

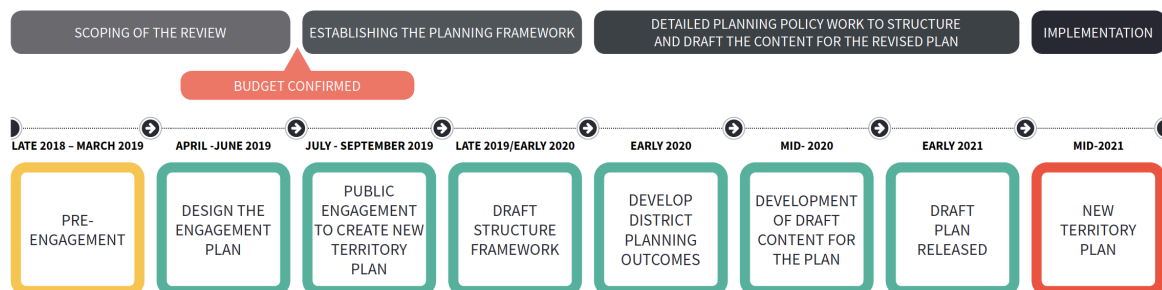
Wednesday 15 June 2022

Attn: Environment Planning and Sustainable Development Directorate

**Re: Draft Planning Bill 2022 and ACT Planning System Review**

I appreciate that a great deal of time and effort behind the scenes has gone into production of this draft Bill, a product of the ACT Planning System Review process, which began scoping in late 2018 (over 3½ years ago). That represents a major investment of time and resources.

**TERRITORY PLAN REVIEW  
ENGAGEMENT TIMELINE**



**Initial Timeline (Source: Email Subject “ACT planning system review - workshops” sent 3 May 2019)**

The stated aims, to improve planning outcomes that support Canberra’s urban liveability, climate resilience, economic performance, and sustainability, have widespread support and are very similar to the objectives published in 2005 that resulted in the current planning system<sup>1</sup>. Translating those aims into a functional planning system requires a sound understanding of:

- how the system itself works, its underlying structure and components;
- where the weaknesses lie in terms of tangible real life performance, resourcing, skills, and ideological underpinnings;
- what other tested systems offer i.e. their relative costs and benefits;

plus the political will to:

- recognise and address shortcomings that result in objectively mediocre outcomes that exacerbate urban heat island effects and exposure to natural disaster risks, worsen housing affordability, reduce social cohesion, threaten significant heritage etc; and
- implement effective measures, based on evidence, that respond to the challenges that lie ahead.

The package of changes presented to the public is in my view grossly dishonest and unethical.

The entire Review process appears designed to entrench a neoliberal urban planning model<sup>2</sup> without

<sup>1</sup> In May 2005 ACTPLA launched the Planning System Review and Reform project, with a series of Technical papers that recommended a shift to the current model of planning in the Territory, resulting in the *Planning and Development Act 2007* and the *Territory Plan 2008*. Media releases by Minister Corbell and Treasury indicate the cost of that project came to at least \$1.2 million. Appendix 1 lists that earlier Review’s 10 objectives.

<sup>2</sup> Please see Wright, Ian and Cleary, Susan (2013) “*Are we all neoliberals now? Urban planning in a neoliberal era.*” [https://www.isocarp.net/Data/case\\_studies/2412.pdf](https://www.isocarp.net/Data/case_studies/2412.pdf) The paradigm can be summarised as follows:

examining why that has failed to work or exploring legitimate alternatives. The consultation strategy appears to have been designed to bamboozle. The project methodology in short is fundamentally flawed.

“The neoliberal dominance has significant implications for urban planning. From a neoliberal perspective, much of urban planning is seen as distorting land markets and increasing transaction costs through bureaucratisation of the urban economy; which should be rolled back by contracting the domain of planning (deregulation) and then privatising segments of the residual sphere of regulation (outsourcing) (Gleeson and Low 2000b:10).

As a result the *raison d'être* of planning as a tool of correcting and avoiding market failure is dismissed; and planning is subsumed as a minimalist form of spatial regulation to provide certainty to the market and facilitate economic growth.”<sup>3</sup>

At no stage in this process has there been any concerted or genuine effort made to engage with, solicit and give credibility to the perspective of members of the community in direct contact with the statutory planning regime involving zoning, development applications, private certifiers, approved and exempt developments, and the Tribunal. That key category of stakeholders has been sidelined and denied the opportunity to represent the community's interests, and needs, throughout.

The Review has deliberately ignored the urgent issue of restoring trust in planning.

A boxed set containing 6 booklets was released in November 2020. However these were never framed or presented as discussion papers. No questions were posed, no alternative options were examined in any detail, and no discussion was invited or entered into. Eight stage managed district workshops were held in 2021, with very limited public involvement, debate or exchange of ideas.

During 2020-2022, the Directorate organised a series of 3 hour sessions with representatives of stakeholders they recognised (members of the Environment and Planning Forum). Minimal information was provided and normal discussion and sharing of information heavily restricted, using a confidentiality clause in the Code of Conduct that prevented representatives discussing items after the meetings either with their own members or their Committees<sup>4</sup>.

1. Governments demonstrate entrepreneurial spirit, facilitate the private sector, politicians and planners gain financial acumen and act as urban entrepreneurs;
2. the desired end state is not an ideal society, or the public interest, it's individuals serving their own interests;
3. "estate development planning" (not master planning, or city level planning) is the preferred planning model (ie very localised, developer driven with government facilitation);
4. the outcomes are less green space, city branding, privatisation of public space, mega infrastructure projects etc;
5. planning rules aim to give certainty to developers, provide call in powers that override, grant exemptions, facilitate developer-led development rather than plan-led development;
6. corporate style advisory boards replace community consultative groups;
7. role of planner is to manage the planning process to facilitate economic outcomes (NOT to manage the planning process to deliver public interest outcomes or consensus).

<sup>3</sup> See preceding footnote, p.3

<sup>4</sup> **Code of Conduct (2020)**

*As a participant of the Environment and Planning Forum, I agree to:*

- Attend EPF meetings and provide apologies in advance where attendance is not possible;
- Act in an advisory capacity to the Environment, Planning and Sustainable Development Directorate by providing insight and advice from my organisation's perspective;
- Be respectful to the ideas and contributions of all forum members;
- Focus on the agenda of the day and contribute in a positive way to finding solutions to issues or concerns as identified on the agenda;
- **Not disseminate confidential information that is discussed at the EPF meetings as advised by the chair.**

*I understand that where a member disregards the Code of Conduct, they may be asked to step down and/or their organisation may be requested to nominate a replacement.*

The Directorate has ignored repeated requests from community council representatives for practical examples of district strategies and a new Territory Plan. The end stage, coinciding with the lifting of pandemic restrictions that have left many in the community depleted, essentially dumped over 800 pages of reading on the general public in March 2022. That material is only available via downloading from the YourSay website, so is not easily accessible to the general public. Half a dozen brief marketing style 'fact sheets' were also provided, and the Directorate conducted a small number of public information sessions that appear to have been very poorly attended.

### **Background**

I am a professional urban planner/researcher with almost 35 years experience in the field. I am currently Deputy Chair of North Canberra Community Council, a member of ICOMOS (UK), and president of Dickson Residents Group. I was previously Vice President of the National Trust (ACT), and up until late 2010 a Corporate Member of PIA (Planning Institute of Australia). I was engaged by the ACT Greens to prepare an analysis of the 2005-7 planning system reform proposals, and responsible for all continuing professional development for PIA's ACT Division for approximately 5 years prior to becoming an International PIA Member and moving overseas.

### **Key issues**

1. Continuing erosion of trust by the community in planning
2. Tokenistic superficial approach to Aboriginal culture, knowledge and traditions
3. Failures of governance and scrutiny by elected members of the Assembly and relevant Ministers
4. Concentration of autocratic powers with inadequate independent oversight or accountability
5. No consideration of alternative community-focused planning models operating elsewhere
6. Acceleration of the trend to increase out sourcing and exemptions, accompanied by under-resourcing of planning agencies
7. Acceleration of the trend to extinguish and deny appeal rights via the Tribunal
8. Downgrading existing protections for solar access
9. Backflipping on the requirement to carry out pre-DA consultation
10. Absence of consideration of future third layer of local government corresponding to Districts

### **Conclusions**

Given the apparent lack of political will, or professional rigour on the part of the Directorate, to genuinely step back and carry out a comprehensive Review, this whole Review appears to me to have been misguided from the start and mismanaged by senior officials.

I have no confidence whatsoever that the community's needs, social justice, the notion of the public good, heritage or the environment will be either given due weight, valued as they should be, or adequately considered. The language around 'outcomes' has deliberately left as much as possible vague, including the nuts and bolts of the 2023 Territory Plan and how it relates to its newest instrument, District Strategies.

Substituting neoliberal market failure in planning for largely government neglect is a recipe for planning and development disasters. It undermines the whole notion of Government as being to uphold and protect "the public interest".

The planning profession owes a gigantic duty of care to this community and future generations. As a nation we face a multitude of challenges. The national capital is in a unique position to showcase better ways to plan and develop as the city grows. That important leadership role and vision reflected in built form is being lost as a result of the current process, to the detriment of the nation and Canberrans.



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## **APPENDIX 1**

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### **PLANNING SYSTEM REFORM PROJECT OBJECTIVES**

(See Directions paper, pp. 4-5)

1. Clarity of purpose and intent
2. Timely decision-making
3. More certainty and consistency
4. Provision for innovative urban design
5. Contribution to the achievement of sustainability
6. Recognition of the opportunity for planning to contribute to social equity
7. Provision of appropriate opportunities for community engagement in the planning process
8. Enhanced administration of the leasehold system so that it continues to contribute positively to the development of the Territory
9. An effectively functioning property market with clear rules to support economic opportunities and development
10. Increased operational efficiency, through integrated development, building and impact assessment processes, and reduced administrative complexity and duplication.