

STANDING COMMITTEE ON PLANNING, TRANSPORT AND CITY SERVICES 'INQUIRY INTO THE TERRITORY PLAN AND OTHER ASSOCIATED DOCUMENTS' – EXPRESSION OF INTEREST TO APPEAR AT THE PUBLIC HEARINGS

INTRODUCTION

I am a former senior executive of ACTPLA and was involved in the last major shake-up of the ACT planning system resulting in the *Planning and Development Act 2007* and the *Territory Plan 2008*. I made a personal submission in February 2023 during the public consultation on the draft district strategies, territory plan etc and also contributed to one by the Inner South Canberra Community Council (ISCCC). This is a personal EOI.

ACT PLANNING SYSTEM CONSULTATION RESPONSE REPORT

I have considerable concerns about this report, which is presumably intended to be the major explanation and justification for the revised draft territory plan released in September 2023. Although this report identifies well over 200 specific issues with the early draft plan (see Appendix B), **the Government's 'responses' to these issues are superficial, unclear and fail to deal with many of the substantive points raised in the consultation 'Feedback'**.

For instance, under **Table 1 - Structure and Usability of new Territory Plan**:

1. Major issues from the Feedback include that ***"The multiplicity of documents and their complexity make them difficult to understand, to administer and to evaluate."*** The Government response is ***"Assessment outcomes have been reworked since the consultation version to provide more clarity in the Territory Plan."*** **This is a totally inadequate response to this important concern and provides no specific examples of where "more clarity" has in fact been provided.**
2. Another important issue raised was that ***"Technical Specifications, Design Requirements, and District Strategies are not subject to change management through the Legislative Assembly."*** The Government response is: ***"The planning specifications will be a Notifiable Instrument (NI) on the Legislation Register and will be required to follow the standard process for amending a NI. The shift to a more outcome-focused system of development control improves the connections within the planning system between strategy and delivery."*** **This is meaningless waffle and completely fails to justify taking so many of the critical development controls out of the territory plan.**
3. The Feedback also notes: ***"In the absence of rules-based planning, it is essential that strong compliance measures be added as part of an effective governance model. Such a model would also deal with the pervasive conflicts of interests surrounding planning decision making and the need for independent, evidence-based conflict resolution."*** The Government says: ***"No changes to compliance processes. All developments must demonstrate that they are consistent with the assessment outcomes of the zone policy. All legislative/regulatory requirements must still be met."*** **This fails to deal with the substantive concerns stemming from the absence of most of the critical 'rules' from the territory plan and their related assessment 'criteria'.**

4. Under **Table 2 - District Policies and District Specifications (Inner South)** the Feedback includes ***“Inconsistency of controls translated from some precinct codes but not others depending on the district or suburb.”*** The Government Response is: ***“If provisions are currently mandatory, then this will still be the case.”*** However, eg. there is an important ‘Objective’ in the Kingston Precinct Code for the Kingston Group Centre including: ***“development that respects the heritage character of the centre”***. This has completely disappeared from the new territory plan and supporting documents.
5. Under **Table 3 – Zone Policies – general comments** the Feedback includes: ***“Concerns that assessment outcomes are not expressed as outcomes”, but the Government Response is dismissive: “The final documents have improved clarity of wording and the intent and outcomes are clearly expressed”***.
6. Also, the Feedback includes: ***“Assessment Requirements must include the current living infrastructure provisions [and] to provide solar access, privacy and protection of the character of heritage precincts.”*** The Government says: ***“Residential Zones Policy has been revised to articulate more clearly the living infrastructure, solar access and privacy considerations in the assessment outcomes for residential development in residential zones and any other zone where residential use is permitted. Protection of the character of heritage precincts is a matter for other legislation, namely the Heritage Act and associated Heritage Citations, and will need to be considered and addressed during the DA process”***. However, all of the specific ‘rules’ have been moved out into ‘technical specifications’ which are ***“a possible solution or to provide guidance”*** and ***“may be used as a reference or benchmark”***. The related assessment ‘criteria’ seem to have been dispensed with completely. The *Housing Design Guide* also does not appear to include the ‘Living Infrastructure’ provisions. The Response fails to consider that development applications in heritage precincts are considered under the *Planning Act*, which enables the planning authority to make decisions contrary to the advice of the Heritage Council.
7. Under **Table 4 – Residential Zones policy** the Feedback includes: ***“Solar access, plot ratio, planting area, private open space provisions have been removed.”*** The Government says: ***“These provisions (except plot ratio) have been added back into the Territory Plan.”*** This is of course quite INCORRECT. These provisions are in the ‘technical specifications’.
8. Under **Table 6 – Zones Planning Technical Specifications – general comments** is: ***“Concern that technical specifications are not legally enforceable, as they are not part of territory plan”***. The Government responds dismissively: ***“Planning technical specifications will be notifiable instruments”***.
9. Under **Table 12 - Comments on various other matters related to the Territory Plan** Feedback includes: ***“New Territory Plan should follow the Development Assessment Forum (DAF) Leading Practice Model for Development Assessment in Australia.”*** The Government response is: ***“The new Territory Plan is broadly consistent with the Development Assessment Forum Leading Practice Model from 2005...”***. This is untrue – critical aspects of the DAF Model are Leading Practices 1&2: ***“Elected representatives responsible for the development of planning policy, through effective consultation with the community”*** [etc] and ***“Development assessment requirements and criteria written as objective rules and tests...”***.