



Response to ACT Planning System Review and Reform Project – Draft Territory Plan and Draft District Strategies

Introduction

This submission is made on behalf of the Combined Community Councils of the ACT¹ (CCCACT), the peak body for the eight Community Councils in Canberra.

Background

The ACT Planning System Reform and Review Overview (November 2020)² noted 3 Key Messages under the heading “Challenges, gaps and opportunities”:

Key Message 1	The current system does not adequately accommodate consideration of design quality or development appropriateness, putting at risk the valued character of Canberra and its suburbs.
Key Message 2	The disconnect between strategic and statutory planning means the system is not well placed to address future planning challenges and aspirations of the long-term Planning Strategy.
Key Message 3	These issues, along with the general complexity of the system, is compromising the community’s confidence in the system and their ability to fully participate in planning and development.

The CCCACT members do not believe the Draft Territory Plan and Draft District Strategies (along with the Planning Bill 2022 and associated Design Guides, etc.) have adequately responded to these 3 key messages. In particular:

- We have little confidence that the reformed planning system proposed and the “outcomes based approach” will actually “preserve the valued character of Canberra and its suburbs”.
- There is considerable further work to be done on the Draft District strategies to address the “disconnect between strategic and statutory planning”.
- The community and relevant stakeholders have been poorly engaged in the development of the reform process which has further undermined “the community’s confidence in the system and their ability to fully participate in planning and development”. The reforms to date appear to have increased the complexity and reduced the certainty of the planning system.

¹ <http://cccact.org>

² Available from <https://www.planning.act.gov.au/planning-our-city/act-planning-system-review-and-reform/resources>



The following responses are supported by all eight members of the CCCACT.

Draft Territory Plan

Based on analysis undertaken by the CCCACT members, supported by strong engagement over multiple decades with their communities, the following comment and recommendations are made regarding the Draft Territory Plan:

1. The centerpiece of outcome focused planning are the design principles and desired outcomes.
 - These have appeared very late in the reform process (in the Draft Territory Plan) with no consultation (including with the Environment and Planning Forum).
 - It remains unclear how, when and by whom Desired Outcomes will be assessed, judged to be sufficient, and balanced, to ensure Final Outcomes align with Desired Outcomes.
 - It remains unclear whether exempt developments will be required to satisfy Design Principles and who will make this assessment (building certifiers ?).
2. Rezoning is an effective mechanism provided it is evidence-based, there are sufficient contributions to the common good (public sphere), the Living Infrastructure rules are enforced³ and there are protections against poor quality design and architecture, piecemeal developer-driven developments and developments of excessive scale for their site or locale.
 - Living Infrastructure provisions appear to be significantly watered down in the draft Technical Specifications.
 - Instead of random upzoning in a district, it is preferable to have structured community engagement to ensure co-design of precinct scale developments, and then improvement of processes between participating Government agencies, the private sector and the community to deliver the redevelopment of precincts in a timely way.
3. The Draft Territory Plan has a strong theme throughout regarding redevelopment of existing sites to meet densification goals. Further work needs to be done to explore development of surface car parks and large underutilized spaces such as Thoroughbred Park.
4. The draft Territory Plan and supporting documents do not meet the stated purpose of a clear and easy to use planning system. The multiplicity of documents and their complexity makes them difficult to understand, to administer and to evaluate. Radical surgery is needed to fix the problems.
5. The Government needs to demonstrate its genuine commitment to the outcomes-based approach by showing that it is informed by evidence. This will contribute to confidence that as Canberra grows and develops, its valued character will be maintained. For example:

³ Draft Variation 369 - <https://www.legislation.act.gov.au/ni/2019-807/>



- Undertake an evaluation of the Mr Fluffy program which allowed for dual occupancies to be built on blocks bigger than 700 sq metres to learn lessons before any expansion of this model across Canberra.
 - Evaluating the success of RZ2 zoning in providing medium density housing to learn lessons for the proposed further relaxation of requirements for multi-unit residential development near local and group centres.
6. The draft Territory Plan relies too much on subjective assessment. It should have clear, quantifiable outcomes measures. The government’s definition: “Good outcomes that meet community needs” means very different and frequently conflicting things to different members of the community.
7. The failure of mixed-use development within Canberra to deliver a genuine mix of uses needs to be addressed through (perhaps) the introduction of a ACT Mixed Used Design Guide (the Mixed Used Design Guide) to accompany the proposed ACT Urban Design Guide and ACT Housing Design Guide. This document should contain benchmarks and guidelines to ensure developers deliver building spaces that are attractive and useable by prospective tenants. Consultation should be undertaken with the local business community and community service providers to ensure the guide is tailored to the specific needs and commercial realities of the ACT. The Mixed Use Design Guide should also be informed by the recommendations of the consultancy report into mixed use undertaken by the Planning Directorate’s as part of the reform⁴.
- There are numerous examples of mixed use and commercial design guides in effect elsewhere in Australia. One such example is the Quality Design Guidelines for Commercial and Mixed Use Areas used by Melbourne’s Glen Eira City Council.
8. To enable Assembly and community oversight, and to ensure clarity and certainty regarding Development Applications, the following items need to be included in the Territory Plan:
- Tighter Definitions of desired outcomes, based on verifiable evidence and objective measures of compliance.
 - Key mandatory DA assessment requirements from the Technical Specifications.
 - Mandatory requirements for measures which protect the amenity of existing and future residents, such as access to sunlight/natural light, privacy, amount of planting area on residential blocks, building height, and protection of the character of heritage precincts.
 - Mandatory key characteristics of a livable environment, rather than in Technical Specifications and Design Guides which create uncertainty as to outcomes.

⁴ Commercial and Industrial Zones and Mixed Use Development (SGS)



9. Regarding the Development Application process:

- It should comply with nationally agreed benchmarks.
 - The criteria for exemption from the requirement for a Development Application are not yet available. A period of at least four weeks for public comment should be allowed when they become available. As these criteria will comprise mandatory criteria, they must be included in the Territory Plan.
 - An explicit requirement that DAs involving protected trees should be referred to the Conservator should be included as a mandatory Assessment Requirement in the Territory Plan (or as an amendment to the proposed Planning Act). Decision makers who decline to follow the Conservator's recommendation(s) should be required to give reasons for their decision.
 - An explicit requirement that DAs involving heritage matters are to be referred to the Heritage Unit and Heritage Council should be included as a mandatory Assessment Requirement in the Territory Plan (or as an amendment to the proposed Planning Act). Decision makers who decline to follow the Heritage Council's recommendation(s) should be required to give reasons for their decision.
 - The current Heritage rules must be maintained, and all development must preserve the built heritage, streetscape and character of heritage precincts. Property-buyers should be asked to sign a declaration that they are aware of heritage rules and will respect them.
10. When Design Guides become available, there needs to be appropriate time for further consultation (minimally 4 weeks).
11. Proposed changes to mandatory requirements in the Territory Plan should be treated as a major amendment, with appropriate notification to the Legislative Assembly and provision for the amendment to be disallowed if the Assembly considers that to be the appropriate action.

Draft District Strategies

Based on analysis undertaken by the CCCACT members, supported by strong engagement over multiple decades with their communities, the following comment and recommendations are made regarding the Draft District Strategies:

1. There needs to be an immediate and substantial improvement in how the District Strategies are further developed. The ACT Government must use a genuine and well-structured, rather than "rubber stamp", community engagement and co-design approach on the district strategies, including by promoting the community engagement processes widely, at accessible times and places, with reasonable timeframes for comment, and by providing good quality, high resolution maps and data overlays and other information to support the community in providing better informed feedback. This is especially important in view of



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current community feelings of disempowerment and the experience of not being listened to.

2. The Blue-Green Network driver needs to be given stronger emphasis as an overarching guiding principle to ensure the retention of Canberra's unique character, relative to the other big drivers
3. All the District strategies need to be informed by
 - a. a detailed social needs analysis that is consistent across all districts.
 - b. an evidence-based, rigorous methodology for projecting population increases in the ACT and hence the number of additional dwellings required annually, and their location.

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