

**The Standing Committee on Planning, Transport & City Services
of the Legislative Assembly of the ACT
Inquiry into Planning Bill 2022**

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Submission by the Yarralumla Residents Association

The Planning Bill 2022 (as currently drafted) should not be accepted in its current form and the issues below should be effectively addressed

Context

- The Planning Bill at 530 pages is a lengthy and complex document that sets new untested approach to planning legislation in terms of being “Outcomes Focused” and shifts growth from Greenfields sites to within the existing urban footprint.
- A critical component of the Bill is Chapter 5 which establishes the Object, key components and effect of the new Territory Plan.
- The Planning Bill and the new Territory Plan will form the fully integrated core of the ACT planning framework – the two are interdependent and inextricably linked.
- The draft new Territory Plan, which is of equal complexity and length having over 38 major sections, is at present subject to a totally separate, unconnected consultation process. This “consultation” is over the 2022-23 Christmas-New Year holiday period. The interrelated District Strategies are also subject to an unconnected consultation process and show varying stages of development.
- Extracts of the Planning Bill referred to in this Submission are at Attachment 1.

Issues

1. *The fundamental change that is proposed without evidence, cannot be regulated and provides for development not planning*

The Planning Bill puts forward a dramatic and fundamental change in the planning system to one that is based on “Outcomes”. Evidence to support this change is absent. The effect is to move from an approach based on clearly articulated requirements and is evidence based to one that is subjective and qualitative. The breadth of the desired planning objectives, the lack precision in their definition and the complex governance framework and environment, mean that it will be exceedingly difficult to ascertain the Outcome. Such an approach cannot be effectively regulated as the actual results (outcomes) are not known until a year or even a decade after the development has taken place. **This approach provides for development but is NOT a framework for planning.**

2. *The Planning Bill does not meet its own Object as set out in Clause 7(2)*

The planning system put forward in the Planning Bill does not meet any of the Objects set out in Clause 7(2) which states that the planning system is intended to:

- be based on policies, processes and practices that are easy to understand
- promote certainty of process and consistent and transparent application of policies
- provide a clearly defined hierarchy of planning strategies
- provide for community participation

Overall **the Planning Bill is virtually impossible to comprehend** owing to the breadth of the desired planning objectives, the imprecision in the definition of principles and requirements, and the convoluted, complex, interrelated matrix that forms the approach to governance and decision making. The governance framework is nebulous and owing to its overlapping nature is not a hierarchy.

3. The Planning Bill has conflicting requirements for central elements

The Planning Bill sets out requirements that are in direct conflict. For example growth is to be by urban infill but this creates heat islands and developments that are not energy efficient. Clause 10(2)(a) it states under *urban regeneration principles* that growth should be mostly within the existing urban footprint, or in areas close to the existing urban footprint. However, in the same Clause under *sustainability and resilience principles* the requirement is that effort should be focussed on adapting to the effects of climate change, including through mitigating the effects of urban heat, managing water supplies and achieving energy efficient urban environments.

This aspect is exacerbated by the proposed new Territory Plan which removes the mandatory requirement for 50% Plot ratio and provides for ready subdivision of Residential (RZ2) Blocks, which have the effect of providing for developments in which there is no private green space as single and dual occupancy dwellings can be built over the entire block right to the boundaries.

4. The consultation for the Planning Bill does not meet the principles of good consultation as set out in the Bill itself

The Planning Bill provides the Principles of good consultation, under Clause 11. It states that consultation should be accessible, balanced, inclusive, meaningful, resourced, respectful, timely, transparent and understandable (principles of good consultation). These requirements are sound and should be put into practise in relation to the Planning Bill. These principles of good consultation are, however, not being applied in the Planning Bill consultation as:

- It is not meaningful owing to the complexity and lack of specificity in the documentation
- it is not meaningful as the timeframe is exceedingly short for such fundamental and complex changes
- input from prior consultations has not engendered any change and there is no articulated pathway for demonstrating that this will be addressed through current consultations on the Planning Bill, new Territory Plan and District Strategies
- it is only on the Planning Bill which is just one element of the Planning System, and the core elements set out in the Bill of the new Territory Plan and District Strategies are subject to separate unrelated consultation processes on different timelines
- the Planning Bill itself is extremely challenging to understand owing to: the breadth, and often conflicting planning objectives; the convoluted and imprecise definition of principles, strategies and requirements; and the overlapping interrelated elements that form the approach to governance; and the absence of the other core components.

Recommendations

- 1. The Planning Bill (as it is currently drafted) should not be accepted.**
- 2. The issues raised above by the Yarralumla Residents Association should be effectively addressed in the consideration and redrafting of the Planning Bill.**

Public Officer
Yarralumla Residents Association

Attachment 1 – Extracts of the Planning Bill 2022 - Clauses 7, 10 and 11

Chapter 2 Object, principles and important concepts

Part 2.1 Object and key elements

7 Object

- (2) As part of achieving the object mentioned in subsection (1), the planning system is intended to
- (a) be based on policies, processes and practices that are easy to understand; and
 - (b) promote certainty of processes and consistent and transparent application of policies while at the same time providing scope for innovation in development proposals; and
 - (c) provide a clearly defined hierarchy of planning strategies that inform the content of the territory plan; and
 - (d) engage with other laws to support the efficient, appropriate and effective delivery of other related government policy objectives; and
 - (e) promote high standards for the built environment through an emphasis on design quality and universal design for the benefit of people with differing needs and capabilities; and
 - (f) provide for community participation in relation to the development of planning strategies and policies, and development assessment.

Part 2.2 Planning principles

10 Principles of good planning

(2) In this Act:

sustainability and resilience principles means the following:

- (a) places should be planned, designed and developed to be sustainable and resilient;
- (b) effort should be focussed on adapting to the effects of climate change, including through mitigating the effects of urban heat, managing water supplies and achieving energy efficient urban environments;
- (c) policies and practices should promote the use, reuse and renewal of sustainable resources, and minimise use of resources.

urban regeneration principles means the following:

- (a) growth should be mostly within the existing urban footprint, or in areas close to the existing urban footprint, while maintaining environmental values;

Part 2.2 Planning principles

11 Principles of good consultation

1) In undertaking consultation under this Act, a person must consider that consultation should be accessible, balanced, inclusive, meaningful, resourced, respectful, timely, transparent and understandable (principles of good consultation).

(2) In this section

- (a) consultation is accessible if information provided as part of the consultation, and processes for consultation, are easy to access and are presented in a variety of ways to accommodate different stakeholders; and
- (b) consultation is balanced if
 - (i) it is undertaken in a way that facilitates and encourages constructive responses from a wide range of stakeholders; and
 - (ii) community views are considered together with the views of other stakeholders; and
- (c) consultation is inclusive if it is undertaken in a way that aims to engage all stakeholders affected by the subject of the consultation; and
- (d) consultation is meaningful if
 - (i) information provided as part of the consultation is adequate to ensure all stakeholders understand the subject of, and issues relating to, the consultation and can give informed responses; and
 - (ii) it genuinely seeks community feedback; and
 - (iii) community views are genuinely considered and incorporated into final decisions; and.....
- (h) consultation is transparent if
 - (i) information provided as part of the consultation and processes for consultation are clear and observable; and
 - (ii) planning decisions are made openly; and
 - (iii) government and proponents provide reasons for decisions, including how community views have been taken into account; and