



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 Planning Bill 2022

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Inner South Canberra Community Council

ISCCC SUBMISSION ON THE ACT PLANNING BILL 2022

The Inner South Canberra Community Council (ISCCC), the peak body for Inner South Canberra residents' groups, welcomes the opportunity to provide a submission to the Assembly's Planning, Transport and City Services Standing Committee (PTCS) on the ACT Planning Bill.

The ISCCC recognises that the ACT Government has responded to some of the recommendations of the ISCCC's attached June 2022 submission on the exposure draft of the Planning Bill, including:

- Principles of good consultation are now in the Planning Bill
- The Planning Bill was referred to the Assembly's PTCS Committee and an Inquiry is being undertaken.
- Planning authorities released the draft Territory Plan and District Strategies for community consideration while the Bill is being scrutinised by the Assembly.

However, the ISCCC's June 2022 submission to the ACT Government remains essentially relevant to the work of the PTCS, and this submission will draw out some key remaining issues:

1. **The Planning Bill should not be approved before the (totally new) Territory Plan and District Strategies can be subjected to full public scrutiny.** The Planning Bill is critically interdependent with the Territory Plan and District Strategies. The community should have until at least 28 February 2023 to comment on the latter documents, and then community feedback with implications for the Bill must be taken into account demonstrably before the Bill is finalised.
2. **There must be greater clarity about the proposed new "outcomes focused" planning system, how it will work in practice, be reported on to the Assembly, and evaluated.** Hence, the Planning Bill should not be finalised until the community can better understand the interrelatedness of the Planning Bill, the new Territory Plan and the new District Strategies. Outcomes should be measurable, evidence-based and consistent with the ACT Government's Wellbeing Framework.
3. **The Planning Bill still needs better provisions relating to community consultation and engagement.** We are pleased that the ACT Government has now included Principles of Good Consultation in the Bill. However, unlike the NSW and South Australian Planning Acts, which have specific sections on **community** participation and engagement, the ACT Planning Bill does not. The Bill's reference to Principles of Good Consultation seems to relegate the community to being just one "stakeholder". The ACT community must not be provided with inferior provisions for community consultation and engagement than that of the communities of NSW and SA.

- (i) The Planning Bill should beef up community consultation and engagement provisions, along the lines of NSW and South Australian legislation, for example, the Community Participation Plans in NSW and the Community Engagement Charter in South Australia.
- (ii) 'Pre-DA Community Consultation' should be reinstated and required to be conducted in tandem with consideration by the Design Review Panel (DRP), not after the DRP has signed off on the proposal. In fact, the DRP should have the opportunity to hear from the community during the review timeframe.
- (iii) Provision must be made for First Nations interests across the ACT to be taken into account in a meaningful way. In advance of the finalisation of the Territory Plan and District Strategies, and in consultation with First Nations people, there should be a thorough and comprehensive assessment of all aspects of history and cultural practice which need to be respected and acknowledged.
- (iv) Unlike other jurisdictions, the ACT does not have city councils, and so, at the least, relevant Community Councils should be given a clearly defined role in advising on District Strategies.

4. The Objects of the draft Planning Bill relating to climate change, resilience and sustainability must carry through into the rules and planning controls embedded in the proposed Territory Plan and district strategies to ensure Canberra suburbs will be liveable under a range of climate change scenarios. The question of liveability is one more reason for community feedback to be taken into account before the Planning Bill is finalised.

5. The excessive discretion provided for in the Planning Bill, and the consequent risk to accountability, must be subject to checks and balances. Three years ago, community and other stakeholders were told that "governance of the planning system" was "off the table" in the Planning Review.¹ Yet, the Planning Review, which was not conducted independently, has led to a Planning Bill signalling much greater powers for the Planning Authority. In other words, governance was indeed "on the table" for the Planning Authority only, to propose increasing its own power. To balance this excessive concentration of power:

- (i) The roles of Chief Planner and Director-General of the Environment, Planning and Sustainable Development Directorate should be held by different individuals, NOT by the same individual as is presently the case.
- (ii) The Chief Planner should report directly to the Minister and to the Legislative Assembly, rather than through the Director-General of the Environment, Planning and Sustainable Development Directorate.
- (iii) The Legislative Assembly should have a greater role in scrutinising the planning system, including by making the Planning Strategy, Territory Plan, District Strategies and Territory Priority Projects subject to Disallowable Instruments rather than Notifiable Instruments.

¹ "Territory Plan Review Engagement Workshops 16 and 18 May 2019 Outcomes and Report"

https://hdp-au-prod-app-act-yoursay-files.s3.ap-southeast-2.amazonaws.com/8015/6228/8449/ACT_Planning_Review_-_Workshop_Summary.pdf accessed 14 November 2022.

(iv) There should be demonstrably independent review of Development Applications (DAs) when they involve significant changes and when substantial numbers of objections have been lodged. Examples of worthy consideration include the role of the former ACT Commissioner for Land & Planning and planning panels as used in the NSW planning system.

(v) Such independent scrutiny, triggered by certain DAs, should be conducted in public view ie. all interested parties should be able to observe/be informed by the review process.

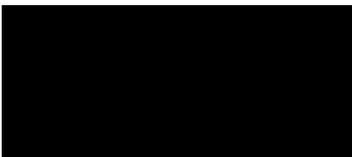
6. There must remain some key rules relating to assessment of development applications that reflect what inner south residents have said in response to the 2019/20 ISCCC survey that they care about most, especially access to sunlight and natural light, building height, proposed zone changes, the amount of green space on the block, and protection of the character of heritage precincts.

7. In addition, Section 605 in the Planning Bill should be amended to make it clearer that a “supporting report” is required that sets out all changes from the current Territory Plan, including those where provisions are to be in “supporting material”, rather than in the body of the Territory Plan, and why those changes are being proposed. It should also require that the ‘supporting report’ responds meaningfully to ALL issues raised in community consultation, stating clearly why changes have, or have not been made in response.

8. The Bill should require that the Planning Strategy and District Strategies be referred to the Assembly as per ‘major plan amendments’ (to enable the relevant Committee to determine whether it wants to hold an inquiry).

9. The Planning Bill should be simplified. The new legislation was supposed to be simpler. Instead, it is larger and more complex than the legislation it replaces and introduces a far greater level of uncertainty for ALL users. The Planning and Development Act 2007 comprised 517 sections, the new Planning Bill comprises 648!

The ISCCC would be happy to appear before the PTCS Committee at the public hearings on 6-7 December.



Marea Fatseas
Chair
16 November 2022

