LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL
Ms Caroline Le Couteur MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair)
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Submission Cover Sheet

Engagement with Development Application Processes in the ACT

Submission Number: 028 - Temple

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To:

ACT Standing Committee on DA & DV Processes

Thank you for the opportunity to comment on DA & DV processes.

Please find attached our comments.

Comments on Development Application Processes in the ACT

Perceived Conflict

At this very moment, Minister Gentleman is proposing to alter the Territory Plan (DV350) to prevent 'unrestricted, multi-unit redevelopments in Canberra's older suburbs', with a closing date of 13 July. Of course, true to form and presumptively knowing the outcome, he says "the Draft Variation has already taken interim effect and applies to Development Applications lodged on or after 25 May"? Strangely, your Standing Committee is requesting comments on Development Applications by cob 3 August 2018 before the official outcome of DV350 is made public!

Wouldn't it been prudent to extend your deadline for comments on DAs until 15 working days after the decision (positive or negative) on DV350 and any ACAT appeals. Respondents to your DA processes will then know what the rules are.

Advertising of DAs

The excellent notification of DAs and DVs in The Canberra Times ceased for some unknown reason in 2016. Why are DAs so clandestine nowadays? Its as if our Government doesn't want us to know what is happening? The standard answer is look on our website – but many people (especially the elderly) do not own computers and smart phones – but they can read and are just as concerned. Surely, it is the duty of Government to be open, frank and transparent for ALL with DAs being openly advertised through the media.

Timing

It is no coincidence that many DAs are released over school holiday periods (when many ESPD staff are also on leave), especially the long summer holidays when many people are not in Canberra. If it is good enough that Federal Elections are not conducted during school holidays then DAs should follow the same protocol.

ESPD Liaison for Developers – pre DA meetings

It is apparent that there have been considerable meetings between the Developer and ESPD staff before the DA is released for consultation. This compares with the lack of consultation by ESPD and Developers with concerned neighbours.

Lack of liaison/Consultation with neighbours??

Other than a proforma letter drop into neighbouring letterboxes by ACTPLA/EPSD there is never any further “consultation” with neighbours!

It is obvious that the EPSD/ACTPLA has had many consultative meetings with the developer to assist projects. We believe that EPSD/ACTPLA (and the Developer) are failing in its duty and ‘due process’ by not consulting with local residents and concerned neighbours by calling a consultative, informative ON-SITE meeting. We feel aggrieved and believe it is unfair that EPSD/ACTPLA appear to be supporting the developer but is not concerned with local residents. We note the ACT Auditor General has exactly the same opinion of EPSD/ACTPLA as we do.

You never know? - collaborative on-site meetings may be as useful to Developers as as neighbours?

Hard Copy DAs - Diagrams, Figures and Maps

As many people have difficulties with computers and computer graphics it would be nice to be able access a hard copy of the complete DA at the ACTPLA/ESPD Office.

Concerned neighbours should not have to pay to get copies of DA figures, maps etc. at the Challis Street Office.

If payment is still required for copying (its not cheap) then it is probably better to request a full hard copy DA by FOI.

Variations to DAs

We understand that variations to DAs are made with the developer and ESPD, sometimes as soon as the DA has been approved. Even though representors request notification of ALL variations (however minor) we note that this never happens. Changes to the approved DA often come as complete surprises!

Onsite inspection visits

It is apparent that ESPD do not visit and inspect all DA sites before release for comments.

It is distressing and unprofessional that EPSD assessors openly confirm that in a lot of DA cases they have not conducted pre-DA site inspections – but approve the DAs SOLELY on viewing the plans. No place in ACT is far from Challis Street but the ESPD Offices might as well be in London or on the Moon! The mind boggles of how many DAs have been approved “blindly” or by “Google Earth”.

Tonight’s (2 August) ABC News reports that shamefully mistakes were made by the NSW Government who used “Google Maps” to make infrastructure decisions without on-site inspections!

It is to be hoped that EPSD follow up on their approvals with continuous 'first-hand', on-site viewing during construction and on final inspection to confirm that:

*"The development **HAS TO BE** carefully managed so that it achieves a **HIGH STANDARD** of residential amenity, makes a **POSITIVE CONTRIBUTION** to the neighbourhood **and** landscape character of the area and **DOES NOT HAVE UNREASONABLE NEGATIVE IMPACTS** on neighbouring properties……*and with a **LIMITED EXTENT OF CHANGE** with regard to the **ORIGINAL PATTERN of SUBDIVISION** and the **DENSITY** of dwellings**".**

Example:

We can assure you that a "triplex" development on a single average size block in no way satisfies these ACTPLA/EPSD criteria. Such a development at 54, Arndell Street, Macquarie, which is nearly identical to other nearby DA applications, attest to this!! It is to be hoped that ACTPLA/EPSD inspect this nearly completed, very busy development before assessing other similar DAs.

……

*54 Arndell Street – no soft vegetation, no open space, all building & hard surface, **Positive contribution to neighbourhood?***

*Satisfying - "a **LIMITED EXTENT OF CHANGE** with regard to the **ORIGINAL PATTERN of SUBDIVISION** and **the DENSITY** of dwellings**"?***

RULES – Ageing in Place & Adaptable Housing

These are solely ESPD/Developer buzz words.

Adaptable Housing – Special Housing Needs

We understand that some proposed 2-storey, town houses are classified and designed for Special Housing Needs – viz: Adaptable Housing.

We understand that Adaptable Houses are 'designed so that they support tenants with a disability' and allow "Aging in Place". It needs to be adaptable enough for all age groups and is Special Needs friendly – allowing the use of strollers, prams, walking frames, zimmer frames, wheelie walkers and wheel chairs etc.

For these reasons we are surprised that proposed units are 2-storey with stair access **ONLY** to the first floor. Surely these units cannot be regarded as 'Adaptable'

as the entire unit cannot support tenants with a disability or allow “Ageing in Place”. Unless of course lifts are proposed in each unit!

Surely Adaptable Houses, by EPSD’s OWN definition MUST be single storey without any stairs or steps!

Rules, Regulations and RZ2 Core Zone Objectives

From past experience we assume that the Developer and EPSD have worked together to produce a multi-unit plan which is in accordance with ACT building regulations and rules and (as varied and approved) and the ACT Planning & Development Act 2007.

Unfortunately ESPD has neglected to consider its own **RZ2 Suburban Core Zone Objectives** when approving DAs. There has been no consideration given to Safety and OH&S&E (Environment) implications of squeezing so many residences into RZ2 sites (how many sardines can be squeezed into a tin?).

RZ2 – Suburban Core Zone Objectives – for PROPOSED REDVELOPMENT

a) Provide for the establishment and maintenance of residential areas where: the housing is **low rise** **(*single storey?*)** and contains **a mix** **(*meaning?*)** of single dwelling and multi-unit development **(*no mix in the proposal – all exactly the same?*)** that is **low to medium density** **(*What does this mean?*)** in character particularly in areas close **(*how close is close?*)** to facilities **(??)** and services in **commercial centres** **(*what are these? shops where you can purchase groceries?).***

b) Provide opportunities for redevelopment by enabling **a limited extent of change** with regard to **the original pattern of subdivision and the density of dwellings (meaning?).**

c) Provide for a wide range of **affordable** ***(define??)*** and **sustainable housing choices** that meet changing household and community needs.

d) Contribute to the **support and efficient use** ***(overuse?)*** of **existing** social ***(what does social mean?)*** and physical infrastructure ***(Infrastructure – roads, utilities, sewerage, car parking, garbage, recycling and green waste bins)*** in residential areas **close** ***(How close is close?)*** to commercial centres ***(grocery shops).***

e) Ensure redevelopment is carefully managed so that it achieves **a high standard of residential amenity,** makes a **positive contribution to the neighbourhood and landscape character of the area** and does **not** have **un**reasonable **negative** impacts on neighbouring properties ***(this double negative means THE PROPOSED REDEVELOMENT DOES HAVE NEGATIVE IMPACT).***

f) Provide opportunities for home based employment consistent with **residential amenity** ***(what does this mean?).***

g) Provide for a limited range of small-scale facilities ***(what are small-scale facilities?)*** to meet local needs consistent with **residential amenity (?)**.

h) Promote good solar access ***(No! on the contrary it reduces solar access for many proposed dwellings).***

i) Promote energy efficiency and conservation ***(explain? no gas like Ginninderry!).***

j) Promote sustainable water use ***(How?)***

These rules are very subjective and mean different things as read, viewed and interpreted by different audiences. As written, without explanation and without clarification they can be interpreted to meet any desired objective. However:

We recommend all DAs and DVs must satisfy the following FOI:

WE REQUEST, BY FOI, A SIGNED STATEMENT THAT DAs SATISFY ALL OF ESPD's RULES a) to j) FOR RZ2 DEVELOPMENTS.

Representations

As soon as the DA closes the Developer is able to access all representations. Representors have to wait. They are eventually available digitally on the ACTPLA website but not in hard form. It is disappointing that these huge files are removed (too large to download on a home computer or smart phone!) from the "work" space before the results of the DA (and possibly an ACAT challenge) are made public.

We request that Representations be available to the public until the DA is finalised.

DA Rules

One would have thought that all DAs must satisfy one set of consistent rules. This is not the case. Ex-Mr Fluffy blocks are treated differently as are some blocks (NCA) in Forest. The latter blocks have a regulation of 40% "Open Space" for trees, garden beds and lawns (Wonderful! - Canberra – The Garden City). It's a shame that current redevelopment in existing leafy suburbs is more concrete and hard surface than open space.

We believe that open space (40%) in RZ2 zones is important and should be strictly adhered to in all DAs.

ACAT to acat – credibility challenged

ACTPLA/ESPD has always told the ACT community that ACAT (funded by the ACT Government) is an apolitical, independent, adjudicating Tribunal and its decisions are legal, impartial, professional and final and cannot be challenged. This no longer seems to be the case (Daniel Burdon in CT Saturday, 30 June “ACTPLA appeals decision over KFC plan”) as ACTPLA rejects ACAT’s decision on a Development Application in Belconnen - because as MLA Tara Cheyne and the ACT Chief Planning Officer, Mr Ben Ponton, say “they (the Authority) believe ACAT has made **a serious error of law**”.
“A serious error of law” from a Tribunal!

The integrity of ACAT appears to have been challenged by its very own bosses. How can anyone have any confidence in ACAT’s decisions past, present and in the future? How many decisions, that ACAT has already made, can be attributed to “a serious error of law”? Should they be reviewed – if the outcome is not liked or doesn’t suit?

Surely ACAT would have examined all of ACTPLA/EPSD’s and the Developer’s claims before making its decision. If our own ACT Government can‘t trust and accept ACAT’s adjudication how can anyone else?
One may well question whether there is a NIMBY element in ACTPLA's appeal?

Thank you for the opportunity to comment on DAs/DVs to your committee.

I hope our comments are useful.

Best wishes in your review

P. R. Temple and advisors

2 August 2018