

New Planning Bill

Exposure Draft

Submission

ACT Planning System Review and Reform Project

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When the draft new Planning Bill became available to the public, urgent requests were made, to the Chief Planner, for community briefing sessions, in order to gain some understanding of the proposed “reformed, outcomes-focussed planning system”. These requests were denied. Consequently, interested persons have had to rely on the ACT Government website to plough through the available information.

“FAQs- What does the Planning Bill mean for you?”

Interested persons can access the information via the ACT government website - <https://yoursayconversations.act.gov.au/act-planning-system-review-and-reform>

This will provide access to more than 800 pages dealing directly with the draft new legislation. However, the reader may prefer to scrutinise the basic information, some thirteen separate factsheets in all - https://yoursayconversations.act.gov.au/download_file/5942/1178

“Will the Bill remove key planning rules for residential areas?”

“Throughout the project we have maintained that the planning system must protect the characteristics of our city that we value. For example, this means keeping the low-density nature of RZ1 areas (including development controls such as building heights and zoning), protecting areas of environmental value, and social and community facilities”.

In response to community feedback, one such community group, the ISCCC, produced a document titled Inner South Canberra District Planning Strategy

<https://www.isccc.org.au/isccc/wp-content/uploads/Inner-South-Canberra-District-Planning-Strategy-ISCCC-2021.pdf>

The ISCCC produced this important document in an endeavour to contribute to the ACT Government review. The final “living” document was based on an in-depth survey, finalised in 2020, and referencing the five themes in the ACT Planning Strategy 2018.

This document pointed out that the inner south (district) is able to accommodate a further 12,000 people by 2040 without resorting to multiple dwellings on blocks in RZ1 zones, the earliest established suburbs of the city. The major contributors to this urban intensification will occur in the developing suburb of East Lake and the Dairy Road development in Fyshwick. The intention is for these 21st century development projects to establish a new high benchmark of sustainability and liveability in response to environmental change.

Various community and professional organisations have expressed specific concerns about this draft legislation. Their concerns include:

- A starting base of no trust in the bureaucracy
- No public exposure of the draft new Territory Plan and the proposed District Strategies
- “Outcomes based planning” in the absence of trust
- Absence of skilled mature planners which has led to a loss of proper oversight
- Lack of effective compliance especially since the unit within the Planning Authority was abolished and replaced with a reporting system, via Access Canberra.
- Enormous power vested in the Chief Planner and the Head of EPSDD – two hats, one person.
- The introduction of the concept titled “Territory Significant projects”

What is meant by a ‘good outcome’?

One long running, divisive debate concerns the move to urban intensification in RZ1 zones. Of necessity, this move is targeting the oldest, established areas of this city. Putting aside the fact that a significant number of RZ2 blocks in the older inner south and inner north suburbs are still to attain their redevelopment potential, the deliberate government (?) move to increase urban infill by targeting RZ1 blocks, almost in a random fashion, has set neighbour against neighbour, home owners against government entities, developers against the community. This brazen move, ignoring persistent grass roots concerns, and defying the rules spelled out in the existing legislation, flies in the face of neighbourhood character and protection of the treed landscape and streetscape, elements of the older suburbs which are highly valued, and have taken on added significance in view of climate change.

I would like to highlight the contents of one of the submissions, now uploaded to [Have Your Say](#), which argues for the construction of a second dwelling on a substantial RZ1 block in Campbell (submission no.6).

The owner wishes to build a second dwelling and subdivide the block to enable flexibility for the next generation. Furthermore, it appears that the owner is responding to the neighbourhood character by retaining the existing driveway and building on what would then be a battle-axe arrangement. This proposal has, according to the submission, been disallowed.

I support the concept of two dwellings on a large established RZ1 block. And, I applaud, in particular, the attempt to respect streetscape and neighbourhood character by retaining the original driveway for both residences and setting one behind the other in a battle-axe arrangement. There are some outstanding examples of this approach to urban living in various Canberra suburbs. In fact, some of the greatest damage to neighbourhood character in RZ1 zones in the last few years is caused by knockdown/ rebuilds resulting in McMansions surrounded by concrete, a dearth of trees and degradation of the public verge.

However, the draft new Planning Bill gives no indication that the bureaucrats who have been engaged in drafting this legislation have anywhere near the depth of understanding of the issues as this particular home owner. The home owner is, in fact, describing what I believe is a ‘good outcome’. Respect for neighbourhood character appears to have been a guiding principle.

However, the community is yet to see any evidence that respect for neighbourhood character equates to a ‘good outcome’. Quoting from the government’s own online documents, good outcomes are:

“Developments that perform well and integrate effectively into their site context. A good outcome considers built form, public spaces, interactions with surrounding blocks and more. It considers community needs now and into the future.”

In the reformed system, the Territory Planning Authority will be more descriptive of what good planning outcomes are and, more specifically, what the desired outcomes are for an area.”

What about District Strategies?

The yet to be formulated District Strategies are being described as enabling:

“...the opportunity to identify and recognise the distinctive values of each district to be reflected in the planning system.... provid(ing) greater planning policy direction at a district scale. ... allow(ing) for managing growth and change strategically within and between districts, and protecting areas that we value.”

These yet to be written strategies, together with the draft new Territory Plan would appear to be integral to the establishment and underpinning of “neighbourhood character”. However, until such time as this legislation is publicly available, in draft form, the “*desired outcomes for an area*” remains obscure and meaningless.

Territory Priority Projects

The draft new Planning Bill introduces a new concept referred to as a “Territory Priority Project” The declaration of a Territory Priority Project would be identified by the Minister for Planning and Land Management. Then, the power to decide the outcome of a development application involving this project would be in the hands of the Chief Planner. Indeed, the Chief Planner could overrule the advice of the Conservator of Flora and Fauna and the Heritage Council. And, there would be no ACT Civil and Administrative Tribunal appeal rights. In addition, Judicial Review and Federal Government response time would be time limited, and brief.

Light Rail (the tram) is identified as one such project!

A number of submissions have questioned this extraordinary concentration of power, vested in one individual, and beyond the scrutiny of the Assembly and, possibly beyond the proper scrutiny of the Federal Government.

The National Capital Plan: “recognises the value of the unique purpose, setting, character and symbolism of Australia's national capital.” Yet, it appears that Territory Priority Projects could potentially undermine the significance of this city as Australia's National Capital.

This brief submission makes reference to only a few of the concerning matters which have been revealed in what appears to be a poorly drafted and incomplete piece of legislation, one part of an unknown whole.

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