

SUBMISSION TO THE STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT OF THE LEGISLATIVE ASSEMBLY FOR THE ACT:

RECOMMENDED FINAL VARIATION TO THE TERRITORY PLAN NO. 256 –
KINGSTON GROUP CENTRE

Kingston is primarily a residential suburb, its population constantly increasing as a direct result of planning policy. This is a plea for those residents, current and future.

It is too easy for visitors to Kingston's 36 restaurants and drinking establishments to forget that those restaurants and drinking establishments are close to other people's homes.

All Canberrans are entitled to quiet enjoyment of their homes, and ACT law, enshrined in the Territory Plan and the Human Rights Act, imposes on planners and government decision makers alike a duty to protect residential amenity.

In 2004, despite widespread and carefully argued opposition of residents, the AAT approved the establishment of a restaurant and drinking establishment on the Eastern side of Jardine Street, and in 2005 approved the extension of a lease purpose clause in Giles Street to permit a restaurant, subject to a number of restrictions including noise controls, to the detriment of all those whose homes abut Kingston's commercial centre.

A BUFFER ZONE

The Kingston Group Centre is bounded by Kennedy, Eyre, Jardine and Giles Streets. Until 2004 residents in streets immediately beyond the Centre were protected by restrictions on the commercial uses of properties opposite the central block in Kennedy, Giles and Jardine Streets, and by the public car park in Eyre Street.

In April 2004 a group of residents alarmed by the proposal to establish a Belgian Beer Café on the eastern side of Jardine Street met Simon Corbell, Minister for Planning, to put the case for protection of residential amenity. The Minister recognized that while there was a buffer between residences and restaurants and drinking establishments in Kennedy Street, there was no similar buffer in Jardine Street. He instructed ACTPLA to develop a variation in the Territory Plan to create a buffer zone.

This ACTPLA's recommended Variation has failed to do.

As residents warned the AAT

- o the noise and other restrictions which were attached to the lease of the Beer Café premises are unworkable and for practical purposes unenforceable;
- o the public laneway and car park between Jardine and Howitt Streets has become an area for commercial deliveries six days a week, garbage storage and collection seven days a week, including collection outside the permitted noise zone hours, and provision of trade and utility services; and
- o there is an increase in late night-early morning noise and disturbance in surrounding streets as patrons make their way back to their cars.

In its Final Recommended Variation No 256, ACTPLA has ignored the rights of residents and its own unwillingness or incapacity to ensure compliance with even those restrictions imposed by the AAT.

The recommended Variation represents poor planning, by ignoring residential amenity, the need for services for residents, commercial realities and the viability of the group centre, the proper use of designated public spaces, and the operation of the liquor licensing system.

SERVICES FOR RESIDENTS

Kingston's Group Centre serves residents of Kingston, Barton and other surrounding suburbs and the large numbers of workers in the Parliamentary area who use the centre during lunch hour and on the way home from work. These people need access to a range of retail and commercial services, including a supermarket, chemist, drycleaner, baker, specialty shops, banks and medical, dental and other professional services. These Kingston currently provides.

VIABILITY OF THE GROUP CENTRE

There is however a risk that an expansion of the number of restaurants will lead to a diminution of retail and commercial space available for other purposes, as has happened in Manuka. Further, restaurants typically have a period of success followed by a decline. In a centre dominated by restaurants and other licensed premises this can lead to a decline in the centre itself as businesses providing other services move elsewhere and restaurants lose custom, and a consequent decline in property values in the suburb.

Kingston's viability as a pleasant residential suburb depends upon a vibrant group centre offering a range of services, including but not limited to entertainment services.

MISUSE OF PUBLIC SPACE

Kingston's central retail core has a purpose-designed laneway for waste storage and collection, commercial deliveries and trade services. There is no such provision in the block bounded by Jardine, Howitt, Eyre and Giles Street. Instead, space gazetted as a road and subsumed for car parking is used as a service alley by the Belgian Beer Café, despite the fact that the space does not allow large vehicles to turn so that they must reverse in or out, to the detriment of residents nearby and the safety of legitimate users of the car park.

The decision to allow one restaurant and drinking establishment on the eastern side of Jardine Street was a grave error, and one which must not be allowed to create a precedent for other premises in the block. Indeed, we consider that the decision to allow a restaurant and drinking establishment on the site of the Beer Café should be revoked and, if necessary, the leaseholder compensated.

LIQUOR LICENSING

The recommended Variation assumes that there is some significant difference between a restaurant and a drinking establishment, so that restaurants can be permitted while drinking establishments cannot. This is not a distinction made by the Liquor Licensing Authority. Any licensed restaurant is a potential drinking establishment.

SOCIAL IMPACT

Between 11 pm and 7 am the peace of Kingston's residential streets is routinely disturbed as patrons of existing drinking establishments make their way back to parked cars. There has been loud noise, vandalism, graffiti, and some violence. There is every reason to fear that this sort of anti-social behaviour will increase if there is an increase in the number of establishments licensed to sell alcohol in Kingston.

FAILURE TO RESPOND TO RESIDENTS' CONCERNS

Decisions by ACTPLA and the AAT reflect an inability to relate to the interests of residents. For the past two years residents have commented on successive ACTPLA proposals, made submissions to and attended AAT hearings, to little avail. This has been frustrating, expensive in time and effort and, ultimately,

futile. Yet there is no logic to support either ACTPLA's approach or AAT decisions which breach the principles of the Territory Plan and our rights as residents. The Variation now recommended by ACTPLA compounds earlier errors.

THE PLANNING PROCESS

ACTPLA consistently fails to alert ACT residents to planning changes and proposals which are likely to have a profound effect on their daily lives. Small advertisements in the Classified Section of the Canberra Times are easily missed, unless one makes a practice of studying the small column advertisements each day. ACTPLA's failure to make direct contact with residents most closely affected by proposals is reprehensible.

We consider direct communication with residents is indispensable. This could be by notices mailed to lease holders and bodies corporate and leaflets to residences. Direct contact could be supplemented by displays in the centre of suburbs affected by planning proposals and proposed changes to the Territory Plan. This could perhaps be done using a small van where residents could look at the Plan and ask questions of an ACTPLA officer.

CONCLUSION

For all these reasons we contend that a Variation which permits more restaurants on the eastern side of Jardine Street and in Giles Street between Jardine and Howitt Streets constitutes inappropriate development, is incompatible with the principles of the Territory Plan, will inevitably destroy residential amenity and lead to a decline in the attractiveness of this residential suburb.

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