Ginninderra Falls ASSOCIATION
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New ACT Planning Bill 2022

Main Point: the new bill gives too much discretion to the minister and the chief planner. Outcomes-focussed assessment is too vague, and gives developers too much freedom.

(Section numbers in the bill are in brackets)

(7) An outcomes focussed process, with measurable criteria, is an appropriate way for the government to assess whether its planning process is achieving its goals. But it is not an appropriate way to assess development proposals. The government should set specific rules for development assessment, which may change over time in the light of progress in achieving desired outcomes.

(7) the bill says that "*the knowledge, culture and tradition of the traditional custodians of the land, the Ngunnawal people*" are important, but doesn't contain any process for incorporating this knowledge in planning.

(9) Principles of Good Planning: developments should be specifically designed to minimize noise in residential areas (both traffic and commercial/residential noise). Noise is only mentioned with regard to environmental impact assessment of developments.

(9) Sustainability Principles: the bill seems to cater for unlimited growth. There needs to be a reassessment of what population is sustainable and what sustainability means: water will eventually limit Canberra's growth, but biodiversity and liveability are already being sacrificed for growth.

(9) Active Travel and Public Transport: Most people won't use public transport and active travel unless design discourages car-use and facilitates public transport.

(10) Principles of Good Consultation: these should be agreed by public consultation, and not specified by the minister. Consultation should include representation of all age, geographic and socio-economic groups.

(60) All draft territory plan amendments should be published.

(95): Minister sets terms for Design Review Panel: the minister should not have power to specify what the panel investigates or design rules. These should be decided by public consultation.

Pre-DA Consultation: these should be retained, so that money is not wasted on proposals for developments that the community doesn't want. Also, design and litigation cost is reduced if the design is modified early to suit community wishes. If there have been problems, it is because the community has been ignored.

Existing and proposed planning laws allow any development to proceed, as long as no threatened species are directly affected. As such, they should be called development laws, not planning laws.

A more proactive approach is needed, where the cultural and natural features and biodiversity of a place are preserved or restored and emphasized, regardless of EPBC status. Without this, suburbs have no distinct character, and residents have little contact with, or appreciation of, nature.

The current approach, whereby a landscape is totally bulldozed before development, is the antithesis of sustainability.

When a EIS is required, it is important that authoritative sources, such as Environment ACT, or the Conservator of Flora and Fauna, be consulted regarding which matters should be considered. There should also be scope for public input regarding such matters, e.g. which species are considered, or possible pollution sources. Furthermore, as the proposal proceeds, additional matters may be found which should be considered in the EIS, and the scoping document and EIS should be updated whenever such matters arise.

During the consultation period for an EIS, public access should be made available to the site, to enable the public to better appreciate the proposal and its environmental impact.

During the assessment of an EIS, the government should not rely entirely on reports from or commissioned by the developer, but should make its own desktop and field investigations, as needed, at the developer's cost, or commission new studies by experts independent of the developer (who have not had any dealings with the developer or related entities).

(101) Significant adverse environmental impact: who decides what is significant? This should be by consensus among multi-disciplinary experts.

(115.2) There should be no limit to the number of times the period for revision of an EIS can be extended. This is because unforeseen difficulties may arise during the revision of the EIS, or a different season may be needed for environmental observations.

(116) A revised EIS should always be published and publicly notified. There may be apparently minor changes which have important consequences.

(129) The minister should not be the only person with authority to set up an enquiry into an EIS. The report of the panel should affect the approval or updating of an EIS, but this is not specified in the bill.

Documents comprising an EIS for a proposal should remain on the Planning ACT website permanently, not just until the consultation period has ended.

(109) There should be no limit to the number of times an extension can be granted for the production of an EIS.

The EPBC has not stopped the rapid decline of Australia's environment and biodiversity, and it is therefore ineffective. It should not be relied on to decide whether species need protection. Species are only listed when extinction is likely, and if the minister approves. Many others are in decline and need protection. The IUCN Red List would be a more appropriate guide to species status.

The EPBC is likely to be revised by the new Australian government. The new planning bill will likely need to be revised to comply with its requirements.

(135) Environmental significance opinion. The public should have the right to challenge the opinion, with a consultation period similar to that for an EIS. Independent experts should be consulted for an alternative opinion.

(210) Planning should be technology neutral: the words "light rail" should be replaced by "public transport corridor". This allows alternative technologies to be used as appropriate.

(212) Territory Priority Projects should be decided by public consultation, not by the minister, and only after cost-benefit analysis of alternative options.

(220) Offsets Policy and guidelines should be subject to public consultation and regular review, and decisions should not be left solely to the minister. If the EPBC is revised, this will likely lead to changes in the offsets policy.

(233) Calculation procedure for offsets should be determined by public consultation, not by the minister. Calculations should consider the likelihood of the offset's values surviving in perpetuity. Only sites which are genuinely saved from imminent development should be used as offsets, and then only once.

(246) Reports on the condition of offsets should be made publicly available. Government inspections of offsets should be made when there is any doubt about their condition, or randomly, and the results published.

Regulations

(1.2) Proposals Requiring EIS assessment. Should include proposals likely to cause significant decline in biodiversity of the site or area, or decline in a number of species regardless of EPBC assessment, or a decline in mature native trees. The overall effect of a development is more important than the effect on a single species, which might trigger EPBC assessment.

(10) Scoping Document: Entities should be consulted regardless of who is proposing the development (Planning Authority also needs scrutiny).

Schedule 1 Part 1.2 Environmental Significance opinions should be given by the Conservator of Flora and Fauna, or the Environment Protection Authority, or other relevant expert on environmental matters, not the Territory Planning Authority.

In many cases, entities are deemed to have approved of a matter if they do not respond with a set time (e.g. 10 days). This will result in developments being approved by default when delays occur in the bureaucracy. There should be no time limit for such referrals, to ensure proper assessment of risks.

Summary

The public should be consulted at all stages of planning and development.

All sectors of society should be represented in the consultation.

Clearly defined rules should be imposed on developers.

The minister and chief planner should not have the decision-making power over specific developments.

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https://ginninderra.org.au/web/