

The Committee Secretary
Standing Committee on Planning and Urban Renewal
Legislative Assembly for the ACT
GP Box 1020
CANBERRA ACT 2601

**HUGHES RESIDENTS' ASSOCIATION SUBMISSION TO
THE INQUIRY INTO ENGAGEMENT WITH DEVELOPMENT
APPLICATION PROCESSES IN THE ACT**

Dear Sir or Madam,

Hughes Residents' Association thanks you for the opportunity to make a submission to the Standing Committee on Planning and Urban Renewal's Inquiry into Engagement with Development Application Processes in the ACT.

We are grateful for your interest in this matter, which has been of long-standing concern to community organisations and to many thousands of Canberra residents.

We trust that your Inquiry will bring about much-needed change to current arrangements, to ensure that residents have a real say in the future of our neighbourhoods and our National Capital, and that development is based on the needs and best interests of our community, rather than those of developers.

Comments and Recommendations against the Terms of Reference (TOR)

- 1) *Community engagement and participation in the Development Application process including:*
- a) *the accessibility and clarity of information on Development Applications and Development Application processes, including Development Application signage; the Development Application finder app; and online resources;*

The accessibility of Development Applications (DAs) is woefully inadequate. Unless you actually share your fence line with the development, notification is likely to be in the form of bulldozers and wrecking machinery arriving at 7 am to knock down a nearby dwelling, denying you any opportunity to look at the plans and raise any concerns. Many Hughes residents have told us their horror at finding out in this way about knock down/rebuilds and other major building works which rob the neighbourhood of precious green space, mature trees and gardens and solar access.

Even if notified, this is often in the form of an uninformative postcard in the letter box, so that residents are forced to seek more information from their neighbour or the builders on site, which many residents are reluctant to do, for fear of straining neighbourly relations. Some residents have accepted verbal assurances from neighbours which have sadly turned out to be false.

Even DAs which are available on the DA app are a plethora of documents full of unclear and technical information, making it impossible for an ordinary person to find key information, such as the impact on solar access for neighbouring properties or the loss of trees and green space.

Current signage arrangements are inadequate. For example, the only notification of the current DA for Section 66 Deakin (Kent Street), apart from its listing on the DA app, were two small signs, one in an empty cul-de-sac used only by office workers parking their cars, the other cloaked in shrubbery at least 10 metres from a busy road with no place to stop (see attached photo taken from Kent Street).



This is despite the significance of this DA, for a 41-fold increase to the building footprint on endangered yellow-box woodland, which has been the subject of community outcry, including a petition signed by over 3,100 people.

The Development Finder app is an excellent start, but it only includes some DAs. As an example, we are currently not able to find any reference to the Section 66 Deakin

(Kent Street) DA which is currently awaiting decision, under district, DA number or closing date, despite huge community interest including recent coverage in television, newspaper and online media platforms.

Recommendations relating to TOR 1(a)

1. All current Development Applications should be available on the Development Application Finder app, particularly including any building works increasing the building footprint or reducing green space, and all applications awaiting decision, which should include an expected decision-making timeframe.
2. Any DA which proposes an increase in building footprint, a reduction of green space, loss of native woodland or grassland or removal of mature trees should be notified by a large and prominent sign by the main access to the premises, at the local shopping centre on a dedicated ACT Government noticeboard, and by letter box drops to all houses and offices within at least a 200 metre radius, increasing depending on the size of the proposed development.
3. All Development Applications should be required to show, prominently on the first page and in a set format, the proposed building footprint, plot ratio, solar envelopes, set-backs, proposed removal of trees and loss of native woodland or grassland, with a plan illustrating changes compared to the existing layout, and any other matters potentially reducing green space, solar access, tree cover, the natural environment and the amenity of neighbouring residents.
4. The Development Finder app should be linked to ACTmapi and/or other Government resources in a way that enables an ordinary person to quickly and easily check the status of the block, including zoning and other key matters.
 - o *b) pre- Development Application consultation and statutory notification processes; and*

Hughes Residents' Association commends the ACT Government's recent community consultation initiatives on development in our local area, including the Community Panel on the Federal Golf Course development, commencement of development of an Integrated Plan for Red Hill Nature Reserve and Surrounds, and work on the Curtin Master Plan and Woden Precinct Code.

Unfortunately, the current DA arrangements allow unfettered ad hoc development to proceed even before people have had their say, while these planning processes are still underway.

Developers such as Hindmarsh, in the case of Section 66 Deakin (Kent Street) have openly said in their DA documentation and in media that they have submitted a DA for an "interim" use of the blocks to pre-empt the requirements of the Integrated Plan

for Red Hill Nature Reserve and Surrounds, which explicitly identifies this Section for protection.

Despite the extraordinary scale of the proposed lease variation for Section 66 Deakin, comprising a 41-fold increase in the building footprint on endangered yellow box red gum woodland, there was no consultation on this DA and no requirement for consultation or adequate notification.

There was no notification other than the inconspicuous signage mentioned above and the listing on the DA website.

Despite sponsoring a petition signed by over 3,100 local residents and being represented in the stakeholder consultation process to develop the Integrated Plan for Red Hill and Surrounds which specifically protects this area, Hughes Residents' Association, Deakin Residents Association, Garran and Hughes Residents' Action Group, the Red Hill Regenerators and the Hughes Garran Woodland Group found out about this new DA through the media, like other local residents.

ACT residents and community organisations are busy and under-resourced and should not be expected to constantly comb the DA website in case DAs have been lodged which directly affect them, or in which they have an interest well known to the Government.

If local residents and community organisations somehow manage to find out about a DA, the ludicrously short time frames mean that it is often too late for meaningful consideration and comment.

Consultation on a previous DA for a Territory Plan variation for Section 66 Deakin, and for the Federal Golf Course site last year, comprised the usual developer-led "information sessions", not attended by Government officials, in which bemused residents were herded past whiteboards containing partial and misleading information and only the developer had any opportunity to address the group or provide feedback to the Government.

Recommendations relating to TOR 1(b)

5. Development in public areas, such as shopping centres and public open space, and in and adjacent to environmentally sensitive areas such as Red Hill Nature Reserve, should always be preceded by a comprehensive Government-run planning and consultation process, so that the design and parameters for development in the entire area are determined by the Government and residents, businesses and other local organisations, not on a block-by-block basis by developers.
6. While development and consultation on such Integrated Plans is underway, DAs should be formally held over or required to be re-submitted to meet the

requirements of these Plans when finalised. Possible exception could be made for urgent structural work or renovations within the current building envelope.

7. Once the Territory Plan has taken into account the outcomes of Integrated Planning processes for key areas, Territory Plan variations and major lease variations should not be granted except in genuinely unavoidable and unforeseen circumstances.
8. If a DA is lodged which requires a Territory Plan variation, major lease variation, loss of green space or other major impact, or relates to a site in which there is known community interest, written notification of local residents and community organisations should be required on lodgement, with at least six weeks for feedback.
9. Public consultation sessions should be required in the circumstances outlined in Recommendation 8 above, and should be conducted by the ACT Government, not the developer.
 - *c) the availability and accessibility of current and historical Development Applications and decisions in relation to Development Applications, including reasons for Development Application approvals, conditions or rejections.*

The current serious inadequacies in availability and accessibility of DAs should be addressed as set out in Recommendations 1 to 4, above.

Information on processes and timeframes for decisions on Development Applications, and the reasons for these decisions, is difficult to come by. Residents are often reduced to ringing and asking Government officials, and sometimes receive inconsistent or conflicting answers and responses that later turn out to be factually incorrect or not in line with legislative provisions.

Recommendations relating to TOR 1(c)

10. Clear written information should be provided in response to individual questions about the process and decisions for specific DAs, and reasons for all DA decisions should be published and searchable on the DA website.

- 2) *The accessibility and effectiveness of Development Application processes, including:*
 - *a) the information provided in relation to the requirements for Development Applications;*

As set out above, the information provided in DAs is difficult for ordinary people to access, navigate and understand, see Recommendations 1 to 4 above.

- *b) the current development assessment track system;*

The current DA assessment track system is opaque and difficult to challenge. For example, the current DA for Section 66 Deakin was placed on the Merit Track, rather than Impact Track, based on a manifestly incorrect Environmental Assessment, see TOR 2 (g) below.

In addition, a high level of concern expressed by local residents, community organisations and others apparently has no influence on the track under which a DA is considered.

Recommendations relating to 2 (b)

11. A high level of community concern about a proposal, as demonstrated for example by submissions from community organisations or from a large number of individuals, or previous representations or community actions, should trigger an Impact Track assessment.

- *c) the Development Application e-lodgement and tracking system, e-Development;*

No comment.

- *d) processing times for Development Applications;*

Clear information about processing times is difficult to find. For example, for the current DA on Section 66 Deakin (Kent Street), we have not been able to get a clear answer on the expected timeframe for decision.

- *e) retrospective Development Applications;*

Recommendations relating to TOR 2 (e)

12. Retrospective Development Applications should face a significant penalty, varying according to the scale and nature of the unapproved activity and any urgent or extenuating circumstances.

- *f) reconsideration and appeal processes; and*

Recommendations relating to TOR 2(f)

13. To restore public faith in the assessment process, DA decisions should be reviewable by a body independent of the Environment, Planning and Sustainable Development Directorate, and individuals and groups lodging submissions or queries should be informed of these review processes in writing.

- o g) *Heritage, Tree Protection and Environmental assessments.*

As set out above, the current Assessment Track process leaves much to be desired in correctly identifying proposals with environmental impact. In the case of Section 66 Deakin, the developer's Environmental Assessment incorrectly stated that this woodland site comprised degraded exotic vegetation.

In addition, this report, along with the Heritage Assessment, was not prepared for the DA in question (for a storage facility), but had been prepared for a previous DA for a completely different land use (residential).

This Environmental Assessment was accepted by Environment, Planning and Sustainability Directorate without their own Ecologists undertaking a site visit, and despite the availability of site surveys by the ACT Government's own Senior Ecologist, demonstrating that the site met all legislative criteria to be classified as endangered yellow box red gum woodland.

The decision ignored contrary evidence in many submissions to the DA process, including site surveys and submissions from the land care group which had looked after the site for over thirty years, the Red Hill Regenerators, the Conservation Council, the Friends of Grasslands, the Canberra Ornithologists Group and local residents' associations whose members visit the site daily. It disregarded information freely available on the web, including the Government's own Canberra Nature Map, which put the lie to the consultant's ridiculous claim that only five native species were found on the site.

Recommendations relating to TOR 2(g)

14. Where an Environmental Assessment is required for a DA, or has been conducted, or where submissions have raised environmental impact issues, the ACT Government should undertake an independent assessment by a qualified Ecologist, consisting at the minimum of an independent site visit and report.
15. Over the next three years, the Government should implement accreditation processes for consultants who provide reports for DAs, set up a panel of accredited consultants and itself appoint consultants to undertake reports required for DA processes, to reduce conflict of interest and to restore the trust of ACT citizens in the assessment process.
16. In relation to Tree Protection, developers should be required to clearly identify in the DA documentation all mature trees on the site and on surrounding areas likely to be affected by the development or subject to building site traffic, including on nature strips, and clearly set out any trees which are proposed for removal.

17. Plans should be included with each DA for protection of existing trees, with compulsory orange tape barriers or metal cages at the drip line to protect the root systems of trees to be retained, including trees on the nature strip. The developer (not individual subcontractors) should be responsible for the survival and health of these trees and should face substantial penalties for damage to them.
18. Where possible, orange tape barriers or metal cages should be erected to protect any areas of native woodland or grassland within or adjacent to the site, with penalties for damage as set out in Recommendation 17 above.

3) Development Application compliance assessment and enforcement measures.

It is manifestly inadequate to allow developers simply to renotify their DA if incorrect or misleading information is identified.

Recommendations relating to TOR 3

19. In addition to compulsory renotification, financial penalties should apply to incorrect or misleading statements in a DA, and to the use of assessment reports and other analyses which do not relate specifically to that DA, and are therefore potentially misleading. For seriously misleading information, the penalty should be the rejection of that DA and prohibition from lodging further DAs for any site in the ACT for an appropriate period.

4) Development Application practices and principles used in other Australian jurisdictions.

No comment.

5) Any other relevant matter.

Hughes Residents' Association again thanks the Committee for their interest in this matter and for the opportunity to comment.

Our natural and cultural heritage, Canberra's sustainability and the future quality of life of its citizens depend on getting these processes right.

Opportunities for further comments or discussion

This submission was written in consultation with members of the Hughes Residents' Association, including our Convener, Ms Ruth Cully.

We would be very happy to meet with you at any time or provide any further information or comments on these matters.

We can be contacted as set out below.

Yours sincerely,

Dr Jacky Fogerty
Secretary,
Hughes Residents' Association
jackyfogerty@gmail.com
7 Glasgow Place Hughes
6161 9335