

Woden Valley Community Council Inc.

The logo for Woden Valley Community Council Inc. features a stylized green and blue graphic of a building or landscape element to the right of the text.

PO Box 280 Woden ACT 2606; e-mail: info@wvcc.org.au

The Committee Secretary

Standing Committee on Planning, Environment and Territory and Municipal Services

committees@parliament.act.gov.au

Woden Valley Community Council Submission on the Planning and Development (project facilitation) Amendment Bill 2014

WVCC has a number of concerns about this Bill, relating both the content and context of the Bill.

1 Exacerbation of existing conflicts of interest

The ACT Government has a conflict of interest regarding the planning and development of the ACT. This is because the government (to a far greater extent than the governments of the States) combines the roles of developer, planner and regulator. The ACT government plays the role of developer through its control of unleased land, and via the activities of the LDA and other public agencies with significant land holdings such as ACT Housing; it has planning powers which combine those of State and local governments (through its powers over strategic planning and policy and legislation) and it is also the regulator of development (via ACTPLA compliance activities and DA approvals). The effect of the Bill will be to exacerbate this problem, because it gives the Executive enhanced powers which effectively over-ride the few checks and balances that exist.

2 Excessive Executive power and politicization of planning

Once the government (the Executive) decides a project of significance is to be declared, or a special precinct area is required, development will proceed, no matter what the counter-arguments might be, and no matter what the existing Territory Plan might say. All that is needed is for the Assembly not to disallow the instruments that give effect to these intentions.

Once the relevant instrument has passed through the Assembly, development applications (which can be lodged in anticipation of this event) can then be approved by the Minister (the 'decision-maker'). This means that decision-making in relation to designated projects and precincts has been removed from the planners and resides solely with the political executive.

Territory Plan variations, which under current arrangements would be referred to the Assembly for inquiry and report, will occur automatically once the fast-track instrument is invoked. In addition,

the Bill allows for existing planning regulations (such as codes and lease provisions) effectively to be waived for special precincts (s95). As has been widely noted, the powers given to the Executive under this legislation, to make declarations to over-ride the operations of tree protection and heritage legislation are unnecessary, and set a dangerous precedent.

3 Inadequate time for public consultation

Fast-track proposals allow only 30 working days for public consultation. This is clearly inadequate for public comment on projects which will have far-reaching significance for the future of Canberra. Adequate consultation is necessary for both accountability and for improved decision-making. Citizens (and businesses) have much to contribute to these processes, and on a number of occasions, public reaction has resulted in the withdrawal of development applications which were manifestly inadequate and unsatisfactory. Governments should be enhancing this safeguard, rather than restricting it.

4 Constraint of appeal rights

Appeals must be lodged within 60 days of the fast-track decision being made (s137M). The effect of this measure will be further to reduce any effective government accountability in relation to special projects. On many occasions, appeals have uncovered flaws in ACTPLA decision-making. It is important that adequate appeal rights be maintained.

5 Legislation is unnecessary

The ACT government already possesses ample powers to stimulate development. The current legislation does nothing to make call-in powers more transparent (they remain virtually unchanged), while distorting the entire planning and approvals process whenever and wherever the government wishes to invoke the fast-track provisions.

The problems that have occurred with the existing planning legislation, which frustrate the community and developers alike, will not be resolved by this legislation. As the community councils have long argued, greater clarity is needed in the administration of the existing rules, rather than watering them down. Urgent attention should also be paid to the need to attract and retain skilled planners in the ACT.

If required, Dr Stewart is willing to appear at the Assembly's public hearing on the Bill on 24 April.

Dr Jenny Stewart

Chair

Woden Valley Community Council

21 April 2014