

## Planning Bill 2022 Submission

The review and revision of both the Planning Bill 2022 and the Territory Plan provide an important opportunity to create the legislative framework for regulating future development of the urban areas of the ACT that responds to the emerging challenges of climate change. The way the city is developed will determine its capacity to mitigate, or where necessary adapt to, the impacts of climate change.

While review will focus on the liveability, and prosperity and wellbeing of its citizens as set out in the object of the bill, planning for the enhancement of the ecological values of the urban environment that support sustainable protection and enhancement of biodiversity and urban forest in addition to specific controls targeting sustainability of and climate change impact mitigating features in developments, would provide a truly visionary approach and seems to be anticipated in the principles of good planning.

A proposal for a more holistic approach was reflected in the Urban Forest Strategy, consultation on which closed recently. As was noted in the documentation of this strategy its implementation is dependent of the combined effect of the Urban Forest Bill 2022, **provisions within the Planning Bill 2022 and revised Territory Plan** and other government laws and regulations (my emphasis).

### Principles of Good Planning

The “Principles of Good Planning “ effectively give broad scope for the planning authority through the planning strategy, the district plans and the territory plan for a more environmentally focussed planning regime while still promoting wellbeing and economic opportunity. This is a very welcome broadening of the objectives of the planning regime that could be transformative.

However it is notable that

9.2 high quality design principles (b) only refers to the need for ...” **public spaces to be appropriately landscaped and vegetated and should be designed to contribute to the urban forest...**”(my emphasis).

This should be extended to the landscape / open space requirements for private development proposals. This would be consistent in approach with clause 9.2. *investment facilitation principles (b)* requiring planning outcomes to be achieved by facilitating coordinated approaches that promote public and private investment towards common goals.

### Territory Plan

It is anticipated that the revised territory plan will contain provisions that require development buildings, infrastructure, and landscape to contribute to climate mitigation and adaptation alongside other criteria. The object of the territory plan as set out in the bill therefore should reflect the broader objectives with regards to sustainability, climate change and environmental protection of the planning bill.

The absence of any examples of how the revised territory plan will both foster flexibility and focus on outcomes and delivers the broader objectives of the planning bill and certainty to the community hampers the capacity to assess if the provisions of this bill would improve the delivery of development consistent with good planning principles.

Principles of good design to guide proponents and assessors should form a key part of the revised territory plan to underpin an outcomes focus. These should not be selectively set for one group, such as proposed for the design review panel, outside the territory plan.

## Integrated Delivery Planning – the Urban Forest Strategy example

The benefits to the citizens of the city of Canberra's landscape and urban forest are clear when considering the invaluable role of the reserves and parklands played in their health and wellbeing during the pandemic and the high value placed by residents on the wetland areas that perform multiple functions of water quality management, increasing biodiversity and recreational amenity. When considering the future benefits of reducing heat island loading and other climate change impacts development supporting the protection and enhancement of the urban forest may itself be a significant mitigating factor especially in high density developments. My previous submission in response to the Urban Forest Bill illustrated how this can be done.

In the draft bill provisions with regard to the Urban Forest Strategy are limited to the means to implement the Urban Forest Bill bonds, offsets and contributions. These focus on individual trees rather than enhancing the urban forest. It is of concern that, without guidance through the planning bill and territory plan to consider not only individual projects but cumulative effects of decisions across projects, the offset provisions, particularly contribution payments that allow trees to be removed, may compromise the protective effect of the Urban Forest Bill. Given the absence of other provisions, any proactive requirements for contribution of developments in a positive sense to enhanced biodiversity and amenity through the urban forest will need to be in the territory plan.

Disappointingly the provisions regarding the management objectives for of public land set out in *Part 4.2 Management objectives for areas of public land* do not reference their role as locations for a sustained and sustainable enhancement of the urban forest and biodiversity. The management objectives for areas of public land included in the planning bill should include an objective related to the protection and enhancement of the urban forest as set out in the Urban Forest Strategy across most if not all types of public land.

## Transparency

Transparency is fundamentally about a commitment to genuine engagement with and accountability to the community and the prevention of corruption or, equally important, creation of a perception of corruption which undermines the regulatory process. For ongoing trust and engagement in the strategic planning, and district planning by the community there needs to be open ongoing monitoring of measurable outcomes of implementation of the planning regulations to confirm achievement of the principles of good planning and principles of good design. Also the community needs to know it has visibility of any significant changes to the regulations.

The planning bill has provisions which could undermine that trust:

The ability to conceal a major territory plan amendment in progress through removing the requirement for public consultation because it originates from the minister or protects a "trade secret" (which could provide a commercial advantage to a proponent) is one. The latter case should not arise because elements of the background to an amendment that contain a trade secret should be able to be protected within the process whilst allowing the community access to information about changes to planning benefits of which should be available to other proponents as well as the community.

The failure to require that the planning authority prepares reports on proponent initiated major amendments to ensure the authority's accountability for completeness of assessment against all relevant issues to the community is another.

Limitations on legal challenge when an amendment to the territory plan fails to meet the requirements of the strategic plan or district plans despite the fact this is clearly required by the planning bill is a third.

It is suggested that these provisions be reconsidered and amended or removed.