



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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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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## Submission to Inquiry into Territory Plan and other associated documents

The Ainslie Residents Association makes the following comments on the draft Territory Plan and related planning documents:

### **Ainslie Oval public land reserve**

The Ainslie Oval has not been marked as a public land sport and recreation reserve in the maps of the draft Territory Plan, continuing the abolition of these reserves that was done earlier this year without any public consultation.<sup>1</sup>

Government agencies have decided that there is no entity with administrative responsibility for leased public land reserves, and then claim that this leads to some inconsistency between the lease and the Territory Plan allowing the reserve to be abolished.<sup>2</sup> In our view, this conduct is a clear breach of a long-standing provision of ACT planning law that:

The Territory, the Executive, a Minister or a territory authority must not do any act, or approve the doing of an act, that is inconsistent with the territory plan.<sup>3</sup>

This public land reserve is likely to have over a billion dollars worth of development potential, and it is quietly being gifted to a private entity. These events raise serious questions as to:

- who is actually responsible for making planning law in the Territory;
- how public reserves in the ACT are being administered; and
- the provenance of legal advice being used by public entities in interpreting planning law.

Oddly, the Inner North District Strategy mentions undertaking a “detailed localised analysis to inform and confirm the need for new community and recreational facilities in Inner North” and making sure “sufficient land (or floorspace capacity) is identified and preserved for social and community uses”.<sup>4</sup>

*Recommendations:* The Legislative Assembly:

1. not approve the draft Territory Plan unless the sport and recreation reserve over the Ainslie Oval is re-established;
2. conduct an independent review into the use of the Ainslie Oval site; and
3. clarify that the Planning and Land Authority must not:
  - a. lease public reserved land to private entities;
  - b. abolish public reserved land from the Territory Plan without public consultation;
  - c. convert public reserved land to private carparks;

### **Housing in community facility zoned land**

Similarly, we must have missed the media release containing the explanation of the benefits to the community in allowing greater potential for residential development on community facilities land.

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<sup>1</sup> Technical Amendment to the Territory Plan 2023-03 available at <https://www.legislation.act.gov.au/View/ni/2023-215/20230428-80826/html/2023-215.html>

<sup>2</sup> See FOI response which can be found at <https://www.environment.act.gov.au/about-us/access-government-information/disclosure-log/disclosure-logs/EPsDD-23081638>

<sup>3</sup> *Land (Planning and Environment) Act 1991 s8, Planning and Development Act 2007 s50, Planning Act 2023 s52.*

<sup>4</sup> Page 35, volume 3, Inner North District Strategy.



It's continues the pattern of incremental and technical changes to planning rules that opens up community facilities zone land to residential development and privatisation. The importance of community facilities land to the community is undervalued.

The ACT Government have neglected the provision of community facilities and more recently deliberately acted to replace community facilities with residential uses. These developments have surprised communities and heavily impacted neighbours. The Assembly debate in May 2017 highlights this methodology of subtle changes.

Considering the enormous volume of residential land compared with the availability of community facilities zoned land it is hard to understand this desire to replace community facilities with more residential developments. Most residents would consider simply that any buildings used for residential accommodation should be built on land zoned for residential development. Developers consider that CFZ land is underdeveloped and cheap.

To help clarify, both plans have a definition of **community use** that includes *community activity centre, community theatre, cultural facility, educational establishment, early childhood education and care, health facility, hospital, place of worship and religious associated use*. You will notice that there is no mention of residential use. These facilities are open to the broad community to come together for education, health and social engagement.

The New Territory Plan continues this transition of community facilities zoned land to greater residential use. Both plans have Community Facilities Zone objectives and a list of permitted uses. The objectives of the 2008 Territory Plan have been copied into the new plan. **Community housing** has been added to permitted uses in the new plan and is defined as *the use of land for affordable residential rental which is managed by a community housing provider*. The other residential use permitted in CFZ is supported housing which is in both plans. The requirement that tenants needed to require support was problematic for community housing providers who wanted to build rental properties on the CFZ sites (rather than in residential zones). The residential inclusions for supported accommodation have also been changed and expanded.

A big difference between the existing and new Territory Plan is the list of prohibited developments that are included in the current plan and not in the new plan. Included in the prohibited list are *boarding house, multi-unit housing, secondary residence, single dwelling housing, special dwelling, serviced apartments and COMMERCIAL ACCOMMODATION USE (sic)*.

The prohibited use table was valuable because it provided a clear indication of the developments that were not considered to be community facilities. Government needs to explain how increasing the opportunity for residential development on Community Facilities Zoned Land achieves the third zone objective to: *3. Protect social and community uses from competition from other uses*.

The current prohibited use table indicates that protection is required from commercial and residential uses.

The other new permitted community facility inclusions of 'veterinary clinic' is bewildering and 'complimentary use' is incomprehensible.

*Recommendations:* That the draft Territory Plan be amended to:

1. establish a new zone type of residential housing zone for that social, community and supportive housing developments;



2. that social, community and supportive housing developments be consistent with residential zone requirements of the closest residential zoning to the site;
3. Greater transparency and community engagement in proposed redevelopment of community facilities zoned land.

### **Permissible development**

The draft Territory Plan allows for coal fired power stations as permissible developments in both PRZ1 (urban open space) and PRZ2 (restricted access recreational) zones.

*Recommendation:* Review the list of permissible developments, particularly coal fired power stations in urban open space and recreational zones.

### **Safety of Children**

Rules relating to the separation of child care centres from safety hazards (eg water bodies; busy roads) have been removed from the Territory Plan.<sup>5</sup>

*Recommendation:* Establish clear planning rules in the Territory Plan designed to ensure the safety of children.

### **General Comments**

- Many of the existing planning rules have just been reorganised into different documents outside of the Territory Plan or removed entirely.
- The design guides have some good ideas and examples. It may be helpful to trial these design guides as a relevant consideration for decisions under the existing planning law while the new Territory Plan is still being considered.
- We generally feel the new proposed planning system is significantly less clear than the existing system and the uncertainties will likely to result in more arguments between developers and surrounding landowners.
- Other than the design guides, there is little new planning to ensure a safe and liveable city.

We would be happy to speak in person on these topics.

**Ian Hubbard – Chair, Ainslie Residents Association**

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<sup>5</sup> See the existing Community and Recreation Facilities Location Guidelines General Code of the Territory Plan, p.10