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Braddon ACT 2612

To:

Mick Gentleman MLA  
Minister for Planning and Land Management  
C/- Environment, Planning and Sustainable Development Directorate

15 June 2022

Dear Mr. Gentleman,

**RE: Planning System Review and Reform**

Consultation on the Planning System Reforms to date have been operated by the Environment, Planning and Sustainable Development Directorate (EPSDD) with an attitude that the proposed reforms are a foregone conclusion. I write this submission therefore not for the consideration of the Directorate (since the outcome has already been decided), but for the public record; so that when future generations wonder how Canberra became so unliveable and devoid of culture, there is some record showing that its' citizens did not agree with the Government's direction.

**A history of poor decision-making**

Under the current *Planning and Development Act 2007*, a territory authority [i.e., the EPSDD] *"must not do any act, or approve the doing of an act, that is inconsistent with the territory plan"*.

Numerous recent examples exist where the EPSDD, and formerly the ACT Planning & Land Authority (ACTPLA) have acted inconsistently with the Territory Plan. Examples of these include:

- The "Yamaroshi" building (Braddon Block 21, Section 28)
- "Nibu+Palko" building (Braddon Block 22, Section 20)
- "The Branx" building (Braddon Block 19, Section 29)

All the above examples violate the Braddon Precinct Code Rule R9 and Criteria C9. For the historical record, these are:

Element 2: Buildings	
Rules	Criteria
2.1 Building Design	
R9 This rule applies to CZ3. Buildings incorporate cantilevered awnings for full width building frontage. Awnings are a minimum of 3m in cantilever width and have a soffit height between 3.2m and 3.6m above footpath level.	C9 Buildings fronting streets are designed to provide sun-shading and weather protection to pedestrian paths along streets.

The above three buildings provide absolutely no shelter for pedestrians.

Regardless, The EPSDD approved these buildings for construction, in direct contradiction to the Territory Plan, and therefore s50 of the *Planning and Development Act 2007*.

Decisions made by the EPSDD have also been inconsistent with the ACT Government's own liveability and design strategies. For example, in December 2018, the ACT Government released the *City and Gateway Urban Design Framework* (signed by yourself, as Minister for Planning and Land Management), with the goal of promoting sustainable growth and contemporary urban life.

One key design criteria in the Strategy was ensuring that new developments incorporated "mid-block pedestrian links", to allow easier access between the City's predominantly north-south street orientation. In 2020 however, EPSDD approved DA202037005 (Braddon Block 5, Section 20), allowing the developer to actually close off a mid-block easement, which would have allowed free pedestrian flows between Mort St and Lonsdale St.

### **Proposed planning reforms**

The 2022 proposed planning reforms move from a "rules and criteria" based assessment model, to an "objectives based" assessment model. The rationale behind this apparently is that having a list of explicit rules and criteria, which represent the community's expectations for Development Applications; is "too difficult"; and stifles innovation.

### **No confidence in authority**

Were the planning authority to have demonstrated a capability for genuinely considering planning and citizen outcomes in the approval of buildings in the past; this submission would have taken a very different approach.

The reality today however is that the EPSDD does not hold the confidence of ACT residents. Using the example from above, Rule 9 and Criteria 9 have a one simple objective: ensuring that areas with high pedestrian traffic support active and healthy lifestyles.

This objective is codified in the new Bill, under "Principles of good planning"; however, history has shown that the planning authority clearly lacks the capability to consider "good planning outcomes", even when a Territory Plan explicitly states how good outcomes are implemented in practice.

### **Conclusion**

While I commend the intention of the reforms, it is an unfortunate reality that government agencies need legislation that is prescriptive around what can and should be approved, and the clear limitations of their power and delegations.

The fundamental function of the planning authority, at present, is to ensure that Development Applications comply with the relevant rules, criteria and codes. With a planning authority that clearly fails at its current function, what faith should ACT residents have that it can interpret what "Principles of good planning" means in practice?

Kind regards,

A handwritten signature in black ink that reads "Peter Dey". The signature is written in a cursive, slightly slanted style.

Peter Dey