



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING, TRANSPORT, AND CITY SERVICES
Ms Jo Clay MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair),
Mr Mark Parton MLA

Submission Cover Sheet

Inquiry into Planning Bill 2022

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WESTON CREEK COMMUNITY COUNCIL
Comments for the:

INQUIRY INTO THE PLANNING BILL

Submissions close:
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Your local voice



www.westoncreek.org.au
info@westoncreek.org.au



ABOUT WESTON CREEK COMMUNITY COUNCIL (WCCC)

Weston Creek Community Council (WCCC) appreciates the opportunity to comment to the Inquiry into the Planning Bill.

As a Community Council we are committed to advocating and supporting the Weston Creek residents in pursuing the expectations and values that enhance and ensure their safety, well-being, and quality lifestyles. The community of Weston Creek value their unique village atmosphere, garden landscapes, and open green spaces as vital links to physical and mental well-being. Planning and development, climate change, and distribution of amenities and resources are topics of high interest in Weston Creek.

With the increasing population growth of Canberra and what appears to be a history of ill-considered planning and development, Council is of the opinion that the unique character so appreciated by residents is at great risk of being lost. The Planning Bill does not allay any of the fears held by residents.

SUMMARY

The so-called planning review has missed the opportunity for meaningful reform. Any constructive or innovative thinking has been missed. Good models that provide greater specificity and a higher level of community participation, such as the *South Australian Planning, Development and Infrastructure Act 2016*, have been ignored. This has resulted in a draft that does not encourage quality building and development, does not cater for the needs of the population, does not address affordability, nor does it acknowledge the missing middle or opportunities to move into and stay in a chosen local area for whole of life.

Additionally, as previously advised, Weston Creek Community Council does not support the Planning Bill in its current form because:

- Of the many probity and governance risks presented.
- Lack of decision-making and assessment criteria.
- Vagueness and lack of clarity
- Concerns of potential poor outcomes due to outcomes-focused planning.

INTRODUCTION

Council acknowledged and supported the Government's review of the current Planning Act. However, Council is of the opinion that this has not occurred in this instance and ploughing ahead with District Strategies and a new Territory Plan (when the fundamentals of the Planning Bill have not been addressed) is a recipe for disaster. For true reform Council suggests that two Acts are required, a Planning Policy Act and a Planning Administration Act.

The extensive commentary provided in good faith to Government via the consultation period appears to have been ignored. Council is not convinced that the Bill will provide much needed planning reform.

Weston Creek Community Council again repeats the following comments and recommendations. See also attachment provided.

CHAPTER 2: OBJECTS, PRINCIPLES, IMPORTANT CONCEPTS, AND ELEMENTS.

RECOMMENDATIONS:

- Conduct a genuine review and reform resulting in 2 Acts: A Planning Policy Act and a Planning Administration Act
- Include an additional Chapter concerned with community consultation, engagement, participation, and information sharing. Inclusion of a Charter and a Planning and Design Code to guide public participation
- Assessment criteria to be codified and explicit within the Planning Act.
- The Minister *must* (not *may*) make guidelines about good consultation. Community consultation must be mandated.
- Greater emphasis on the human condition of environmental impacts to be included. For example: Addition of air and light pollution to the conservation principles.

CHAPTER 3: TERRITORY PLANNING AUTHORITY AND CHIEF PLANNER

RECOMMENDATIONS:

- The formation of a Planning and Development Advisory Representative Board
- Add explicit criteria for any Ministerial directions
- Anti-corruption provisions be included
- Ministerial directions be a disallowable instrument not a notifiable instrument to allow the Assembly five days to move and debate the direction.

CHAPTER 4: STRATEGIC AND SPATIAL PLANNING

RECOMMENDATIONS:

- Amend: 37(1) to The Executive *must* make a plan for the district
- Add: district strategies are developed in consultation with the community to enhance the character of the area aligned with the aspirations of residents
- Estate development plans to include considerations of: character of the local area, desires of the residents of adjoining suburbs, and impacts on the amenities of neighbouring shops and amenities
- Add: Waste management, air quality and dust plans

CHAPTER 5: TERRITORY PLAN

RECOMMENDATIONS:

- Delete *if any* in relation to district strategies 49 (3)b
- That the Territory Plan have a process as adopted with the National Capital Plan. Alternatively, the Territory Plan could be legislated
- In the draft Bill, a major plan amendment approved under subsection (2) (a) is a notifiable instrument, this must be changed to disallowable instrument
- An estate development plan must identify what and when community services, and amenities such as shops, are to be constructed, and be binding
- That a proposed estate on existing rural land first go to extensive community consultation
- Estate development plans are mandated (*not may*), to include the tree management
- Additionally, estate development plan must include environmental and human impact studies

CHAPTER 6: SIGNIFICANT DEVELOPMENT

RECOMMENDATIONS:

- Increase emphasis of community consultation by including community representation on the Design Review Panel
- That the Design Review Panel be in addition to pre-consultation processes and not instead of that process
- The scope of environmental impacts on humans be strengthened and to include the impacts of climate change, for example heat sink islands.

CHAPTER 7: DEVELOPMENT ASSESSMENT AND APPROVALS

RECOMMENDATIONS:

- Codify assessment criteria and explicitly state the criteria used for pre-decision advice
- Maintain pre-consultation guidelines with some minor amendments: increase time of pre-consultation, disallow pre-consultation that is limited to the Christmas, Easter, holiday periods, or times of significant cultural significance.
- Also Increase emphasis of community consultation
- Define essential design elements
- Add to (181) considerations: the extent and significance of probable impacts on the environment, fauna, flora, and humankind.

CHAPTER 8: TERRITORY PRIORITY PROJECTS

RECOMMENDATIONS:

- Increase emphasis of community consultation
- Increase consultation period from 15 days with a provision noting extended holiday periods
- That a Planning and Development Advisory Representative Board, as previously suggested in this submission, consider all proposals for territory priority projects
- Priority projects to not be exempt from ACAT, alternatively
- a territory priority project declaration to be a disallowable instrument not a notifiable instrument.

CHAPTER 9: OFFSETS

RECOMMENDATIONS:

- That the initial offsets policy, offset policy guidelines and the offset value calculation determination are all defined by a disallowable instrument
- That the offset management plan reporting is part of the Annual Report

CHAPTER 10: LEASES AND LICENCES

RECOMMENDATIONS:

- 297 (3) A concessional lease guideline be a disallowable instrument
- Review of the land lease arrangement in the ACT
- A working example of the formula of the removing of a concessional lease to enhance the reader's understanding.
- A pre-consultation process be included for any lease variation or amendment.

CHAPTER 11: PUBLIC LAND

RECOMMENDATIONS:

- Chapter 11 to be amended with public land protections. Declared public land to retain this status and variations to be disallowed
- Public land provisions be mandated in estate development plans.

CHAPTER 12: DEVELOPMENT OFFENCES AND CONTROLLED ACTIVITIES

RECOMMENDATIONS:

- Add to part 12.1: A person commits an offence if— (a) the person is negligent about whether the development is completed. (b) the person does not apply for or comply with occupancy certificate
- Add to part 12.2 a definition of controlled activity
- Add to part 12.2 the process of making a complaint
- (Part 12. 414 – 422). Addition of a clear timeline of complaint review
- (Part 12. 414 – 422). Addition of an independent complaints review body.

CHAPTER 13: ENFORCEMENT

Council has ongoing concerns about the application of enforcement activity by Access Canberra.

CHAPTER 15: NOTIFICATION AND REVIEW OF DECISIONS. ACAT

RECOMMENDATIONS:

- A clear process be articulated for the review of decisions
- An independent, qualified person and/or body to lead a complaint resolution process
- The inclusion of a mechanism to independently review the decisions of the Minister

CHAPTER 16 MISCELLANEOUS

RECOMMENDATIONS:

- Review part 16.521
- The Minister must consider advice from the Territory Planning Authority before approving guidelines
- Ministerial Guidelines to be made a disallowable instrument
- SCHEDULES: Council looks forward to reviewing and providing a commentary on the Schedules once the issues within the draft Bill are resolved.

CONCLUSION

Weston Creek Community Council has engaged with the community, through its various channels, for the process of the planning review and since the draft was released. Our position on the Bill can be summarised as:

- ❖ The Parliamentary and Governing Agreement contemplates a reform of the Planning arrangements. This draft Bill does not deliver true reform, just provides a reset point for the existing scheme.
- ❖ The Bill seeks to entrench the role of the bureaucracy as the prime arbiter while minimising the role of the Legislature. We understand that expert advice on the probity risks this arrangement presents has not been sought. This is entirely unacceptable!
- ❖ The over reliance on notifiable Instrument as the primary way of articulating policy settings encourages lower quality policy analysis and legislative drafting. Hence the recent DV 369 debacle.
- ❖ The notion suggested during consultations that the Legislative Assembly is too busy to consider planning matters in a degree of detail is rejected. Council notes the number of Members was increased in the 2016 Territory Election to enable Members to better scrutinise business. Therefore, the Assembly business schedule needs to be framed with Planning and land use as a key item of ongoing business.
- ❖ We suggest that the best approach would be to advance two (2) Bills for Assembly consideration: A Planning Policy Bill and a Planning Administration Bill, with the over reliance on subordinate legislation thus being abandoned.

Thank you for the opportunity to provide this input for the Planning Bill Inquiry. As an active community group, we look forward to participating in any future discussions.

Yours sincerely

Bill Gemmell
Chair, Weston Creek Community Council
info@westoncreek.org.au