



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL  
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## Submission Cover Sheet

Engagement with Development Application Processes in the ACT

**Submission Number:** 034 - Reid Residents' Association

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## REID RESIDENTS' ASSOCIATION

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3 August 2018

### **Inquiry into Engagement with Development Application Processes in the ACT**

The Committee Secretary  
Standing Committee on Planning & Urban Renewal  
Legislative Assembly for the ACT  
GPO Box 1020  
Canberra ACT  
[LACCommitteePUR@parliament.act.gov.au](mailto:LACCommitteePUR@parliament.act.gov.au)

Dear Committee Secretary

Thank you for the opportunity to provide input to the Inquiry into Engagement with Development Applications Processes in the ACT.

This submission from Reid Residents' Association Incorporated (RRA) confines comments regarding Development Application processes applicable to the Reid Housing Precinct (RHP), an area that has been entered into the ACT Heritage Register in accordance with the ACT's *Heritage Act 2004* at [www.environment.act.gov.au/\\_\\_data/assets/pdf\\_file/0010/148474/462.pdf](http://www.environment.act.gov.au/__data/assets/pdf_file/0010/148474/462.pdf)

Comments are confined to section 2.

#### **2) The accessibility and effectiveness of Development Applications** including:

- a) the information provided in relation to the requirements for Development Applications
- b) the current development assessment track system
- c) the Development Application e-lodgement and tracking system
- d) processing times for Development Applications
- e) retrospective Development Applications
- f) reconsideration and appeal process
- g) Heritage, Tree Protection and Environmental assessments

#### **2. Accessibility and effectiveness of Development Applications (DA)**

With regards to points 2) (a), (b), & (c), these DA elements, when applied to RHP, all require refinement and transparency. Further, decisions need to comply with the mandated requirements specified in the RHP Entry as cited above. Decision makers should be cognisant of the difference specified in the Entry between the mandated requirements and those requirements subject to the discretion of the Authority.

d) Sufficient resources (time and expertise) should be made available to investigate a DA within a heritage precinct so that it can be properly reconciled with the Heritage requirements. Heritage is about recognition and respect for what was created in a time past and conserved, but obviously not 'moth-balled,' for the future. Judgements made on DAs within heritage precincts such as RHP should be made by professionals with heritage expertise.

Poor, rushed decisions can and do damage government and privately built dwellings that, under mandated requirements, should accord with the unifying architectural style, scale and materials, central landscaped reserves and community facilities, trees and verges, driveways, street furniture and streetscapes to retain the very character and fabric of the heritage-listed precinct. Within such a framework there is always scope for individual expression. Ill-founded decisions that affect a heritage precinct result in inconsistency and undermine the expertise of the highly qualified judgements that led to the original heritage classification which, in the case of RHP, extends to the whole precinct.

e) Approvals of retrospective DAs within RHP should meet the relevant mandated requirements as set out in the RHP Entry. Consequences for inappropriate construction activities should be determined and communicated in plain English. Penalties, including fines or demolition, or both, should be imposed commensurate with the breach to discourage disregard of specific heritage requirements.

Currently in RHP there are obvious breaches of Heritage requirements that, to RRA Committee's understanding, have received no DA approvals as no application has actually been made to the appropriate authority. We do not believe these activities should receive retrospective approval as none comply with either the Heritage requirements of RHP nor do they comply with other ACT laws and regulations. Such breaches include ring lock wire & other miscellaneous front fences, parking spaces (bituminous or gravel) imposed on the verge, disappearance of garages (a component of a heritage-listed block) and site coverage of built developments in excess of 27.5% of the area of the block.

It is unfathomable that under the current Reconsideration and Review process mandatory heritage requirements upheld by the ACT Heritage Council on DAs can be overturned by the Major Projects Review Group (MPRG) on grounds irrelevant to heritage. While this process appears to be the current DA modus operandi, the consequences can and have led to unfortunate breaches of mandatory requirements. There is far too much wriggle room with regards to referrals to the Heritage Council that then can be overturned by MPRG, with a resulting perverse outcome for adjacent dwellings involving the following elements: architectural style, scale and building materials, siting and plot ratios, and the streetscape. None of these matters could be construed as 'complex' which, of course, MPRG is meant to review. Unfortunately, it would appear that there is little or no heritage expertise within MPRG. Ambiguous processes need to be reworked to improve better and more refined decision making. Community consultation would assist in improving this situation.

#### **f) Compliance assessment and enforcement measures**

In RHP, any construction activity that impacts on the ACT Heritage-listed place and/or streetscape, particularly knockdown rebuilds (e.g. Mr Fluffy houses), should be undertaken by an experienced Heritage architect prior to provision of an ACT Certificate of Occupancy. Modifications should be undertaken by the owner, unless the error rests with government, until the building has met the relevant requirements. If the error is as a result of faulty government decision-making then restitution and repair should rest with government.

Often, apart from an overall compliance with an actual house, the details of fenestration, ornamental fencing etc. can be adjusted to be more sympathetic to the design aesthetic of the streetscape. A Certificate of Occupancy needs to be withheld in the meantime with no capacity for the house to be sold until compliance has been effected.

Again the lack of knowledge of heritage requirements by licensed approvers coupled with the lack of oversight, appropriate penalties and enforcement require urgent attention and amelioration.

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

See FAQs: <https://www.melbourne.vic.gov.au/building-and-development/heritage-planning/Pages/heritage-planning.aspx>

Other supporting documentation that supports, communicates and engages with sustaining Heritage well are:

Melbourne's I-Heritage database: [www.melbourne.vic.gov.au/building-and-development/heritage-planning/Pages/i-heritage-database.aspx](http://www.melbourne.vic.gov.au/building-and-development/heritage-planning/Pages/i-heritage-database.aspx)

Melbourne's Heritage Strategy with particular relevance to RHP are the sections on Protecting, Managing, Communicating and Celebrating; [www.melbourne.vic.gov.au/building-and-development/heritage-planning/pages/heritage-strategy.aspx](http://www.melbourne.vic.gov.au/building-and-development/heritage-planning/pages/heritage-strategy.aspx)

#### **5) Any other relevant matters**

As evidenced in RHP the pervading policy 'risk of harm' is being applied to breaches of heritage requirements. This leads to a perception that there is a lack of governmental stewardship; a laissez faire approach at best or willful neglect at worst to the implementation of rules, regulations and law. Such a Rafferty's rules approach to planning policy and heritage requirements is inappropriate and likely to lead to continued breaches of, and a diminished respect for, the rule of law and governance.

Canberra is our national capital and Canberra's heritage is worth conserving. Canberra's design was influenced both the garden city and American Beauty movements. As Canberra's largest heritage precinct the Reid Heritage Precinct is conserved on the ACT Heritage Register because the precinct:

- demonstrates historical values including 'Garden City planning principles and architectural and landscape design from the initial period of urban development within Canberra
- for the aesthetic unity of the streetscapes arising from the harmonious integration of low-density built forms within a nature landscape setting and a high proportion of landscape space and trees
- for the social values associated with the retention of communal landscaped reserves and community facilities, whilst managing to meet the contemporary requirements of residential usage'.

The RHP is an asset for the national capital and Development Applications for this precinct should be considered within this context.

There appears to be little understanding or effective communication between government departments or their contractors on how to undertake tree removal and provide appropriate notification to residents, how to undertake construction of concrete footpaths and gutters (e.g. Dirrawan Gardens) with the appropriate approvals in place, how to keep construction equipment off verges and provide adequate protection to Registered Trees within RHP. It would seem appropriate that those who manage government assets were to be appointed the coordinators for such activities. There appears to be no coordinating body with the appropriate remit or oversight.

DA notifications to immediate neighbours on a proposed DA should be undertaken seriously and with care. Such notifications have been mistakenly sent to previous owners instead of the current owners with quite perverse outcomes for those current owners. Further, DA notification within RHP should not be restricted to only immediate neighbours. A more appropriate form of engagement would be when a DA has the potential to breach heritage requirements that RRA should be notified so that input can be provided from a broader stakeholder basis i.e. a precinct perspective.

Greater responsiveness by government should be considered an integral component of genuine engagement. Concerns raised by individuals and resident associations when observing breaches of the precinct's requirements need to be investigated and the results communicated quickly to those raising such concerns. In appropriate instances work should be stopped until the matter is sorted out. Complaint mechanisms need to be easily accessible and usable..

Finally, deliberations on DAs by the Heritage Council and other government agencies should be open and accessible, use methodologies based on clearly defined principles that take account the specific requirements for the conservation of the precinct, place or object as set out in the relevant Entry in the ACT Heritage Register and grounded on legislation. In particular, DAs that have significant impact on the streetscape within RHP and similar precincts, require greater clarity, transparency and rigor and should not subject to the whims of decision-makers who do not appear to have at heart the best interest of the conservation of ACT's heritage.

Marianne Albury-Colless  
President  
Reid Residents' Association

