



REID RESIDENTS' ASSOCIATION INC.

AO 1247

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Environment Planning and Sustainable Development Directorate
GPO Box 158
Canberra ACT 2601
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Re: Draft Planning Bill 2022

Thank you for the opportunity to comment on the Draft Planning Bill 2022. The Reid Residents' Association Inc. (RRA) endorse the submission from North Canberra Community Council. Further to this endorsement, RRA would make following points for consideration in relation to heritage precincts and the Draft Planning Bill 2022.

The RRA endorses the proposed Objects of the Act (Section 7): 1 (b) to (c) and 2 (a) to (c). However, RRA does not agree with Object 1 (a).

i. (1)(a) 'Outcomes focussed'

Proposing that the first Object of the Planning Act is to be 'outcomes focussed' not only flies in the face of evidence that this approach to planning has failed in various jurisdictions, national and international, but also rejects the very principles upon which Canberra was founded. When 'outcomes' become a reality, for example, non-compliant, non-complementary construction occurs in a heritage precinct, it leaves open the obvious likelihood of what has been constructed or altered not being demolished because of the lack of resources and political will to enforce demolition.

When a dwelling or natural area or object has been illegally damaged or destroyed, in most cases, that damage cannot be undone. The material damage may be irreplaceable or be too expensive to undergo appropriate conservation or take years to recover.

The 'outcomes focussed' approach becomes even more apparent with development approvals in relation to Heritage and do not provide confidence in the planning process, as outlined, with regards to the *Heritage Act 2004*. This applies to the current wording in the Planning Bill (p. 163) regarding development approvals:

Division 7.6.4 Correction and amendment of development approvals S. 199 Revocation of development approvals

(1) The territory planning authority may revoke a development approval—

(a) if satisfied that the approval was obtained by fraud or misrepresentation; or

(b) if the approval is in relation to a place registered or nominated for provisional registration under the *Heritage Act 2004* and the applicant for the approval is convicted of an offence against chapter 13 or the *Heritage Act 2004*.

(2) The territory planning authority must tell the registrar-general about the revocation.

The register-general being told about the revocation is certainly an 'outcome', so too, is conviction of 'an offence' but the damage has been done! Development applications and 'development' requires parameters, **mandated** requirements, monitoring and **enforcement of requirements** before damage is done to assist in reducing convictions.

The RRA would like to make further comments related to Section 7:

ii. (1)(c) 'provides a scheme for community participation'

If communities are to be encouraged to participate in engagement and consultation activities a significant change is required to establish trust in the process. The processes undertaken for community participation on the draft Planning Bill are, from most perspectives, regarded as little more than a token exercise. Both a Minister and the government bureaucrats involved in such 'schemes' require a sound understanding and commitment to genuine participatory processes as, for example, outlined by OECD, 2020 *Innovative Citizen Participation and New Democratic Institutions Catching the Deliberative Wave*.

iii. S.7(2)(c) 'provide a clearly defined hierarchy of planning strategies that inform the content of the territory plan'

Where in this draft Planning Bill is this 'clearly defined hierarchy of planning strategies' that articulates the relationships between the *Heritage Act 2004*, *Tree Protection Act 2005*, *Environment Protection Act 1997*, and other relevant Acts? Greater clarity is required.

We have concerns relating to development approvals and consequences for heritage as stated in the Draft Bill:

Part 7.6 Development approval Division 7.6.1 Deciding development applications

(2) The following are examples of the conditions subject to which development approval in relation to land may be given:

(l) for an approval in relation to a place registered, or nominated for provisional registration, under the Heritage Act 2004—the applicant must enter into a heritage agreement under that Act for the conservation of the heritage significance of the place;

(m) the development must be carried out to a stated standard; (p 147)

Mandated requirements have already been established and written into law, for example, the Reid Housing Precinct Entry 20023 Entry to the ACT Heritage Register *Heritage Act 2004*. Such requirements must be re-endorsed and enforced by this Planning Bill if it is to fulfill the letter of the law and actually establish best practice heritage protection.

The RRA strongly endorses matters in achieving the objects of the Act, the precautionary principle and the inter-generational equity principle as defined. It is, therefore, surprising that there is no real attempt to factor in climate change and the reality of limits to growth regarding available resources particularly water. There is also a lack of understanding of the need for adaptive reuse of built form with significant levels of embodied energy that, in most cases, cannot be replaced and, thus a debt that future generations are unable to repay.

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