

Comments on the Planning and Development (Project Facilitation) Amendment Bill 2014

The new Bill will clearly make planning more political as the planning for possible large, and certainly important, areas of the territory can be basically determined politically. If the government has a majority in the Assembly then using the 'major project' or 'special precinct' powers will mean that it can operate the planning system without significant public consultation, it is so chooses. Each party should consider what could happen if their political opponents were in power.

I do not think there has been sufficient public consultation on this bill. I won't dwell on this point because I am confident that others will be making it as well. It is unfortunate as in the public mind it could well be taken as indicating how much attention (none on the original timetable) the government intends to pay to any public consultation about planning issues that are determined under the provisions of the bill.

This submission is only brief comments on the bill – I have not had time or expertise to be confident that I understand all the implications of the bill.

The major project power appears to be as well as the current call-in powers. Earlier press reporting gave the impression that the new 'fast track' would eliminate the call-in powers. I do believe that a planning system does have to have a provision for limited political/executive override. One reason is competing priorities. It would be great to keep all heritage, all trees and redevelop Canberra as a sustainable 21st century city. Not all of these things can be done for some parts of Canberra and decisions on priorities have to be made. The important thing is to ensure that the override of the normal planning process is made with good public consultation and professional advice so we get a good outcome, not just an expedient outcome.

The bill has 4 parts to it as described on the ACTPLA website.

1. *The Bill would allow the Government to vary the Territory Plan to identify a special precinct area for priority development through a disallowable instrument. The variation would permit adjustments within the precinct area by technical amendment and would remove third party ACAT merit review of DAs.*

This is the most worrying proposal. Territory plan variations are significant, and the main time when there is meaningful public consultation in the planning system. Technical variations have very limited publicity and consultation and this gives the potential for a significant reduction in public involvement.

The 'example' that is included in the bill does not make the case of needing the special precinct area in my opinion. The plans for the secure mental health facility have been around for I think about 5 years. There would have been ample time for the government to put forward a territory plan variation, if it had wanted to.

See additional notes below.

2. *The Bill would allow the Government to declare a proposed key project of major public importance by disallowable instrument. Development approvals that were part of the declared project would not be subject to ACAT merit review while judicial review by the ACT Supreme Court would be limited. Following the approval process by the planning and land authority the Planning Minister will be the final decision-maker.*

This is presumably the main change. As the Planning Minister can already 'call-in' specific DA's this is presumably going to be used for large areas over extended time periods. The areas

adjacent to Northbourne Avenue have already been proposed as a 'major project' area. This is of course a complicated area. It has tree and heritage issues as well as being the entrance to Canberra, an area of significant redevelopment, home to thousands of people and Canberra's first light rail. The government has potential conflicts of interest as it is the owner of most of the land and seeking to get the best financial return on one hand. However as the local government it is also the provider of a public transport system and guardian of planning (and other) outcomes such as the provision of public housing for the whole city.

One likely result of declaring an area to be a major project is that the small army of residents who look at DA's will become less vigilant. They do a valuable service to the planning system in checking compliance with the rules in a way that ACTPLA does not seem to have the resources to do. I expect that, as they know the government will just approve the development anyway, they will become less vigilant.

Also see additional notes below.

3. *The Bill will allow a developer to lodge a development application on the basis of a proposed draft Territory Plan variation. Currently, the development proposal would need to wait 6-18 months for the Territory Plan variation to be realised and implemented. This will enable the development application to be notified and assessed before the proposed Territory Plan variation comes into effect. Importantly, the DA will not be able to be decided until after the variation comes into effect.*

This is probably sensible. I share Mr Coe's reservations as expressed in the Planning committee hearing, but I think that Mr Corbell comments are also correct.

4. *The Bill will allow a DA and an Environment Impact Statement (EIS) to be lodged, notified and assessed concurrently. The current process requires the development proponent to complete the EIS process (including public consultation) prior to lodging the DA. This new process may save months and even years from the process for environmental assessment of a major proposal.*

This would also seem to be sensible.

Additional notes with respect to 1 and 2:

- It would be useful to include clear examples of projects that would not be significant enough to warrant the 'major project' or 'special precinct' status. They could be part of the ministers speech or the explanatory statement. The minister could review the past few years call-ins. Presumably the Cotter Dam would qualify as a major project. Would anything else? This would help alleviate the understandable concerns of people who see that this legislation could be used to declare much of Canberra a 'major project' or 'special precinct' and thus remove most public consultation.
- I understand that the declaration that an area is a 'major project' or 'special precinct' must include a time frame. This is good, but it would be better if there was a maximum period stated in the legislation. Possibly a maximum of 4 years would be appropriate as it would give time for much work to be approved while ensuring that every legislative assembly reviews all declarations.

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