



15 June 2012

The Secretary
Standing Committee on Planning,
Public Works and Territory and
Municipal Services
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SUBMISSION ON DRAFT VARIATION 306

I am concerned about and am strongly opposed to a number of proposals contained in Draft Variation 306. I have taken an interest in these significant changes to the Territory Plan since they were first put forward as part of DV 303 and was involved in the preparation of, and supported, the submissions made to ACTPLA against the proposals by both the Griffith/Narrabundah Community Association and the Inner South Canberra Community Council.

I fully support also the submissions that have been more recently made by GNCA and the ISCCC to your committee on the matter. I note that the sorts of concerns expressed by GNCA and the ISCCC are shared by a number of other resident groups and many others making submissions

I am making a submission myself because of my profound concern about the adverse impact that the proposed changes will have not just on the residential amenity of many thousands of Canberrans but perhaps even more fundamentally on Canberra's special, and indeed unique, character. I share the view expressed by many experienced urban planners who know Canberra well that our city has reached a point where the cumulative effect of ill-considered changes to the Territory Plan threaten to destroy the garden city legacy that we were given by those involved in Canberra's early development. We cannot afford to proceed with further changes that would aggravate the situation.

Cities elsewhere in the world that are widely admired both for their appearance and their liveability usually owe their attraction to a distinctive quality that they have sought to preserve and enhance. We should do the same. Yet every day we are seeing new developments that are contributing to the degradation of the original garden suburbs of the inner North and South that have historically given Canberra its distinctive character. It cannot be emphasised too strongly that once lost, these areas will never be able to be recovered.

The need for a comprehensive, fundamental review is urgent. As GNCA said in its submission to ACTPLA in September 2011, instead of pursuing the proposed changes in

DV306, it is time for those in charge to take stock, rethink how the Plan's objectives can best be achieved and engage with the community on the way forward.

I have set out below some further considerations on why a review is needed and ways in which Plan documentation and the consultation process need to be improved. I have also identified some specific aspects of DV 306 that would clearly have detrimental effects and should not be implemented.

The Need for a Comprehensive Review

The need for urban intensification is generally accepted by Canberrans. However, the way in which it is being undertaken leaves a great deal to be desired, not least because the detailed provisions of the Territory Plan and the way in which they are administered do not give sufficient recognition to other objectives which also have general community acceptance. I refer you to GNCA's submission of September 2011 which goes into some detail on this point.

The Plan's Statement of Strategic Directions highlights the importance of community wellbeing and environmental quality, maintaining residential amenity, the need to safeguard sites for particular community needs, preserving open spaces and promoting high quality/best practice development and the statement is made that "Particular care will be taken to ensure high-amenity, quality design outcomes within residential areas, heritage areas ..."

The Statement says further "Retention of Canberra's unique landscape setting, including the integration of natural and cultural elements that create its 'garden city' and 'bush capital' qualities, will be accorded the highest priority. Special attention will be given to safeguarding visual amenity, protecting vegetation and other important features within the established urban landscape, and ensuring the high quality of environmental design in new developments or redevelopment."

But as GNCA's submission noted

It is fair to say that the Territory Plan as currently framed has failed to deliver on all of these counts. To give just some examples:

- Plot ratio and set back requirements as they are currently framed are failing to ensure that sufficient space remains on blocks to allow the planting of trees and development of gardens that are in keeping with Canberra's traditional garden character.
- Front set-back requirements are often insufficient to ensure that existing street landscapes are preserved.
- Inappropriate rezoning and associated development provisions have allowed the development of high density residential and commercial areas immediately adjacent to heritage areas (for example in Barton and Kingston) and RZ 1 areas (for example in Deakin) that are totally out of keeping and detract from the character of those areas and have had a highly detrimental impact on visual and other aspects of residential amenity.

- The nature of the development that has been allowed to occur on some of Canberra's major avenues and most notably Adelaide Avenue, lacks coherence, and appears to have had no regard for either visual appeal or residential amenity. It can only be described as a blight on the landscape.
- The design quality in general of many new developments leaves much to be desired and is rarely in harmony with the surrounding environment.
- Existing open space, recreational and community facility areas are constantly under pressure from developers and targeted for residential development.

To this could be added the point that observation suggests that the controls provided in the Plan e.g. relating to height and plot ratio are often not enforced – there appear to be many developments in RZ1 and RZ2 areas which exceed the allowed 50% plot ratio requirement.

Accordingly the Plan and its Development Codes need to be reviewed and revised to ensure that

- Heritage areas and their surrounds have adequate protection
- The garden city character of the older suburbs, which gives Canberra much of its distinctive character, be preserved
- The provision of adequate space for trees and other vegetation is actively encouraged as part of residential development and redevelopment, not only to maintain Canberra's character as a garden city but especially for environmental reasons (reduction of heat island effects) and other reasons of residential amenity
- Greater regard is given to differences in the needs and character of different part of Canberra and this is reflected in the incorporation in the Plan of appropriate neighbourhood plans and/or precinct codes
- Areas set aside for recreational and open space purposes be protected and enhanced for use by future generations.

A significant number of other submissions that have been made to ACTPLA/ESDD on DVs 303 and 306 have supported the need for further review before further amendments to the Plan such as those now being proposed are made. The point has been made strongly that any changes should be based on a proper evaluation of the current provisions and of ways in which objectives can be better achieved. So far this has not been undertaken.

Improved Plan Documentation

A review of the Plan should also be directed at simplifying the Plan and making it more accessible to users. The Plan is a very large, complex and unwieldy document. Much of the wording in the current Plan is unclear and an effort should be made to simplify and clarify the language, as well as making the Plan easier to use and find relevant provisions.

Another major shortcoming is that terms are often poorly defined and there is an over-reliance on subjective criteria. This means that the Plan's provisions are open to many interpretations and reduces the likelihood of their being applied in a consistent and fair

manner. Greater use, where possible, of explicit quantitative controls would assist in giving greater certainty, as would more precise definitions of terms such as “desired character”.

Improved Consultation Processes

My impression is that only a very small number of people in the community are aware of what is being proposed in DV 306 or that it is under inquiry by the Assembly Standing Planning Committee. I consider that much more should be done by ESDD and the Government to publicise and explain the content of Draft Variations, why they are considered necessary and how proposed changes would make Canberra a better city. I also consider that much more effort should be made to engage with the community as thinking develops, and that emphasis be put on dialogue rather than just going through the motions of consultation.

Specific Issues relating to DV 306

There are some elements of DV 306 relating to multi-unit residential redevelopment in RZ2 areas that responded to widely held community concerns and represent a distinct improvement to the Territory Plan. They have had interim effect since June 2011 and should be supported and retained. As ESDD noted in its Consultation Report, these RZ2 provision strike an appropriate balance between redevelopment and the retention of neighbourhood character.

There are also a few other changes that ESDD has now made to its recommended version of DV 306 that should be supported, notably the reinstatement of the requirements for a minimum of three hours solar access and to ensure that secondary residences are assessable in the merit track.

However, the bulk of the proposed changes remain totally unacceptable and the Committee should recommend that they not be implemented. Among the issues of particular concern are ESDD’s positions on Neighbourhood Plans, proposals for increased building bulk, deficiencies in plot ratio requirements, proposed amendments to setback requirements, minimum block sizes, definition of “desired character”, and residential care accommodation.

Neighbourhood Plans/Precinct Codes

Like any city, Canberra is composed of a number of different areas, each with their own particular character and needs. It is essential that planners recognise the importance of acknowledging differences between neighbourhoods and that development plans and requirements reflect those different needs and preferences. Unfortunately, DV 306 removes all references to the Neighbourhood Plans that were developed some years ago to identify the qualities and characteristics that particular communities valued about their neighbourhoods including facilities, streetscape, housing character and so on. No good reason for their removal has been advanced. The argument that has sometimes been put forward that the

main features of the Neighbourhood Plans have been incorporated elsewhere in the Territory Plan simply does not stand up to scrutiny.

Neighbourhood Plans, or a similar approach, can be very valuable as a guide for informing future development and in particular for defining existing and desired character, as well as providing guidance on site specific matters. It is noteworthy that a large number of submissions expressed concern about the proposed removal of the reference to Neighbourhood Plans. They should be retained and updated as appropriate and should continue to be the primary source for determining what constitutes “desired character” in a particular neighbourhood in planning decisions.

In its Consultation Report, ESDD has opposed retention of Neighbourhood Plans on the grounds that Neighbourhood Plans “often contain provisions that are not suitable for the assessment process”. But if this is the case, the appropriate course would be to update and amend them as necessary, rather than abandoning them.

I note that Precinct Codes exist for some suburbs. However they can only be described as being rudimentary at this point. They contain some specific requirements for particular sites but they do not do more than that. While they may offer scope in the future for identifying needs and requirements for local areas, they need much more work and development in consultation with the relevant local community before they can be regarded as an adequate substitute for Neighbourhood Plans. Hence the existing Neighbourhood Plans should be retained until appropriate Precinct Codes have been developed and are in place.

Increased building bulk

DV 306 is supportive of allowing additional building bulk through increased building envelopes but no sound justification for this policy of encouraging extra bulk has been advanced. This is not something that should be actively encouraged. ACTPLA/ESDD has to date failed to provide an explanation as to why they consider this to be in the public interest.

Plot Ratio Requirements

DV 306 does not address one of the main problems that has emerged with the current Residential Development Codes, namely the inadequacy of the current plot ratio controls.

As GNCA pointed out in its September 2011 submission, even in the lower density RZ1 and RZ2 areas, many new developments or redevelopments seem to be covering a very large part of the block - well in excess of the 50% nominally allowed. Extensive paving and other hard surfaces compound the problem. Little or no space is allowed for the planting of trees. Garden space is minimal and often confined to the periphery of the block. This is of concern both for general environmental reason, including the need to ensure effective groundwater retention levels, and for reasons relating to residential amenity. The result has had a very adverse impact on Canberra’s garden city character.

While the problem may be partly attributable to ESDD's failure to enforce the requirements, the nature of the developments that are occurring strongly suggests that the current definition of plot ratio is deficient or that the plot ratio should be reduced.

I would urge the Standing Committee to support the view that was put by GNCA that the definition of plot ratio applying in RZ1 and RZ2 areas should be reviewed to ensure that all buildings on the block including detached garages, tool sheds etc are included. In addition consideration should be given to placing a limit on the proportion of the block that is covered by paving or other hard surfaces including driveways.

There is also a case for a sliding scale plot ratio in RZ1 areas, with the ratio being lowered as the size of the block increases.

In the case of larger residential developments in RZ3 to RZ5 areas, it is vital that there be provision for adequate areas of on-site open space to enable larger scale garden and tree planning and groundwater recharge. Unless this is done, the garden city character of Canberra will continue to decline.

There is a further matter that is of concern. DV306 provides for a plot ratio of 65% for multi-unit housing on large blocks in the RZ1 zone. As the GNCA submission notes, this appears incongruous when compared with the 50% permitted on RZ2. It should not be allowed.

Setback Requirements

ESDD is proposing in DV 306 that many setback requirements be reduced - including upper level front boundary setbacks for blocks approved before 18 October; some side and rear boundary setbacks (including upper floor setbacks from side and rear boundaries); a reduced setback for unscreened elements; and a nil setback for garages to one side boundary for large blocks.

These proposals are unacceptable. As GNCA's submissions have pointed out, no sound justification has been put forward for the reduced setbacks which threaten to have a serious impact on neighbouring residential amenity and mar streetscapes. The reduction in upper floor setbacks will increase the potential for overlooking; it will also mean significantly reduced opportunity for tree growth.

Placement of garages on boundaries can impact on neighbours' solar access in the same way that dwellings can.

I note that concerns about the reductions in setbacks were raised in a number of submissions to ESDD. There should be no reduction in setbacks without proven environmental benefits. The existing provisions should remain. Indeed, there is a case for *increasing* setback requirements since those requirements generally have a strong influence on the type of trees that can be grown and the gardens that are developed. It is highly questionable, for example,

whether rear minimum setbacks of 3m allow the retention of deep-rooted plantings that have given many neighbourhoods their traditional character and assisted privacy. This is an important consideration in both RZ1 and RZ2 areas.

Minimum Block Sizes

The proposal to reduce the minimum block size for dual/multi-occupancy from 800m² to 700m² should also be opposed, as should the proposal that only an extra 250m² be required for each additional building once blocks exceed 2,350m².

No sound justification has been advanced for the change and retaining the existing controls would help ensure that new developments blend with the neighbourhood while still encouraging increased density in areas close to local centres.

Definition of Desired Character

Many of the criteria in the residential development codes list “consistency with the desired character” as a matter to be considered when determining compliance. ESDD is proposing that “desired character” be defined as follows”

desired character means the form of development in terms of siting, building bulk and scale, and the nature of the resulting *streetscape* that is consistent with the relevant zone objectives, and any statement of desired character in a relevant precinct code

But the zone objectives are multiple, broadly framed, open to many interpretations, and provide little clarity on what is intended. Indeed, one suspects that anything would be permissible. Moreover, such a definition implies that all places across Canberra in the same zone will have similar development outcomes. It ignores differences between areas, their history, local culture and sense of place. Surely, the vast majority would agree that bland uniformity would be a very poor result and that we should seek to ensure that development should be sympathetic to the existing character of the local area.

The definition now put forward offers some improvement on its predecessor in that it includes reference to “a relevant precinct code”. However, since the definition is primarily in terms of the relevant zone objectives it remains very unsatisfactory, especially given that precinct codes often do not exist or are only in a rudimentary form. It should reference the Neighbourhood Plan and/or the existing character of the local neighbourhood.

Neighbourhood Plans were developed by ACTPLA in consultation with the local community and provide the best available guidance on local character and what local communities value. They should be used, updated as necessary.

Residential Care Accommodation

There are some particular issues relating to Residential Care Accommodation. Controls relating to residential care accommodation (whether in RZ1 or other residential zones or the

community facility zone) have been weakened, essentially because of an ACAT decision that means in effect that many types of residential care accommodation do not contain dwellings.

Residential care accommodation in Residential zones still suggests a 35% plot ratio but this is not mandatory. Few if any other controls apply (in either residential zones or in community facility zones) because most of the requirements (whether in the Residential Codes or the Community Facility Zone Development Code which references the Multi-Unit Development Code) assume that residential care accommodation consists of dwellings. The implications of the ACAT decision do not seem to have been addressed by ESDD.

This is an important issue. There is no good reason why people living in aged care accommodation, particularly those facilities located in a Community Facility Zone, should not expect the same sort of amenity protection as other citizens.

Summary

In summary, some improvements have been made to the Territory Plan changes that were originally proposed but there is much that remains totally unacceptable. The “interim” provisions introduced last year should be confirmed but as for most of the rest, the proposals should be put on hold pending a full review and evaluation of changes needed to achieve Plan objectives.

A handwritten signature in dark ink, reading "Margaret Fanning". The signature is written in a cursive, flowing style with a large initial 'M'.

Margaret Fanning