LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL
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Submission Cover Sheet

Engagement with Development Application Processes in the ACT

Submission Number: 035 - Margaret Dudley

Date Authorised for Publication: 8 August 2018

[redacted] [redacted]
To: LA Committee - PUR
Subject: Inquiry into Engagement with Development Application Process in the ACT
Date: Friday, 3 August 2018 2:36:17 PM
[redacted] [redacted]

The Committee Secretary
Standing Committee on Planning and Urban Renewal
Legislative Assembly for the ACT

I fully endorse the submission to the Inquiry into Engagement with the Development Application Process in the ACT prepared by Ms Julie Doyle on behalf of the Campbell Community Association (see copy attached).

Of the many concerns outlined in the submission, several are significant. The lack of redress mechanisms for those with concerns about development applications. As it currently stands there is nothing that can be done between making comments about the development at the stage it is put up for comment on the government website and going to ACAT, a process that is stressful, time consuming and expensive. Most people are frightened of taking their complaints to ACAT as a loss could result in further legal expenses on top of those already accrued just to get it to that point. There needs to be some independent body in between these two points in the process that is easily accessible, has access to professional advice and incurs little or no cost for the parties involved.

The whole process is not transparent and the time frame to make submissions regarding development applications is insufficient. Often those with concerns about an application are forced to engage professional help, resulting in large financial outlays. This should not be the case. It should not be up to the affected party to have to pay to make sure developers are abiding by the rules.

There also seems to be a discrepancy between developments undertaken by developers and applications submitted by anyone else. I know of two developments, on adjoining blocks that seem to have been treated very differently. One, a developer, knocking down one side of a duplex and erecting multiple dwellings. The owner of the other side of the attached duplex had multiple concerns about his property and possible damage as a result of the building. Also, all of the vegetation on that half of the block is to be removed to make room for the development. This development application was quickly approved. On the block next door, the owner wanted to build a small, single level dwelling in the back yard of his property. From what I understand, his development application was rejected because his neighbours did not want him to remove a tree to allow them to have shade and a green vista, although it appears that they removed all of the vegetation on their own block in order to put up their building. This house is in an RZ2 zone along with the one next door. This difference in the building approval process is confusing and stressful for those concerned.

I hope the Committee finds the points made in Campbell Community Association submission helpful in their deliberations.

Yours sincerely

Margaret Dudley
[redacted]

INQUIRY INTO ENGAGEMENT WITH DEVELOPMENT APPLICATION PROCESSES IN THE ACT

Submit by **3 August 2018 -** Committee will report by the last sitting day in November 2018.

The Committee Secretary, Standing Committee on Planning and Urban Renewal, Legislative Assembly for the ACT,
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CANBERRA COMMUNITY ASSOCIATION REPORT PREPARED IN CONSULTATION WITH CAMPBELL RESIDENTS

INTRODUCTION

This submission has been prepared by the Campbell Community Association following consultation with Campbell Residents. It relates not only to the ACT but has particular regard to the suburb of Campbell which is experiencing rapid urban intensification in the RZ2 zone, as well as the large C5 and Constitution Avenue developments which will see a 25% increase in the suburb's population.

KEY POINTS:

- Many Campbell residents have lost faith in the current Development Application (DA) system which has become unworkable and is difficult to navigate.
- In the past 5-10 years a large number of suburban residents' groups have been formed largely as a consequence of poor, unsustainable and inappropriate development in their suburbs
- ACTPLA is perceived as being reactive rather than proactive in planning matters
- The DA area of the Environment, Planning and Sustainable Development Directorate (ESPDD) appears to be inadequately resourced both in manpower and expertise
- The provisions of the Territory Plan under the *Planning and Development Act 2007* (Planning Act) would appear to be robust but are not providing an appropriate management system particularly with regard to Residential redevelopment
- DAs appear to be being approved as if they are being undertaken in isolation / greenfield areas with no consideration of the structure of the existing suburb.
- The inadequacy, age and condition of existing infrastructure and services in older suburbs is not considered

- There has been a significant increase in suburban infill and densification during the past five years, particularly in RZ2 areas which is causing major problems with unsustainable infrastructure and public safety.
- Current legislation is not adequate to deal with items during construction of these developments including illegal parking by tradesmen, encroachment on verges, use of public areas, compliance with EPA specified working hours
- There are increasing examples of DAs being approved solely based on the documentation provided by the developers. Consequently, there is a perception that the ACT does not inspect the local area prior to approval.
- Questions also arise as to whether statistics are kept of the number of multi unit developments being approved in what were primarily single residential areas.
- There are key examples where Planning and other Reports submitted in DAs are inconsistent with the code for the proposed development and are not critically scrutinised prior to approval
- Developers are obtaining approval to construct the maximum number of permitted dwellings on RZ2 blocks solely on block size regardless of multi dwelling code / objectives and community consultation.
- In addition, Builders are using legal loopholes to increase plot ratios by claiming new dwellings will be for Adaptable Housing.

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 DA process is user unfriendly and can be an impenetrable maze and should be simplified – a holistic approach is required which would streamline processes and cut costs for the Government
- Reading DAs is a specialised process. Therefore, a foundation level of understanding is required prior to reviewing a DA. The ACT Government should provide access to neutral advisers in relevant professions to help Canberra residents navigate the DA process and read building plans.
- Broader notification and longer consultation with adjoining owners and the neighbourhood is required where there is an increase in the number of dwellings, style and height as well as removal of all existing landscaping / trees
- The comments made by community members in consultation processes are provided to the ESPDD only by the developer and they may not be thoroughly or accurately conveyed
- Plan sizes on the internet are not easy to read and they are often incomplete
- TCCS should be required to physically inspect the affected site
- Traffic Management Plans should be mandatory and capable of being enforced during construction

- Multi-dwelling RZ2 objectives need to be acknowledged by EPSDD and adhered to when approving DAs.
- Mandatory information required of the developers undertaking the projects as well as contact details for the builders. This information easily available.

b) pre- Development Application consultation and statutory notification processes;

- A minimum of two months is required for public consultation to enable residents to read plans and respond.
- If they are aware of it, residents can use Planning Alerts, *contact@planning alerts.org.au* in their local area. The ACT should be automatically providing this information to all affected persons, especially in older suburbs with a significant degree of RZ2 infill.
- Apparent serious under resourcing in the EPSDD leads to superficial consideration of DAs.
- Statutory requirements eg setbacks, height, plot ratios should be referenced by the developer for each development with reference to the relevant code
- Particularly in older suburbs, significant infill in RZ2 areas is changing the nature and character of the suburb and placing unsustainable pressure on built form and denuding large areas of living infrastructure.

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.

- Each suburb needs to be assessed and individual neighbourhood plans created in consultation with the residents, avoiding a blanket approach as seen by the current implementation of RZ2.
- Greater access required particularly where developments are approved with multiple conditions requiring resubmitting of plans.
- DAs disappear from public view once the initial submission period has expired.
- After conditional approval has been give there is no mechanism for public review of resubmitted plans and details of subsequent approval

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

- The current system favours the developers who frequently lack the appropriate skills
- Neighbouring owners who want to object to aspects of the development seem to be placed in an adversarial position with the developers during the consultation and submission stage of the process, with no input from the Planning Department under the current system. There is a perceived inequity of resources during this process.
- There appears to be greater scrutiny of single homeowners doing building works
- Merit Track approvals need to be abolished. Significant changes are requested by EPSDD in a merit track when it should be rejected upfront. Once a Merit track is

granted, people who have objected to the original DA are left waiting and the process does not allow them to engage because the developers are not required to share the revised plans . This is a flawed process.

b) the current development assessment track system;

Nil

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

Nil

d) processing times for Development Applications;

- Consultation and objection periods are too short, particularly around Public Holiday periods, and as noted above a minimum of two months is required for public consultation to enable residents to read plans and respond.

e) retrospective Development Applications;

- Access to approved and re-approved plans (via Merit Track) should continue to be made available and accessible online.

f) reconsideration and appeal processes; and

- The appeal process to the ACT Administrative and Civil Tribunal (ACAT) is expensive and daunting for private individuals
- A panel of expert professionals should be appointed as an avenue of review to ensure that objections and other concerns are appropriately and independently addressed. This process would be far more cost effective and efficient.
- Residents are having to engage Lawyers, Architects, Engineers and Town Planning and Heritage Consultants at considerable expense to obtain information which the ACT should have required and audited in the DA process.
- A further deterrent under Subsection 2(d) of Section 48 of the *ACT Civil and Administrative Tribunal Act 2008* provides that if an application for review under the Planning Act is struck out or dismissed, the Tribunal can order the applicant to pay the reasonable legal costs of the other party.
- Timeframes to appeal to ACAT appear to be tight. Where DAs are approved subject to conditions, including requirements to resubmit plans, the appeal period can expire prior to the amended plans being submitted. This leaves objectors in an untenable position to appeal due to lack of information. A Professional Review Panel rather than ACAT would resolve this situation.

g) Heritage, Tree Protection and Environmental assessments.

- Living infrastructure and the environment are not considered
- Protection of trees on building sites should be reinforced throughout construction periods.
- Commonplace for whole sites to be cleared particularly in RZ2 areas where whole blocks are cleared to accommodate multiple units. Climate change and experts in ESPDD should have responsibility and overriding power to impose conditions to ensure development is sustainable for the area and living infrastructure is retained wherever possible.

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

Nil

5) Any other relevant matter

Nil

Julie Doyle

Endorsed by Luisa Capezio on behalf of Campbell Community Association

[redacted]

31 July 2018