

24 April 2014

The Committee Secretary, Standing Committee on Planning
Environment and Territory and Municipal Services
Legislative Assembly for the ACT
GPO Box 1020
CANBERRA ACT 2601

PO Box 5427
Kingston ACT 2604
Telephone: (02) 6262 5933
Facsimile: (02) 6262 9970
Email: act@planning.org.au
Web: www.planning.org.au

A.B.N. 34 151 601 937

Planning and Development (Project Facilitation) Amendment Bill 2014

Is This the Best We Can Do?

There is no doubt that the ACT government needs to find some rapid solutions. Land development is a major contributor to the budget, and land is becoming increasingly scarce. It needs to facilitate a number of major projects and the current planning framework is ill-defined, cumbersome and process-oriented rather than outcomes driven. To achieve its objectives the ACT Government will need to introduce significant changes to the planning framework. It is clear however to the Planning Institute Australia ACT Division that the current bill is not the ideal framework to achieve the ACT government's objectives.

There is concern amongst professional planners that proposed rules pertaining to special precincts and projects of major significance may be over-applied by government in efforts to meet financial and service-delivery goals. We are concerned that the framework for deliberation will not result in good planning or desirable outcomes for the community. We are additionally concerned that a lack of transparency in the deliberation process will result in a public loss of confidence in the planning system which will further weaken the planning system across the Territory.

Government departments should respect and follow the development processes and comply with the need to obtain variations prior to lodging development applications. We are not surprised that misapplying the current rules has led to approval delays and uncertainty. Government should not have the right to circumvent planning processes intended for all developers. This leads to inappropriate precedents and further corrupts a rigorous, if complex, process.

When government bypasses its own processes in its own interest, and ignores the needs of private developers for a faster, more efficient and more certain system, it risks straining credulity with both developers and the public.

The ACT Division is further concerned that the call in powers should not be expanded beyond the purview of an individual Minister. Considering these decisions in Cabinet lacks transparency and may invite undue influence from development interests (both private and public)..

So what is the problem?

Part of the problem lies in the lack of independence of the Minister. It is imperative that within the ACT it is recognised that a significant task carried out by the ACT government is the provision of municipal services. The Hawk Review has been implemented over the past two years. But it is clear after its implementation that there was little regard for the role of municipal government. The artificial independence of environment, heritage, transport and urban services brings a level of uncertainty within the ACT system that is resulting in the movement of private capital away from our capital city.

The planning process, complex as it may seem to outsiders, has three significant stages; identification of suitable land or projects, the zoning of the land to an appropriate zoning, lodgment and assessment of development application/s. To simplify and bring certainty to the system it is necessary that strategic matters are dealt with between the identification and zoning processes where the largest value increases to land are achieved. The development approval process must not be fraught with uncertainty. In other words, most of the risk is taken in the early stages and less risk should be seen at the later stages. This Bill attempts to do this for government but not for developers and so creates a one rule for government and another for the rest.

There will always be a number of significant projects proposed within land that has been appropriately zoned that nevertheless need a high level of assessment and these will require an EIS to be prepared. Within the ACT, historically this is a small number of projects and the Planning Institute supports the attempt within this Bill to bring together the environmental impact assessment process and the development application process.

The planning Institute also supports limited third-party appeals at the end of the process rather than the open slather third-party merits appeals within the existing system.

However, what seems to be broken in the ACT is certainty at the sharp end of the process. In other words, within the Territory there are too many opportunities for “independent government departments”; heritage, the conservator, transport and others to have a second bite at the cherry. Referrals to government departments at the development application stage should be to test compliance with previous

requirements set out at the strategic planning stage, not to introduce new “surprise requirements” at the development application stage.

The Planning Institute believes that real consultation, heritage assessment, tree preservation orders, transport planning and infrastructure assessment should be largely sorted out at the rezoning stage, as should high quality consultation. Further, these departments should come under the same minister and preferably under the same bureaucratic leadership, specifically the chief town planner empowered to make decisions in the interests of the city at large. Municipal services must be centrally coordinated at the ministerial and at the head of Department level.

The current bill proposes such amendments, heritage assessments and tree preservation orders will need to be sorted out at the strategic stage. This is a move in the right direction. But it is not the best that we can do.

To achieve the best we need to restructure the ACT government to deliver on municipal services, specifically; planning, heritage, infrastructure provision environment, waste and urban services must be centrally co-ordinated and must provide strategic advice that can be implemented early in the development identification process to all parties not just government and major projects. The results of this process must be available not only to government but also to the private sector. It is imperative that if the city is to be built to the best standards that the government and the private sector along with the community work in harmony and that we do not create one rule for the government developer and another rule for private developers.

Can we do better?

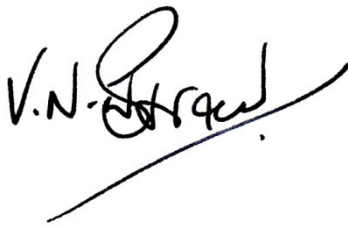
The Planning Institute agrees with the stated objectives for faster decisions and greater certainty for critical projects. But the improvements should be made in such a way that it is available to all citizens, not just the government and that several government departments need to be restructured to operate collectively in the interests of providing municipal services and developing the city to become a better more livable and more harmonious city for all of its citizens rather than as a cash cow for government. Developers and departments that attempt to circumvent the process need to be brought into line or provided with quality strategic advice up front to ensure high quality outcomes for the Territory.

If improvements to the planning system driven by the government income requirements rather than by what is best for the Territory then we will always get second-best development and we may even get a system that is so badly corrupted that it fails to deliver for the people it serves.

1. We do not support the intent and focus of the Bill In its current form, but would support amendments to the Planning and Development Act that makes

similar changes to the act delivering more certainty at the development application stage and limiting a range of inputs to the strategic planning stages.

2. The EIS and DA co- assessment process is a good and logical fix to a pre-existing problem.
3. The project facilitation mass rezoning objectives can be met through the existing legislation in regard to variations and precinct codes and overlays.
4. The new mass zoning approach for development rights detrimentally affects democratic rights and best practise planning that is collaborative and fully participatory. Notwithstanding that we agree to the limiting or removal of third party appeals on the grounds of Merit.

A handwritten signature in black ink, appearing to read 'V.N. Straw', with a long, sweeping horizontal line extending from the end of the signature.

Viv Straw MPIA
PIA ACT President