amendment regulation will continue to be monitored and reviewed. In addition, the application of similar solar access provisions for existing areas will be considered following further analysis and consultation with the community and industry.

6.2 Recommendation

The proposed changes under V346 and the amendment regulation will implement improved solar access outcomes, improve housing affordability and reduce red tape by streamlining the number of 1Ns (by 7%) and DAs (by 1%) required for developments under the SDHDC. It is estimated that 52% of projects likely to benefit from the proposed changes are undertaken by home owners (i.e. self-developers). It is also expected to result in improved design and planning outcomes for developments undertaken in accordance with the MHDC.

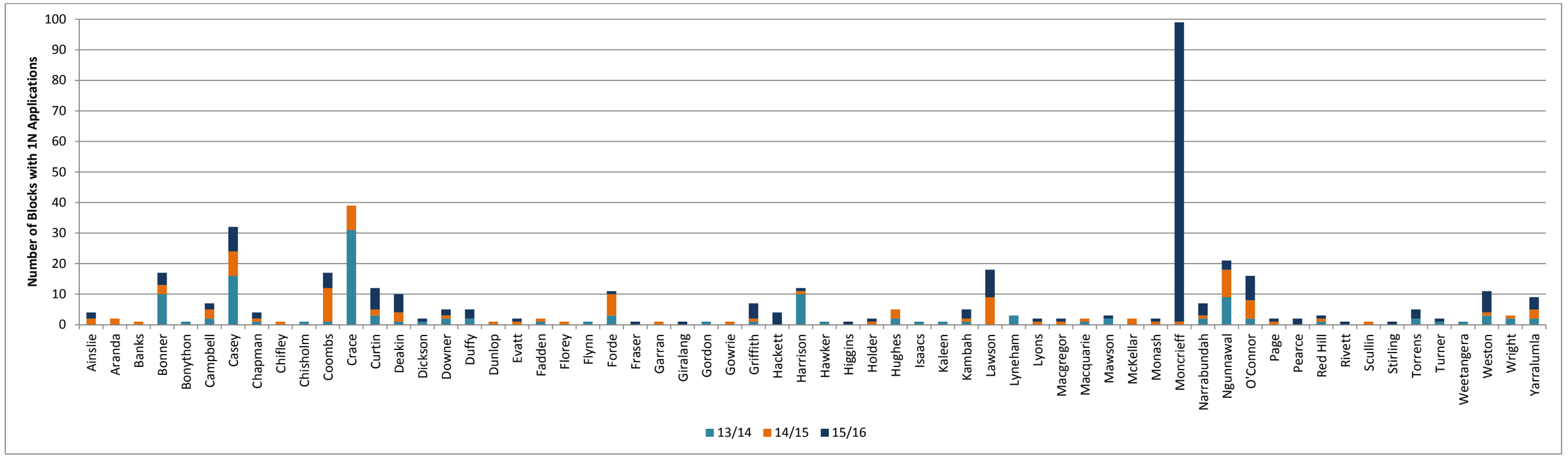
These changes are estimated to result in over $133,300 savings to government, business and the community a year.

Careful consideration has been given to ensuring the residential solar access provisions in the Territory Plan continue to protect the solar access and solar amenity of residential blocks, facilitate passive solar design and active solar technology, and contribute to energy efficiency.

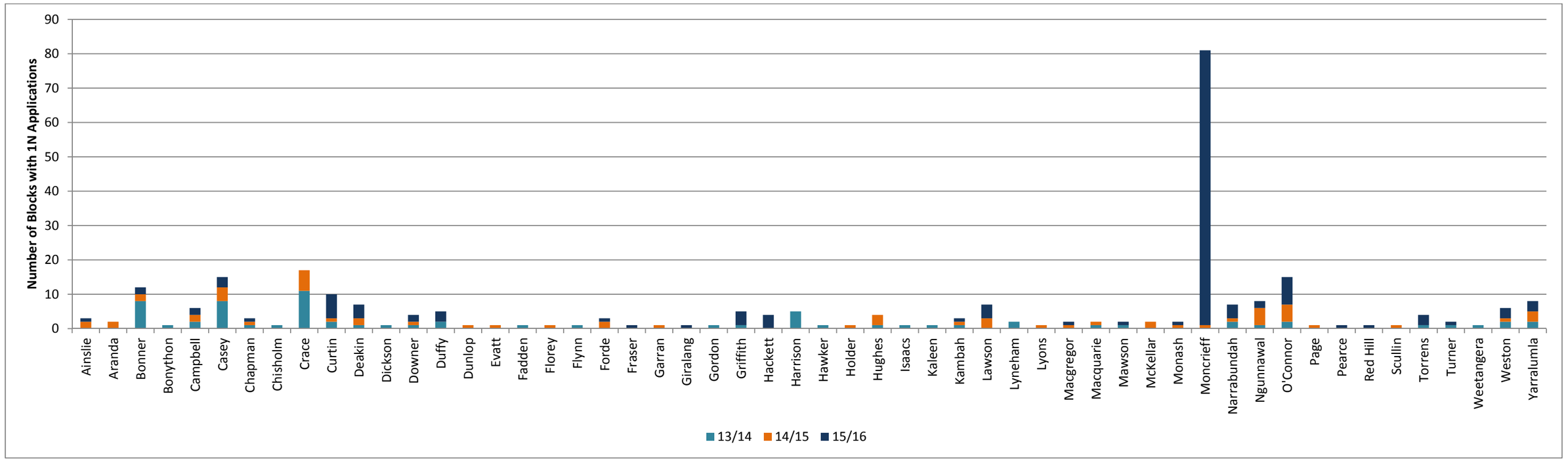
In addition, reducing construction tolerances will result in the final form of dwellings being more likely to reflect the prior expectation of community and government and improve certainty regarding solar access for neighbours.

Attachment A: Projects relating to solar access provisions (by suburb)

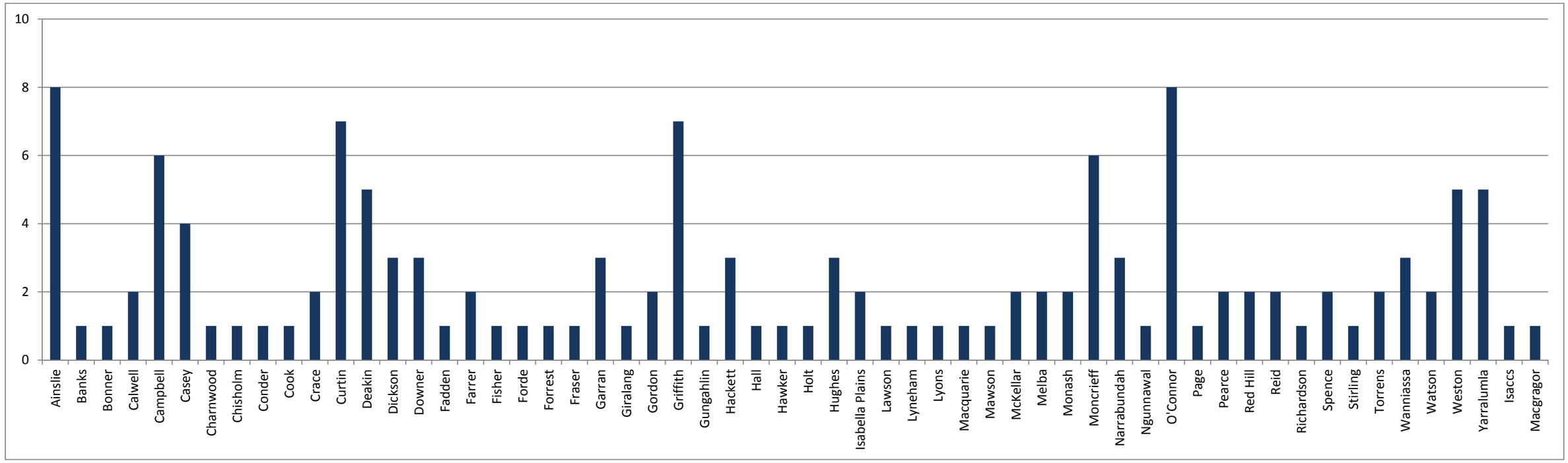
Number of Exemption Declaration (1N) Applications (per block) relating to V306 Solar Access Provisions (both 'new' and 'existing' areas)



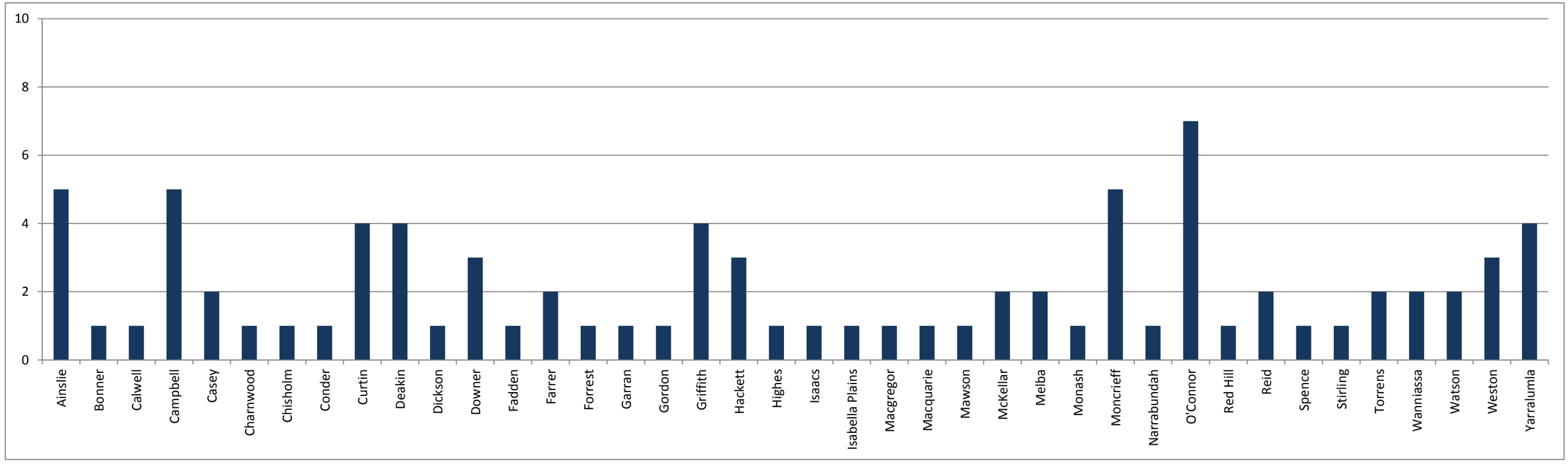
Number of Exemption Declaration (1N) Applications (per block) relating to R7 from commencement of V306 to Present (both 'new' and 'existing' areas)



Number of Development Applications (per block) relating to V306 Solar Access Provisions from May 2015 – April 2016 (both 'new' and 'existing' areas)



Number of Development Applications (per block) relating to R7 from May 2015 – April 2016 (both 'new' and 'existing' areas)



Attachment B: Methodology for calculating savings from the changed Solar Access provisions

SNAP SHOT OF METHODOLOGY FOR CALCULATING SAVINGS

Step 1: real data from the Directorate's databases was interrogated. Data was filtered to only include developments that: are single dwelling and relate to Rule 7 of the Single Dwelling Housing Development Code; were lodged after V306 (5 July 2013); are located in 'new' suburbs (excluding Coombs and Wright).

Step 2: two areas of potential savings were identified:

- **administrative savings:** reduced administrative activities from a reduction in the number of Exemption Declaration (1N) or Development Application (DA) approvals under the *Planning and Development Act 2007* (the Act).
- **delay savings:** reduced time delay from fewer approvals required from the planning and land authority (the Authority).

Step 3: consider the total number of developments from Step 1 lodged in the past 12 months and select a random subset of development (45% for 1Ns and 60% for DAs) to quantify the regulatory change of the changed provisions.

Regulatory Change = Baseline – Proposed V346

- **Baseline:** number of projects that require a 1N or a DA based on requirements of V306.
- **Proposed DV346:** number of projects that are exempt, require a 1N or a DA based on the proposed provisions in DV346 (and reduced construction tolerances as a result of the amendment regulation).

Step 4: calculate administrative savings

1. Estimate the cost of each administrative activity that applies to the planning approvals process (e.g. 1N or DA fees, completing an 1N or DA form).
2. The costs associated with each stage is considered separately:
   - **Application**: there will be a reduced number of developments that require a 1N or DA application.
   - **Assessment:** There will be a reduced number of developments that require a 1N or DA to be processed and assessed by the Authority.
3. Apply the associated costs to both the baseline and proposed V346 datasets to determine the regulatory change.
4. Extrapolate cost savings of regulatory change to total number of developments (n = 100) based on proposed DV346 dataset.

Step 5: calculate delay savings

1. Determine the number of days delay occur to developments in the baseline and V346 datasets.
2. Cost delay for each development under both baseline and V346 datasets using:
   - $420 average rental costs per week for private developments (i.e. where the proponent is the home owner), and
   - $247 per day for business developments (i.e. where the proponent is a private development company). This is based on a daily rate for the loss on profit of an average development ($450,000) with a conservative margin (10%).
3. Extrapolate cost savings of regulatory change to total number of developments (n = 100) based on proposed DV346 dataset.

Step 5: Combine administrative and delay savings to calculate the estimated cost savings.

Total administrative savings: $66,445 + **Total delay savings: $66,869**

Estimated cost savings from proposed Solar Access provisions: $133,314

Note: this methodology results in a conservative estimate. Additional administrative and delay costs are discussed subjectively in the Regulatory Impact Statement

Step 1 - real project data from the Directorate's databases was interrogated

The Environment and Planning Directorate (EPD) maintains a database that contains records of exemption declarations (1Ns) and Development Applications (DAs) under the *Planning and Development Act 2007* (the Act).

The Directorate interrogated data for projects which required a 1N or DA since the introduction of Variation 306 and filtered records to include:

- developments under the Single Dwelling House Development Code (SDHDC); and
- relate to solar access rules; specifically Rule 7; and
- are located on blocks approved under an estate development plan on or after 5 July 2013 (excluding Coombs and Wright).

Step 2 - assumptions applied based on changes expected under V346

A number of assumptions were made to identify changes that could be expected if developments were subject to the changed provisions in V346.

The main assumptions are:

1. The size and style of houses being developed in Canberra will remain the same.
2. V346 will only result in regulatory changes relating to Rule 7 of the SDHDC (i.e. changes to other rules are administrative and not significant).
3. There will be no regulatory change for developments that relate to Rule 7 in addition to one or more rules (with the exception of Rule 12) (i.e. 1Ns or DAs will still be required where other rules cannot be met under the SDHDC).
    - Where developments relate to Rule 7 and Rule 12 of the SDHDC, these will be assessed for regulatory change as Rule 12 is often triggered in response to developments being unable to meet Rule 7.
    - Given the small dataset of projects requiring a DA all of these projects were assessed for regulatory change.
4. Where developments have been referred to the Authority and a 1N or DA has been refused, it is assumed that these developments have been redesigned to be compliant (i.e. these developments still occurred).

Step 3 - two areas of potential savings were identified

The Directorate identified two types of savings that are expected as a result of V346 and the amendment regulation:

1. Administrative savings – reduced duplication in administrative activities as a greater number of developments will be exempt, or require a reduced level of regulatory approval.
2. Delay savings – reduced time delay from requiring approvals under the Act.

Administrative savings

Some of the types of administrative savings are that proponents will:

- not have to pay an application fee to lodge a 1N or DA under the Act
- not have to prepare a 1N or DA form for the ACT Government

- avoid costs associated with preparing additional plans (e.g. notifiable plans, shadow diagrams etc which are not required for the Building Approval process) for assessment by the Authority.

A number of assumptions were made to calculate administrative savings:

- The number of developments over the past 12 months (May 2015 – April 2016) that require a 1N or DA is representative of future years.
    - While it is noted that the number of 1Ns peaked in 2015/2016 as a result of development in Moncrieff, this trend is anticipated to continue in the future due to similar topographies and block sizes in new estates (e.g. Denman Prospect, Throsby, Taylor).
- Estimates were made about the time spent on each administrative activity and combined with ACT Government salary information and an estimated average hourly rate for professionals to develop plans (e.g. draftsman, architect). These assumptions were based on the experiences of assessment officers and feedback from industry.

Delay savings

A reduction in delays is expected to be the major cost saving from V346. These savings are realised as a greater number of developments will be exempt (i.e. development can begin as soon as a Building Approval is granted) or the time taken to undertake an assessment will be reduced as developments that required a DA are now exempt or able to commence following a 1N approval.

Delay savings are measured by comparing the current assessment and approval timeframes to expected timeframes under V346. Where a project which previously required a DA, would be approved as a 1N under V346, the delay time is calculated as being up to 10 days. This approach is consistent with the conservative nature of the assessment as the majority of 1Ns are assessed in two days (the average delay time for 1Ns is six days).

Step 4 - calculate administrative savings

To calculate administrative saving, a proportion of projects were randomly selected using the process outlined in Step 1. These developments were reassessed by development assessment officers against the changed provisions in V346.

Based on this assessment, a proportion of developments in new areas that would no longer require either a 1N application (45%) or DA (60%) were calculated. For 1N developments this proportion was then extrapolated and randomly applied to the total number of relevant developments identified in the Directorate's database from 12 months between May 2015 and April 2016. As outlined above, all DAs were reassessed for the expected regulatory change under V346.

Administrative savings were calculated for each stage of the assessment and approval process separately. These savings were developed in consultation with industry. The following areas of saving were identified:

Application

- Proponents will no longer have to pay fees to lodge an application. As the calculation is a conservative value, the 2015/16 application fees were used. It is noted that these fees will increase in 2016/17 and as such, the savings associated with V346 for proponents will be greater.

- In addition, proponents will not have to prepare an application form or supporting documents for assessment and approval by the Authority.

Assessment

- There will be a reduced number of applications required to be processed and assessed by the Authority.

The expected savings for each stage of the process were combined to calculate the total annual expected administrative savings from V346, of approximately **$66,445** a year.

Step 5 – calculate delay savings

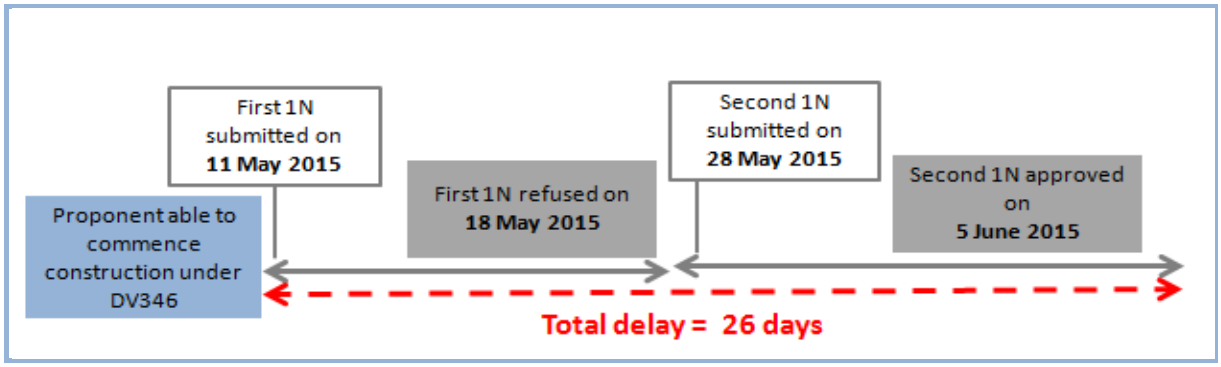
To calculate delay savings, the subset of projects selected to calculate administrative savings was further interrogated to determine the number of calendar days delay as a result of having to meet the requirements of V306 (i.e. the number of days delay that will be avoided as a result of V346).

Based on this, 100 projects were considered to calculate delay costs according to the method below. Similarly to the method for calculating administrative savings, the delay for a proportion of developments expected to have a reduced regulatory requirement under V346 were calculated. This proportion was then extrapolated and randomly applied to the total number of relevant developments requiring a 1N identified in the Directorate's database from the last 12 months.

Total delay

The total delay for each project was calculated using the number of calendar days between when a 1N or DA form was lodged with the Authority, and when a decision that permitted development (i.e. either a 1N approval or Decision Notice) was granted. An example is shown below at Figure 1.

Figure 1: calculating delays



Putting a value on delay

The cost of a delay for each project was calculated by applying the following costs at a prorated rate:

- *For individual developers (i.e. those developing their own home):* the biggest cost of delay is the cost of alternative accommodation while their home is being built.
    - Under this scenario an average weekly rental costs of $420 per week has been applied.[7]
    - This is considered conservative as it is recognised that:
        - different families have varying accommodation requirements. These requirements may result in a dwelling that is leased for more than the average weekly rent applied, and
        - rental leases do not often permit week by week tenancies and an eight week delay will often result in greater costs than eight weeks of rent.
    - While it is acknowledged that some home owners will continue living in a house they own while navigating the planning process, the cost of two mortgages is considered to be greater than the average weekly rent. As such, application of a weekly rental amount is considered to result in a conservative estimate.
- *For professional developers:* the biggest cost of delay is loss of profit.
    - This is calculated to be the loss of profit on an average development ($450,000) with a conservative profit margin (10%). The loss is calculated on the life span of the project (average six months).
    - Based on this the cost of delay would be $45,000 profit lost over a period of 182.5 days, which would result in a delay cost of $247 per day.
    - This estimate is considered to be conservative and it is acknowledged that there are a range of other costs that are likely to be reduced as a result of the proposed changes (e.g. the estimated cost of ground works, including excavation and retaining walls for a site in Moncrieff is $40,000 per block).
    - While it is acknowledged that some developers have on site costs based on an expected date of approval, feedback from Industry indicates that the majority of developers do not invest in site preparation (e.g. fencing, facilities) until final approval is granted.

Total delay savings expected from V346 are **$66,869** a year.

Step 6 – total savings to business from V346

Administrative and delay savings were combined to calculate the total economic saving of over **$133,300** a year from V346.

[7] See ACT Government, *Cost of Living*, Canberra Your Future at: http://www.canberrayourfuture.com.au/portal/living/article/cost-of-living/