



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING, TRANSPORT, AND CITY SERVICES
Ms Jo Clay MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair),
Mr Mark Parton MLA

Submission Cover Sheet

Inquiry into the Territory Plan and other associated documents

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Additional submission to the Standing Committee on Planning, Transport and City Services

Dear Committee Members

Please find some additional points for your consideration from the representatives of the Dickson, Ainslie and Reid residents groups who appeared before the Committee on 6 December 2023. This submission also addresses some of the questions raised specifically by the Committee. We are assuming that you have taken into account the key points in our submissions and appreciate that the new planning documents include numerous small detailed changes that will have a significant impact on the amenity of existing residents and further reduce affordability of housing in Canberra. We are happy to provide further detail on these issues.

Governance and Compliance

The final form of the new planning framework demonstrates the power of the development and construction industry. The opportunity for local resident engagement in local planning decision-making continues to be reduced. Changes to the documents and decision-making processes facilitate development at the expense of transparent governance, compliance and community consultation. Processes continue to be streamlined for developers. Planning rules and criteria are now optional with guidelines directing developers to desired built form outcomes.

The need for pre-DA community consultation where developers were required to explain to the community what the likely impact of a development has been removed with consultation to occur once the development has been largely examined and agreed by ACTPLA.

Throughout the Committee hearings Governance and Compliance have been top issues for community groups and yet the communities are not being invited to consult with the current 'Independent Review of the ACT Planning System Governance' being carried out for the ACT government. Effective pre-DA consultation with the community often presents solutions to the negative impacts of a development.

As citizens, residents and communities who are impacted by the effects of inadequate governance and lack of enforcement it is essential for their respective voices to be heard.

We would like to see pre-DA consultation mechanisms strengthened and managed by government. A month long pre-DA process is a short period in the life of a development project. Even developers acknowledge that once all the design work has been completed and the DA approved any changes are too expensive to implement and unlikely to happen.

ACT Civil & Administrative Tribunal (ACAT)

- *Possible Committee Question: Since 2019, ACAT has made decisions on 15 development applications. According to EPSDD Annual Reports from 2019 – 2023, 4056 applications were determined under the merit track. Is ACAT a barrier to the creation of medium density housing?*

The community goes to ACAT infrequently due to its expense and bias towards proponents. The community's success at ACAT are few and far between. Analysis of past decisions shows that ACAT only agreed to reverse ACTPLA approvals when there was a clear breach of one or more mandatory planning rules in the development proposal. However, now that the planning rules are optional

rather than mandatory ACAT has been effectively neutered as community members will not have the resources to challenge the basis of a government decision against the combined expert resources of the government and proponent. As the Ainslie Resident's Association submission highlights this is a cosy relationship between the Planning Authority and proponent. The proponent has the ability to seek technical changes to planning legislation during an ACAT hearing.

ACAT is clearly not a barrier to the creation of medium density housing? How is the government going to ensure that proponents meet the outcomes described in the planning guidelines? What if a developer wants to maximise the built form on a block to maximise profit despite the negative impacts on neighbours? Does the new planning framework provide a practical avenue for the existing resident to seek protection?

There needs to be improved mechanisms for community engagement in Planning decision-making that goes beyond the Twitteresque suggestion box that is 'Have Your Say'.

Climate Change

Where are the climate change vulnerabilities adequately addressed in the Planning documents, particularly for our built and natural environments? The new planning documents are a missed opportunity to seriously address the climate crisis through climate resilient built form and carbon neutral design.

Severe and extreme heatwaves have claimed more lives than any other natural hazard in Australia. Heatwaves can be dangerous because they pose health risks to the most vulnerable, such as elderly people and very young children. Heatwaves can also affect the transport, agriculture and energy sectors and their associated infrastructure. <https://www.acs.gov.au/pages/heatwaves>

The analysis in the 2017 CSIRO *Mapping surface urban heat in Canberra?* (https://www.environment.act.gov.au/_data/assets/pdf_file/0005/1170968/CSIRO-Mapping-Surface-Urban-Heat-In-Canberra.pdf) should be used to provide insights into how our planned environment can be better designed to positively impact urban warming. This analysis should be updated and integrated into the expertise available to the Planning Agency. We can't afford to keep getting this wrong.

There is a need to integrate various planning policy documents and Acts, as well as the provision of a clear pathway to assessing, monitoring, evaluating and adapting the implementation processes. There are many useful documents providing guidance for such implementation including the United Nations and C4 Cities. Why isn't Canberra one of the C4 Cities? If it's just for the lack of a mayor let's appoint one!

Capturing the Embodied Energy in Housing

Building approvals should be based on how well future buildings will withstand the rigors of time and their energy efficiency. The performance and durability of materials to be used and the adaptability of a building's design must be assessed so their operation energy consumption can be classified accordingly. Advice as to how best to mitigate operation energy should be made available to would-be developers to 'get the balance right'.

The residual materials and resources embodied in existing buildings and the resources and materials selected for new buildings should be given greater consideration. The former for both recycling and potential revenue raising via taxation and the latter for embodied and operational energy rating.

To promote a resource-conscious building regime in urban planning there must be a tax on embodied energy for all forms of buildings. Any dwelling or mixed-use building to be knocked down for a rebuild should be assessed for embodied energy and a tax levied accordingly.

The Australian Government Your home website states the following:

It is important to remember that choosing materials with low embodied energy may result in higher operational energy use. Conversely, a material with higher embodied energy may result in a building with lower operational energy. <https://www.yourhome.gov.au/materials/embodied-energy>

Considering the volume, embodied energy, and potential value of construction materials going to landfill, we recommend that the Government explores opportunities to stimulate recycling and a circular economy for these materials.

Heritage

There's a lot of heritage – places and objects of natural and cultural significance – in the Inner North and City as well as the whole ACT. It is of some concern that, in the list of terms in the Inner North and City District Strategy, there is no mention of heritage or what it entails. It would seem that many people would benefit from an explanation of what heritage comprises as it is mentioned many times in the content of the strategy.

The term 'mandated requirements' is used to some real effect in the documents relating to heritage as entered in the ACT Heritage Register. The term does assist in conserving the built form, streetscapes etc. that comprise character and architectural and/or cultural values. How will the Territory Plan, the Planning Act and the *Heritage Act 2004* interconnect when terms such as 'mandated requirements' seem to be used in some documents and not others?

Privatisation of public and community facilities land

Why does community facilities zoned land need to be protected from other competing uses? (Objective Community Facilities Zone Guidelines.)

Public land is vulnerable to exploitation because it can be obtained cheaply through mysterious concessional deals. If this wasn't the case, why wouldn't a development proponent simply buy land zoned for residential or commercial purposes?

As Canberra's population grows this land has to be protected for future community uses. Large amounts of this land has or is in the process of being privatised when at the same time it is difficult to find public land for the increased demand for pre- and primary schools and other community uses.

Developments proposed on land that is or was part of the public estate has to be assessed and audited by a body that is independent of ACTPLA to ensure probity and avoid conflicts of interest. This includes land zoned for parks and recreation reserves or community facilities where the lessee is seeking a Territory Plan Variation.

To ensure these dealings are transparent and maximise community benefits, the body needs to:

- have access to up-to-date district level needs analysis for community facilities, sport and recreation and other public spaces
- include representatives from the community councils in the District

- an analysis of the contracts, funding, concessions, grants and other benefits provided to the proponent by the Government
- provision of a business plan for the proposed development
- lease variation charges that accurately value the land at the proposed commercial or residential use. This ensures the value of the public estate is maintained for future use and doesn't provide an advantage to redevelop public land relative to land zoned for residential or commercial use
- A clear opportunity for the Government to resume the land where an organisation is seeking to change its purpose.

Block consolidations and individual block developments

- *Possible Committee Question: Should we be looking more at block consolidations than individual block developments?*

What is important is the nature of the development on the resulting consolidated block and whether these developments enhance the existing community or cause problems for the existing community.

Block ratios (built form to permeable surface) need mandatory requirements so that large trees can thrive and that buildings do not overshadow neighbours.

Duplex/townhouse/apartment development done well in the RZ1 and RZ2 zones

- *Possible Committee Question: Do you think that duplex/townhouse/apartment development done well in the RZ1 and RZ2 zones would be supported?*

Prior to the current changes dual occupancies were built in RZ1 zones. The vast majority of these were done well and supported. The local residents only ever opposed the developments that were over scale and directly impacted their amenity. There are developers that seek to take advantage of the Government's policy to increase density despite the impacts on neighbours. The RZ1 and RZ2 zones cover a huge area and there will be a range of views about duplex/townhouse/apartment developments in these areas. Some streets may not mind change, other streets may want to stay low density. This should be discussed with residents on a street-by-street basis and include the following key questions:

It is important to make publically available, detailed analysis of the results of this policy change six monthly. Enabling an analysis of the benefits/costs of this type of development. For example, adding additional building rights to a zone increases the value and the price of the land (see ACT Treasury analysis). This mitigates against the affordability of housing and increases rates. An impact is to rate low income residents out of the area densifying. Unsurprisingly building and development associations will be asking to capture this value uplift rather than it going to the community. They will seek a reduction in the lease variation charges.

What problems will it cause? How will problems such as increase in density, traffic, noise, overshadowing, loss of community character (particularly in heritage areas), etc. be resolved so that the development can be acceptable to surrounding landowners?

Thank you for the opportunity to raise these issues. Hoping you have a great 2024 representing the community in this election year.

Regards

Dickson, Ainslie and Reid Residents Associations