

20 Fergusson
Crescent
DEAKIN ACT 2600
Email : keithstorey@bigpond.com.au
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Further Comments on Planning and Development Bill, 2006

Dear Dr Jaireth

Attached is ACT for Trees' response to the meaning and wording of parts of the Planning and Development Bill, 2006 that you asked me about on Monday 7 August 2006 as well as other matters of concern following our closer reading of the document.

Section 7 (page 4) Meaning of Development

Page 5 of the Land (Planning and Environment) Act 1991 defined "development" in relation to land, means:

- (a) the erection, alteration or demolition of a building on that land;
- (b) the carrying on of work on that land;
- (c) the use or change of use of that land;
- (d) the use or change of use of a building or works on that land;
- (e) the subdivision or consolidation of that land; or
- (f) the display of signs or advertising material on that land;

National Capital Plan, Appendix B - General Definitions defined "works" to include:

- (a) the construction, alteration, extension or demolition, of buildings or structures;
- (b) landscaping;
- (c) tree-felling: or
- (d) excavations

Territory Plan, Schedule 1 – Definitions defined "development" as having the same meaning as in the Land Act. (see above)

From the above, it would seem better to amend the definition of "development" in the Planning and Development Bill 2006 to be the same as in the **Land Act** with the addition after item (b) *the carrying on of works on that land*, the words: *"including landscaping, earthworks and tree felling"*.

Part 3.2 page 8-9) Functions of Planning and Land Authority

This is an important part of the new legislation but it understates and omits important parts of the authority's role and functions. ACT for Trees suggest the following changes:

11 (c) add additional words after "land" to read as :

- to plan and regulate the development of land to achieve better urban design outcomes in term of the built environmental character, amenity and liveability;

11 (i) add the word "building" to read as:

- to decide building applications for approval to undertake development;

11 (j) to regulate the building industry" is badly worded and should be changed to detail what the authority does, as follows:

- to ensure availability and release of land for development;
- to grant planning approval for building design and siting; provide certifiers approval for building construction plans, compliance with building regulations, inspection approvals during construction, and final certification on completion of the building.

Note: The actual work is now carried authorized certifiers (outside agents) but ACTPLA still has overriding responsibility.

11(l) add additional words after "ACT" to read as:

- to provide planning services, including services to entities outside of the ACT, including closer regional planning collaboration with adjoining NSW planning authorities.

11(o) add additional words after "process" to read as:

- to promote public education and understanding of the planning process and development outcomes, by providing easily accessible public information etc

Division 7.3.6 of the Planning and Development Bill

Tree Protection Act 2005, has provisions on both leased and unleased land for two types of Protected Trees. These are Registered Trees identified as been exceptional; and Regulated Trees with in Tree Management Precincts for other trees (generally 12 metres in height).

We understand Canberra has now been declared as tree management precincts, but tree assessment surveys have not yet been completed. Approval from the Conservator is required to remove Protected Trees. Development proposals in areas not declared Tree Management Precinct are not affected by the tree protection legislation.

Division 7.3.6 provides that:

- (3) if the planning and land authority approves a development application that relates to a regulated tree the authority may, under this section -
 - (a) if a tree management plan is already in force for the tree - approve an amendment of, or replacement for, the tree management plan; or
 - (b) in any other case – approve a tree management plan for the tree.

Under this provision the planning and land authority is in effect taking over the authority of the Conservator. ACT for Trees believes this could be acceptable if it is done in a collaborative manner with the Conservator having rights to appeal to the Minister against an unsatisfactory outcome. The Conservator's role and rights should be recognized and clearly worded in this section of the Planning and Development Bill.

Keith Storey
On behalf of ACT for Trees