



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING, TRANSPORT, AND CITY SERVICES
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Submission Cover Sheet

Inquiry into the Territory Plan and other associated documents

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**Submission to the Standing Committee on Planning, Transport and City Services:
Inquiry into the Territory Plan 2023**

I apologise for the tardiness of this short submission.

I have experience providing advice and information on the ACT Planning system, particularly implications of the planning system on the environment in the ACT over the past 5 years. This has included watching, with interest, the development of the new planning system in the ACT. Based on that experience, I have the following points to raise:

Greater clarity about the role of Design Guides and Technical Specifications in decision making.

The interim territory plan contains improved language around the relationship between the Territory Plan, technical specifications and design guides. Further clarity is needed.

Design guides

The design guides are regarded as ‘supporting documents’¹ in relation to the Territory Plan. Though they are akin to ‘criteria’ in our former planning system, design guides are now regarded as supporting material that “*do not form part of the Territory Plan but may be ‘called up’ by policies within the Territory Plan*”.² It is unclear what being ‘called up’ means.

AT the same time, the Territory Plan also states:

*“The guides provide clear and easy to understand qualitative guidance that identify design possibilities and encourage innovation. Design guides also identify where flexibility in design can be considered and matters that must be addressed. Overall, the guides are critical in the design and assessment process, particularly when planning provisions are less prescriptive and leave room for interpretation and innovation”.*³

Design guides are clearly the heart of the new planning system and critical to its implementation. Where design guides are applicable they must be considered in demonstrating compliance with assessment outcomes, and design guides must be taken into account by decision makers.⁴

It is unclear why such an important feature of our planning system (the qualitative features of the way we develop) is now no longer part of the Territory Plan. The practical implication of these qualitative features being removed from the Territory Plan is that if they are changed, there is no scrutiny by the public or the community.

¹ *Territory Plan Part A: Administration and Governance*, p 5 and ACT Government, *Territory Plan Explanatory Report*, p 8.

² *Territory Plan, Part A: Administration and Governance*, p 5.

³ *Territory Plan, Part A: Administration and Governance*, p 5.

⁴ *Planning Act 2023*, s 186(b).

Greater scrutiny is required for future changes of existing design guides, and the development of additional ones.

Technical specifications

The role of technical specifications is less clear. The Territory Plan suggests that technical specifications be used as a possible solution or to provide guidance for identified aspects of a development proposal. Technical specifications may also be used as a reference or benchmark for planning matters in the preparation and assessment of development proposals to demonstrate compliance with the Territory Plan. The use of 'may' obviously gives the decision maker (and developer) some wriggle room in the application of these technical specifications to a development. This 'wriggle room' doesn't automatically mean that technical specifications are a minimum threshold though – the use of the word 'may' suggests that they could not be used at all. If technical specifications are a benchmark to be exceeded this must be explicit. Otherwise, technical specifications may not be considered at all.

Design Guides and Technical Specifications need to form part of the Territory Plan to provide clarity in application, and ensure greater transparency and accountability with respect to future changes, and public scrutiny where required.

As noted above, the practical implications of design guides and technical specifications sitting outside the territory plan as 'supporting documents' that are 'called up' is that there is very little oversight or scrutiny if any of these documents were to be amended. There is no mechanism for consultation to changes to any of these supporting documents, even though they contain the qualitative and quantitative measures of our planning system. These documents will shape Canberra in decades to come in critical ways – including (hopefully) ensuring Canberra becomes more climate resilient – and yet should any of these documents be amended, there will be no oversight by those that govern the Territory (the Legislative Assembly), with no inputs from those that experience the consequences (the community).

Design guides and technical specifications need to be reintegrated into the Territory Plan. Alternatively, there needs to be some mechanism for consultation and scrutiny should these documents change. They are too critical to the development of future Canberra to be completely untouchable.

This is a critical issue.

Ensure Variation 369-equivalent provisions apply to single dwellings and those with secondary residences

Given:

- the Housing Design guide explicitly does not apply to single dwellings and secondary residences ("Residential development, excluding single dwelling housing and secondary residence, is required to consider and provide a design response to the Housing Design Guide"⁵);
- RZ1, more than 80% of our existing residential zone, consists of single dwellings and new zoning rules allow for greater development of secondary residences on these blocks;

⁵ ACT Government, *Housing Design Guide*, page 10.

- The Housing Design guide contains the ‘qualitative’ considerations to be taken into account when developing a block, and these are not found elsewhere in the Territory Plan or supporting documents;⁶
- Technical specifications, the quantitative considerations in our planning system, may or may not be considered by decision makers when assessing a development application, and are not a consideration for decision makers in section 186 of the *Planning Act 2023*;
- There are minimal V369-equivalent settings in assessment requirements,
- Living infrastructure requirements are set out in assessable outcomes, but there is little mandatory guidance for single dwellings that are not covered by the design guides,

What will guide living infrastructure standards / V369 considerations for the majority of our residential housing in the ACT? How will we ensure we meet our 30% tree canopy and permeable surface targets in the *Living Infrastructure Plan*? There are relevant assessable outcomes in the Territory Plan, but what will decision makers take into consideration when making this assessment, given the Housing Design Guide specifically does not apply and technical specifications may not be applied? What is the mandatory, relevant guidance, to satisfy assessable outcomes (other than site footprint measures in the assessment requirements)? There is none.

Applicability of each of the design guides needs to be reviewed and expanded.

The design guides provide an opportunity for innovation and better sustainability for future development in Canberra. However, the application of each of the design guides is limited and it is unclear why this is the case.

Housing Design Guide

As set out above, the Housing Design Guide does not apply for residential development comprising single dwelling housing and secondary residences.⁷ It is unclear why the housing design guide effectively does not apply to RZ1, 80% of our current residential zoning. Comparing the new planning system with the old, this essentially means that criteria – the qualitative considerations in the Territory Plan – do not apply to RZ1. It is unclear why this is the case, and what decision makers will take into account when determining whether assessable outcomes are met.

The Urban and Biodiversity Sensitive Urban Design Guides

The Biodiversity Sensitive Urban Design guide (BSUD guide) has some good features. The Urban Design Guide applies to developments of a certain size and scale. It would be good to see better and more explicit linkages between the BSUD guide and the Urban design guide in the actual design guides.

Sincerely,

Stephanie Booker

⁶ Territory Plan, Part A: Administration and Governance, p 5.

⁷ ACT Government, *Territory Plan Explanatory Report*, p 10 ACT Government, *Housing Design Guide*, page 3.