



Kingston and Barton Residents Group Inc.

DETAILS DE-IDENTIFIED BY EPSDD

To: **Environment, Planning and Sustainable Development**

communityengagement@act.gov.au

KBRG SUPPLEMENTARY SUBMISSION ON DRAFT *PLANNING BILL 2022*

As previously advised, the Kingston and Barton Residents Group Inc. (KBRG) is an incorporated, voluntary, not for profit, non-political, community organisation that seeks to promote and protect the interests of our local community and the environment. We are very concerned about planning proposals, including policy and legislation, which may affect the local area, and have therefore taken a close interest in the draft Planning Bill.

The following comments on the draft Planning Bill have just been forwarded to the KBRG Committee by Mr Tony Harris, who is a former state auditor-general and senior Commonwealth Officer. He is a local resident and has commented previously on ACT government actions. We believe his views, based on extensive experience in government, need to be taken very seriously indeed. He says:

“Any shift in planning law that places more emphasis on discretion would be unwelcome and unwise for several reasons.

“The administration of discretionary government programs, including grant programs, shows that there is a strong correlation between discretion and corruption. By its nature, discretion involves decision making that is not based on rules or binding legislated guidelines. It follows that discretionary decisions are beyond effective scrutiny because there are no clear criteria against which they can be judged.

“The use of discretion is also a lazy approach to making decisions. It is indeed hard to formulate policies that direct planning decisions. Detailed thinking and problem solving is needed to develop detailed law. But to rely on discretion as the pragmatic decision-making tool in the place of policy and rule development is to abdicate the responsibility of government.

“ increasing the discretionary powers of government officials weakens the ability of communities to help determine the binding characteristics of different parts of the developed environment. For example, there are important living advantages (light, wind effects and other characteristics) that derive from strict limits to the heights of city buildings. Washington, Paris, Madrid, London and many other cities have such restrictions in broad areas of their cities. Allowing discretionary decisions on such fundamental issues requires the community to agitate on every proposed development to ensure that these basic characteristics are not infringed.

“Lastly, experience in the ACT demonstrates that community groups already have limited sway on individual development applications. Developers have significantly greater access to government ministers and public servants that begets influence and outcomes than do community groups. Developers also have techniques (negotiating fall backs from outrageous proposals, relying on amending approved development applications) that trump community concerns in all but a few cases. Allowing greater use of discretion would further undermine community influence.”

KBRG believes this advice from Mr Harris is consistent with and reinforces the concerns expressed by the community, the development industry and other organisations as reported in the government’s own *ACT Planning Review and Reform Working Series Listening Report 17 December 2021*, which identified three **‘key feedback themes’** which it was expected the draft Planning Bill would respond to (but in our view plainly doesn’t), ie. the current lack of and need in the planning system for:

1. **‘Confidence, certainty and clarity’**
2. **‘Trust and transparency’** and
3. (effective) **‘Consultation’**

PERSONAL DETAILS DE-IDENTIFIED BY EPSDD