

Submission on the draft Planning Bill 2022

14 June 2022

Summary

The City Renewal Authority (CRA) appreciates the opportunity to comment on the draft Planning Bill 2022 (the draft Bill). The CRA supports the key aims and objectives of the draft Bill as they are of direct relevance and importance to us as the city renewal agency. They will:

- Establish a clear, easy to use planning system that encourages improved spatial and built outcomes across the Territory.
- Incorporate urban character, contextual analysis, and design quality as key elements of the planning system. The application of comprehensive Urban Design Frameworks in areas undergoing rapid development or change is particularly important in this regard.
- Deliver a more 'place-led' and 'outcomes-focused' planning system with a greater emphasis on strategic forward planning and spatial direction for the Territory at the metropolitan level through to the district and site levels of planning, as well as improved built outcomes.
- Provide stronger strategic direction for areas earmarked for urban change; and
- Realise long-term vision for the sustainable growth and development of Canberra while maintaining its valued and special character.

Detailed Comments

The CRA's detailed comments on the draft Bill follows:

Moving to a more discretionary development regulatory system

The CRA strongly supports the move to a regulatory system that prioritises design excellence through collaboration rather than just 'policing'. This requires moving beyond 'ticking boxes' for *compliance* with the basics to *incentivising* better performance which result in creating value through enhanced public amenity, as well social and economic benefits.

Moving from a 'policing' to a collaborative or discretionary zoning system is supported as it has the following positive attributes:

- few fixed rules but a high level of guidance (or codification) of expectations and preferences
- officials and processes make decisions in a dialogue with an applicant and the public, not just by a DA reviewer checking compliance

The pros and cons of discretionary zoning are:

- Pros - fosters innovation, provides for incentives or bonuses, lets the city evolve positively

- Cons – is more complex, costs more, can take more time (therefore must be carefully managed)

In addition, a discretionary regulatory system needs to include the following components:

- *Compliance components*: confirms achievement of minimum standards
- *Management components*: includes clauses for merit adjudication and offering flexibility to judge a proposal better than the basic, making regulation commensurate with the complexity of the city and the urban design process
- *Incentive components*: components to add bonuses and related measures (such as increased density, height, or transfer of density) that motivate design excellence by offering a way to cover additional costs. These are collaborative measures for better projects however need to be strategically managed to ensure both the value and impacts of these are consistent with relevant planning and urban design frameworks.

The CRA believes that effective development management in the ACT must evolve from a ‘policing’ to a ‘collaborative’ approach, shifting from just efficiency and basic performance to creative city planning and building. The principles that would underpin a collaborative development management approach include:

Principle 1 – Strong city planning vision

- Build and maintain a constituency for a shared ambition for the city. This relies on a willingness to engage all stakeholders with the latest thinking and global best practice that builds a compact between political leaders and the community to deliver a proactive and cutting edge urban design agenda, that aim of which is design led, people focussed urbanism.

Principle 2 – Delivering the planning vision

- A planning system that supports integrated public infrastructure investment
- Leverage public land, transport and living infrastructure and investment in the city’s public environment to attract and guide private investment that delivers on the vision.

Principle 3 – Framework of flexible laws

- Introduce discretionary zoning and incentives
- Preparation of *Guidelines* (or *design codes* that reinforce/direct what is preferred)

Principle 4 – Joint design processes

- Conduct charrettes with public planners and private design teams to broker a balance between public and private interests

Principle 5 – Continuous public involvement in the planning process

Principle 6 – Advice from design peers and the greater use of design review panels

Principle 7 – Development approval by qualified professionals

- Development approval decisions should be made by highly experienced planning and design professionals
- Decisions and reasons) should be made in public for transparency and to build trust

Principle 8 – Efficient and informed customer service

- Encourage development planners to be in frequent dialogue and collaboration with private designers
- Introduce process facilitators to keep complex assessments on track and on time for efficiency (applying process mapping and time projections)

Design and density

The key to unlocking public and political support for higher and sustainable density is by designing density well. Good design and city renewal does not happen by accident. The city must be explicitly designed (at different spatial levels) and there needs to be both the governance model and supporting organisational alignment to realise great urbanism.

The regulatory planning framework in the ACT needs to foster planning and development innovation across the sector, embrace the unexpected, incentivise excellence, make regulation commensurate with the complexity of the city and incorporate an embedded urban design process that lets the city evolve positively, in response to contemporary factors. Discretionary development regulation and management must be at the centre of this goal and provides the capacity to create a highly liveable city that is more popular, competitive, and liveable.

The CRA believes that good urban design has public and triple bottom line benefits which are diverse and wide-ranging, from increased feelings of belonging, to reduced carbon emissions, to improved health and social outcomes supporting the Wellbeing Framework.

Best-practice design outcomes rely on having a structured and coherent design excellence governance framework. This can be achieved by integrating design excellence approaches to land release and design-based procurement processes, incentivizing participants to achieve other public benefits such as sustainability targets, affordable housing, and the like.

Good planning and design must respond to place. The draft Bill should include thresholds that trigger different processes and design requirements depending on the scale and degree of urban change to ensure that new development responds to either an existing or designed future character.

Measures to assess design outcomes must reflect the planning outcomes being sought. Existing built form guidance in the ACT is of varying quality. The CRA strongly believes there is an urgent need to provide greater design guidance for apartment buildings and mixed-use development particularly within Commercial and Mixed-use Zones where there are currently inadequate amenity provisions. Buildings within these zones are mostly unit titled and are therefore long-term built assets which are important to Canberra's long-term liveability. The adoption and/or adaptation of the NSW Apartment Design Guide is recommended (refer link below):

<https://www.planning.nsw.gov.au/apartmentdesignguide>

Specific Recommendations

The CRA recommends that the draft Bill incorporate the following specific recommendations:

1. National Capital Design Review Panel (NCDRP) and Government Architect

The CRA strongly supports the Planning Bill's continuance of the role of the NCDRP however that the role of the NCDRP and the resources available to the Office of the Government Architect be

strengthened. Based on experience in NSW with SEPP 65 design excellence provisions there is a need bolster the role of the NCDRP. This should be done by:

- Requiring NCDRP endorsement of development applications prior to their formal lodgement
- Boosting the Government Architect's capacity including an increased professional secretariat
- Providing for NCDRP review and endorsement of key urban design policies, EDPs and major public infrastructure proposals; and
- Using the NCDRP in the evaluation of design based tender processes; and
- Establishing greater urban design capacity within the ACT Government through means such as setting up an Urban Design Group with skilled urban design professionals with experience at a range of urban scales and contexts.

2. District Strategies and the NCA

The Central National Area (CNA) covers a significant portion of the Central Canberra and the City Centre. The CNA is Designated Land and falls under the planning responsibility of the NCA.

Much of the focus of any District Plan (and the new City Plan) should aim to enhance the connectivity between the National Capital domains and the everyday city and to reinforce the Griffin Plan foundations that underpin a unique landscape urbanism that provides a distinctive sense of place unlike other Australian cities.

Canberra is a synthesis of City Beautiful and Garden City civic ideals into the Australian bush setting. It is a model city plan generated by civic and environmental values, with a public realm drawing together the finest of historical and modern principles of city living: a vast central park, gracious boulevards, garden suburbs, cultural places, monuments, and integration with nature.

To ensure these National Significance values are protected and that there is optimal integration and connectivity between the Designated and non-Designated Land areas, it is critical that the District Strategies are overarching and that the NCA has a level of ownership of them. It is imperative that there is a unified view on key city infrastructure projects such as light rail and the urban forest which rely on National Land assets.

The District level strategies should identify an infrastructure plan which forms part of a 'compact' with the community. This would ensure that with increases in density and urban infill there is an associated enhancement to public infrastructure including the public realm. There is a need to hypothecate the Lease Variation Charge (LVC) to direct this enhancement to the location where the Charge (tax) was raised. An example would be funding the naturalising of Sullivan's Creek which has an increased role as a linear green space with adjoining densification along Northbourne Avenue.

3. Climate change and resilience

The District Plan Strategies must have clear climate change and resilience provisions and include specific policies on living infrastructure to support the urban forest, create greener streets, improve parks, and open spaces, mitigate urban heat, and naturalise major stormwater channels.

Ideally the NCA would adopt these as Detailed Conditions of Planning and Design as well as revising area specific Precinct Codes.

4. District-wide carbon accounting

The shift to district level planning across the city provides the opportunity to institute carbon accounting to incentivize the creation and use of regenerative development solutions. However, this must be done consistently and at the same time the ACT should take responsibility for imported emissions that serve the consumption of the city and its residents. Without this a “low-carbon” or even “carbon neutral” illusion may disguise not tell the full picture of climate impacts.

5. Proponent initiated amendments to the Territory Plan

The CRA believes that there will be circumstances where there is a need to initiate a proposal to amend the Territory Plan. Government land organisations (like the CRA) in other jurisdictions typically prepare Planning Proposals in concert with State Planning agencies. Good examples include Landcom for Green Square in Sydney and the Northwest Metro Program where they have partnered with Sydney Metro to prepare necessary transit-orientated development and station area precinct Planning Proposals including master plans and Development Control Plans for Department of Planning and Infrastructure consideration and approval.

This would only be appropriate where the Planning Proposal is consistent with the ACT and District Planning Strategies, with other strategic objectives of the ACT Government and where it enhances the strategic planning capacity of the ACT Government. In this way the strategic planning leadership of the Territory Planning Authority would be strengthened.

6. Clarity on the preferred design of the public realm

There is insufficient guidance on the preferred and consistent design of the public realm in the ACT. Establishing clear public realm guidance would ensure that there is a consistent framework for the delivery of the public realm. This would result in more consistent, and high-quality public realm outcomes whether being delivered by the private or public sector.

The recent Government Architect NSW (GANSW) document, *Greener Places Framework* provides an excellent starting point and could be adapted to ACT context. (refer link below)

<https://www.governmentarchitect.nsw.gov.au/policies/greener-places>

7. The importance of Connection to Country

Canberra has a strong connection with, and respect for, the Griffin plan which is reinforced and referenced in most development throughout the Territory. Unfortunately, the plan largely disregards the First Nations people of the ACT. There is an opportunity to better balance the recognition of First Nations people and their culture and the Griffins’ planning ambitions through a demonstration of the Connection to Country approach in the planning, design, and delivery of urban projects.

8. The inclusion of an overarching position on the importance and value of design

As a ‘designed’ city Canberra needs a strategic document that establishes the ACT's overarching position on the importance of design to good planning outcomes. Such a policy would embed 'good design' as a statutory requirement and create an ‘umbrella’ document under which a series of more specific design guides would sit. An example of such a document is *Better Placed* by the GANSW (refer link below):

<https://www.governmentarchitect.nsw.gov.au/policies/better-placed>

9. Increased and clearer design guidance

Recent research found that the ACT had a low level of supporting design guidance to aid in the interpretation of statutory policy when compared to other states and territories in Australia and New Zealand. Best-practice design guidance requires explanatory design guides to support statutory policy if it's to be effectively communicated. These guides use plain language, diagrams, and case studies to communicate desired outcomes.

There is a need to clearly communicate the suite of design guidance that applies in the ACT and to make clear the interdependencies between different policies, guides, and processes. This is important as in many design governance contexts it is often unclear how different policies and frameworks are interrelated thereby diluting the importance of good design. This creates a confusing policy context that is difficult for users to understand and engage with.

Other key concepts/ requirements that should be included in the draft Bill are:

- a maximum block size for improving walkability
- a '20-minute neighbourhood' target, which aims to shorten the travel distance between homes, parks, schools, shops, and public transport; and
- greater guidance for the design and development process to better consider topography, solar aspect, and movement systems

