



The Secretary
Standing Committee on Planning, Transport and City Services
ACT Legislative Assembly
GPO Box 1012
Canberra ACT 2601

LACommitteePTSC@parliament.act.gov.au

Inquiry into the Territory Plan and other “associated documents”ⁱ

1. The GNCA thanks the Committee for the opportunity to make this Expression of Interest (EOI). It urges the Committee not to accept the false belief that community associations resist change and development. The GNCA understands and accepts the need for infill but asks that it be done to minimise climate change impacts and maintain our Garden City amenities.
2. Since our previous submissions, the world has experienced the highest September temperatures; the highest July temperatures in Australia; and the hottest northern hemisphere summer temperatures. The UN Secretary-General has said that “leaders must lead” in responding to climate change. Meanwhile, the ACT government has tabled the Planning (Exempt Development) Regulation; notified several Notifiable Instruments (NI) relevant to our area;ⁱⁱ and provided the Territory Plan (the Plan) Expanded Report and Consultation Response Report.
3. The GNCA answers the terms of reference questions as follows:
 - a) *What the policy goals are for the new system and whether the new system is able to meet these goals.*

As the policy goal for the new system appears to be to give the unelected members of The Planning Authority (TPA) virtually unbridled control of territory planning to achieve unchecked development, the goal has been accomplished. Assertions that the changes simplify the planning system are not true.
 - b) *How Variation 369 and the ACT Government’s commitments to Living Infrastructure targets are embedded in the Territory Plan, as per the Committee’s earlier commitment to inquire into its implementation within 12-18 months of its commencement.*
 - c) As living infrastructure targets are not embedded in the Plan or given any real “bite” in the supporting documents, it has not and cannot be achieved. Similarly, the Urban Forest Strategy targets seem unlikely to be achieved with this ‘hands off’ approach.

“The Greens have campaigned for years and delivered government commitment to Living Infrastructure policies that ensure we have 30% tree canopy coverage and 30% permeable surfaces to cool our city.” This policy is no longer achievable.
4. The extent of our government’s delegation of planning is now clear. **This relinquishment of control and responsibility, and introduction of an untried system, comes at a time when it is imperative that our city responds appropriately to climate change.** Yet the Territory Plan and its supporting documents, by going too far in swingeing deregulation away from a rule-based system, have removed necessary mandatory controls to prevent heat islands, preserve canopy cover and open green spaces and ensure the maximum use of renewable energy, and vitiated any possibility of mandatory passive solar design requirements.

3. The Plan and the main supporting documents - the district strategies, design guides and technical specifications – are all notifiable instruments (NIs). That is, they are delegated or secondary legislation. Delegation is useful for those who govern, especially bureaucrats, but must be balanced against the just expectations of constituents including their rights to clean air, property and staying alive!
6. Examples of this wholehearted and inappropriately relinquished control of planning are the:
 - lack of mandatory controls to address climate change (see para 7 below);
 - use of the NI device for the Plan and the supporting documents that exclude adequate parliamentary scrutiny;
 - concentration of power in the TPA in preparing and implementing the Plan. For example, everyone, including the Executive and Ministers must act consistently with the Plan which is prepared by the TPA and largely amended at their discretion;
 - undue and largely unacknowledged restrictions on the powers of the Legislative Assembly;
 - undue constraints on the powers of the Executive and Minister;
 - limitation of legal challenges to provisions of the Plan;
 - weak “consideration” only required of principles in the guides, giving planners wide discretions;
 - vague and nebulous principles to be followed instead of mandatory controls.
7. Of particular concern are the **lack of mandatory controls to mitigate the effect of climate change**. Protection of canopy cover and green spaces depends on discretionary outcomes and is unenforceable. Open space on blocks is insufficient and unenforceable. Limitations on permeable surfaces on blocks is inadequate and unenforceable. At best there will be conditions applied to DAs, but certification of compliance is to be done by certifiers paid by the proponent! In addition, reassurances about compliance and enforcement are hollow. For example, in answer to a question about how reports on compliance assist learning, the ISCCC was recently told that this is done through informal, unrecorded meetings that “might” result in improvements in the delegated legislation and policies.
8. In the GNCA’s experience, ACTPLA’s mission often appears to achieve development at any cost. The new Territory Plan and the supporting documents, with their ambiguous, vague, subjective, words and lack of controls, embeds this mission legislatively for the TPA. We note that there will be rules for DA-exempt proposals, but not for those requiring a DA. This inconsistency does not make sense.
9. The GNCA would welcome an opportunity to discuss its concerns with the Committee.

President, Griffith Narrabundah Community Association

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ⁱThe GNCA interprets the term “associated documents” in the Committee’s terms of reference in accordance with its general meaning and not the meaning ascribed to it in the *Planning Act 2023* s.501. That section defines associated documents as including various documents associated with development applications such as environmental impact statements. We assume that it is the **supporting** documents of the Territory Plan that the committee is examining. The supporting documents are referred to in the Territory Plan (see Part A on Administration and Governance).

ⁱⁱ 42 NIs on planning were notified during the three-week period from 11 September to 3 October. That is 14 NIs per calendar week or two per day. The GNCA suggests that this is a record.