

Frank Mestrov
2 Hovell Street
GRIFFITH ACT 2603
29 August 2006

The Secretary
Standing Committee on Planning and the Environment
ACT Legislative Assembly
GPO Box 1020
Canberra ACT 2601

**SUBMISSION on
PLANNING AND DEVELOPMENT BILL 2006 - EXPOSURE DRAFT**

I refer to the above draft document for which submissions from the Canberra community are currently being sought. I wish to offer the following comments for your consideration as appropriate.

General

It is very difficult to make reasoned comments on this Bill in the absence of specific and complete details of what is proposed for the Territory Plan restructure. It is simply not sufficient to have available a broad outline of what is proposed only, as documented in the publication "Outline of the Territory Plan Restructure". The following comments have therefore been made within this limitation. Further comments on the Bill may therefore be appropriate once the full details of the Territory Plan Restructure become available.

Part 3.6 Public register and associated documents

In order for this section to operate efficiently and in the public interest it **needs to specify the maximum period within which information required by Section 27 must be placed on the Public Register** and therefore become available for inspection by the public. I suggest a maximum of five working days would be more than sufficient for ACTPLA to record, copy and place the information on the Public Register. Without a specified maximum period it is open to ACTPLA to deliberately or inadvertently delay the placing of information on the Public Register. If this was to occur some of the information required by Section 27 would not become available for inspection at the earliest opportunity, and this could be critical to the legitimate interests of members of the community.

Part 5.3 Section 61 Public consultation - notification

Paragraph (1) (a) indicates that the "consultation period" for draft plan variations shall be not less than 15 working days. **This consultation period is far too short.** If meaningful comments on the draft variation are to be obtained from the community, in my view **a period of at least 30 working days is required.**

The consultation periods allowed elsewhere by this Bill may also be too short. All such periods should be reviewed and further considered. The principle objective should be to ensure that fair and adequate time is given to the public to comment on issues which this Bill is concerned with.

Paragraph (61) (4) states that ACTPLA must publish the consultation notice and any extension notice in a daily newspaper. The question to ask is which newspaper? According to this draft Bill an interstate newspaper would be acceptable. Clearly this is not intended. **The Bill therefore needs to make clear that the daily newspaper must be a Canberra based newspaper.**

There are also references elsewhere in this Bill to a requirement that a notice(s) must be placed in a daily newspaper. **All such references need to make it clear that such notices must be in a Canberra based newspaper.**

It is my view that the whole planning process would be greatly improved and made more efficient if related notices that are required to be placed in a daily newspaper were categorised and published in the newspaper on a particular day of the week. For example, all draft Territory Plan Variations could have notices placed in the newspaper on say a Wednesday, and Development Application notices could be placed in the

newspaper on say a Saturday. In this way members of the public who might have a particular interest could be sure that they have not missed any related notices by checking the newspaper on the appropriate day. Alternatively, all notices could be placed in the newspaper on one specified day of the week only.

Part 5.3 Section 64 Public consultation - availability of draft plan variations etc

Paragraph (3) states that if part of the variation or background paper is excluded from copies of the document, a statement to this effect is to be included in each copy of the document. **This statements needs to include as well the reasons why those parts of the variation or background paper were excluded. The public has the right to know why the exclusions were made.** This information should not be denied to the public.

Part 5.4 Plan variations - technical amendments

All technical variations should be listed and reported on in ACTPLA's annual Report, with a full explanation and justification on why the variation was technical and did not require consultation etc.

Chapter 7 Development Approvals

It is impossible to make sensible comments on this Chapter in particular without the opportunity to also refer to the proposals for the restructure of the Territory Plan. It is simply not good enough to only be able to refer to an "Outline of the Territory Plan Restructure" document. **The specific details of what is proposed are required.** It is possible however to make some general observations.

The proposal to further restrict the public notification requirement for development proposals and to eliminate the appeal rights for some developments is unacceptable. **Public notification and appeal rights must be retained in any restructure of the Territory Plan.** It is a denial of the natural rights of the community and in particular nearby neighbours who will be mostly affected. Who is to protect the interests of these people? It would be an impossible conflict of interest to expect ACTPLA to do so. **The community must be fully notified of development proposals and be given the right to appeal planning decisions when they consider they have been seriously disadvantaged.**

The **proposed Assessment Tracks raise many questions.** For example is it intended that the requirements contained within the Code Assessment track are to be mandatory, with no scope permitted to ACTPLA assessment officers to vary or reduce these requirements? A reading of the document, "Outline of the Territory Plan Restructure", suggests that departures from the Code requirements would be possible but would perhaps require documentary evidence that "all is well". What does this mean? Who will review and/or challenge the documentary evidence? Will the community be given appeal rights, and if not why not? The current arrangements where ACTPLA exercises a broad discretion in its interpretation of the Territory Plan requirements do not work. This statement is supported by many of the appeals determined by the AAT, and in particular by the grounds of the appeals lodged with and by the decisions of the AAT.

It appears that it is proposed that dual occupancy developments will require no public notification and be assessed under the Code Assessment track. Dual occupancy developments have been a cause of major concern throughout the Canberra community for many years. This concern will not disappear by the expediency of no public notification of such developments and by the denial of appeal rights. **This proposals must be reassessed.** It also clearly illustrates the difficulty of providing worthwhile comments on the Bill in the absence of the details of the Territory Plan restructure.

Chapter 13 Miscellaneous Section 372

The basis under which "documents" can be excluded from being made available for public inspection needs to be made clear and documented in the Bill. This should be a provision which is rarely used, if at all. In the public interest full transparency of the planning process should be the operative objective. **If "documents" are excluded this should be reported and subject to appeal.**

I trust you will find the above comments useful.

Yours sincerely

Signed

Frank Mestrov