



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON PLANNING, TRANSPORT, AND CITY SERVICES  
Ms Jo Clay MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair),  
Mr Mark Parton MLA

## Submission Cover Sheet

### Inquiry into Planning Bill 2022

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## **Submission from Bruce Paine on the Inquiry into the Planning Bill 2022 by the Standing Committee on Planning, Transport and City Services**

Thank you for inviting Submissions.

My submission follows. I would welcome the opportunity to discuss the Bill with the Committee.

In some areas the Bill proposes welcome improvements to the current law and practices, for example it greatly clarifies processes.

However, the Bill also still contains material shortcomings that should be subject to inquiry and recommendation(s) by the Committee. Some of these are outlined below.

1. The impact of the Bill on the community will be significantly influenced by the content of, inter alia, the Territory Plan and District Strategies, however neither of these documents has yet been finalised by the Government.

While the Bill is legally a stand-alone document, in practice its impact (assuming it is legislated by the Assembly) will be heavily influenced by the Plan and District Strategies. Hence, to a significant extent, it is not possible for the community to comment on the Bill without having access to a final version of the former documents. Furthermore, it is arguably unreasonable for the Assembly to expect the community to comment on the Bill in this circumstance.

Hence, there is a strong case for the current Inquiry to be paused and then recommenced when the operative parts of the proposed Planning System can be concurrently considered by the Committee, the community, and the Assembly.

2. The Bill appears to leave too much discretion with the Planning Authority, Chief Planner and/or the Minister.

There is a good case to limit the impact of this discretion by stipulating mandatory minimum standards, only allowing departure from those in truly exceptional circumstances, and preserving 'appeal' rights if the mandatory minimum standards are not met.

The latter could be preserved by, in cases where the minimum standards are not met, allowing appeal to ACAT (or in the case of decisions by the Minister, to require those to proceed via disallowable instrument presented to the Assembly).

3. It is not clear from the Bill or Explanatory Statement whether the proposed planning regime represents 'best practice' or how it compares with other jurisdictions. For example, the Statement (at pages 6 and 11) merely refers to practice elsewhere however no evidence is provided.

There is obviously material precedent available in Australia and overseas, and that probably is relevant for the Committee's Inquiry.

There is a good case for the Committee ensuring that the Government provides relevant 'compare and contrast' studies to the Committee and as importantly the community. These cannot in practice cover every aspect of the Bill, however they should cover critical aspects such as the extent of discretion proposed by the Bill (see 2, above).

4. The Bill does not ensure good outcomes across the ACT for various reasons, including because the Government has essentially exempted itself from the Bill in some areas.

This is akin to 'one rule for them, and another for us (ie the Government)'.

For example, the Bill exempts Light Rail and Town Centres from important aspects of the planning regime.

Given that these are significant, exempting them from the Bill essentially means that poor planning can proliferate in those areas.

It would be much better for the Bill to stipulate and ensure good planning and outcomes, and for those to apply across the ACT regardless of whether the private sector or the Government is the project proponent.

Furthermore, arguably, providing an exemption for the Government's projects raises the possibility of corruption – reflecting that there would be an incentive for an erstwhile private proponent of a project to encourage the Government to instead be the proponent, so the project is exempt from the Bill.

Bruce Paine

17 November 2022