



## Inner South Canberra Community Council

### Record of 1Public Forum

**Tuesday 10 October 7pm: Eastlake Football Club, 3 Oxley St, Griffith**  
**New Planning System Case Studies, New Heritage Arrangements**

#### **1. Welcome: Marea Fatseas, ISCCC Chair**

The Chair welcomed attendees. She acknowledged the traditional custodians of the land on which the meeting was held and their elders past, present and emerging. She also mentioned that it was a very important week in the lead up to the referendum.

There were 52 attendees. MLAs in the audience were acknowledged. These included Rebecca Vassarotti MLA (Minister for Environment, Heritage, Homelessness and Housing Services and Sustainable Building and Construction) and Peter Cain MLA. Patrick Pentony, representing Ed Cocks MLA, was also welcomed. Apologies were received from Rachel Stephen-Smith MLA and Shane Rattenbury MLA.

#### **Summary of Forum – Session One New Planning System**

Speakers at the forum identified some of the main changes, including how the new system will work for the case studies below:

1. Brief overview of planning system changes, and knockdown/rebuilds case study: Marea Fatseas, ISCCC Chair
2. Dual occupancies and multi-unit developments in the RZ1 (single dwelling) and RZ2 (near shops) zones: Tim Field, ISCCC Committee member
3. Social, supportive housing: David Denham and Sue Tongue, ISCCC Committee members and President/Vice President, Griffith Narrabundah Community Association.

The presentations made by the speakers are at <https://www.isccc.org.au/record-of-public-forum-10-october-2023>

#### Summary of Issues Raised in Presentations

The ISCCC has advocated strongly for mandatory rules, especially to ensure sufficient planting/green space on residential blocks, solar access and protection of private open space

from overlooking/overshadowing. In the absence of mandatory rules on these issues in the Territory Plan, it will be essential to have good governance and an effective monitoring and evaluation framework.

The Government needs to demonstrate commitment to conduct as soon as possible the planning governance review, which was promised to occur within a year. Not even the review's terms of reference are available yet, and yet the new planning system is due to commence on 27 November 2023.

The Government must establish a robust monitoring and evaluation framework to ensure that it is able to measure its success in achieving the proposed outcomes, especially for development assessment. Who will monitor the implementation to ensure the outcomes are delivered?

In particular, how will resilience to climate change be tested? For example, there will need to be more regular heat maps of Canberra, and a need to address and avoid the creation of heat islands. A statistical analysis of canopy cover in particular suburbs/precincts could be used to help assess new development proposals to ensure they do not contribute to the heat island effect.

Neighbours of Knockdown/rebuilds or new single dwellings should have a say about those developments. They still don't have a say in the new planning system if independent certifiers indicate that the developments meet the requirements of the Exempt Development Regulation. Yet, the vast majority of the 555 residents interviewed in the ISCCC's online survey in 2019/20 said they wanted to have a say, especially on such matters as the amount of green space on the block, solar access, overlooking/overshadowing etc:

- There is special concern about Exempt Development as it relates to heritage listed homes/precincts.

The ISCCC is concerned that the new arrangements will not achieve broader environmental and quality outcomes. Financial incentives will prevail. If developments are rejected and developers appeal, they will have a good chance of winning because of the lack of clearly measurable rules and criteria. For similar reasons, it is unclear how residents affected adversely by new developments will be able to demonstrate this in ACAT due to the lack of such measurable rules and criteria.

The increased complexity, inconsistent decision-making, reduced certainty may lead to a further loss of trust and confidence in the planning system.

The new planning system must comply with recommendations from the Royal Commission on Disability. There must be a commitment to an increased supply of accessible and adaptive housing for people with a disability.

There must be a holistic approach to planning to ensure that community and other physical and social infrastructure are provided to meet the needs of the new areas of urban intensification.

There needs to be proper analysis of whether the new dual occupancy policy for RZ1 will yield much additional dwelling supply and whether a preferable approach may have been to learn lessons from multiunit development in RZ2 to deliver future quality medium density housing there.

As a residential suburb, Oaks Estate should be included in the Inner South District Strategy, rather than in the East Canberra District Strategy.

### Summary of key Questions and Answers

Q. Are there any hooks that can be used to take concerns to ACAT?

A. Third party appeal rights continue as currently (Rebecca Vassarotti MLA)

An attendee expressed the view that since there are very few mandatory rules that the ACAT could apply, the ACAT would be looking at discretionary decision making.

Q. How is zoning of an area changed?

A. This can only be done by going through a Draft Territory Plan Variation process that triggers an inquiry to the Assembly (Rebecca Vassarotti MLA)

An attendee suggested that the Residential Zones Policy document is worth looking at. It sets out what can be done in each zone, the characteristics of each zone, RZ1 compared to RZ2, and spells out those mandatory assessment requirements for the various zones.

Q. Has anyone done an assessment of what has been promised and what has been delivered?

A. For years the ISCCC has been asking, without success, for a copy of any evaluation by the government about the Mr Fluffy blocks. The Government did allow for dual occupancies on Mr Fluffy blocks, but there appears to have been no evaluation done to see what happened on those blocks. As volunteers, the ISCCC did their own evaluation and found that there was a loss of green space where there were dual occupancies, and also there was only a small increase in the RZ1 zone in the number of dwellings.

The ISCCC considers there must be a proper monitoring and evaluation process as part of this new supposedly outcome based planning system. There appears to be an informal internal process between Access Canberra and the Planning Directorate on random audits of DAs, but a lack of publicly available evaluations to ensure accountability and public confidence in the planning system.

Q. How are we evaluating the outcome of what has been built so far with respect to temperature? The importance of a frequent temperature map was raised. The

documentation occasionally mentions urban heat island effect, but it does not say how this is going to be tested.

A. The issue of living infrastructure and solar access have been key issues that have been brought to the table with respect to the new planning system. The update of the heat island map is scheduled for 2025 and is aligned with the mapping of the tree canopy. Preparing heat maps requires more than 6 months. (Rebecca Vassarotti, MLA)

Q. Why were very large paved car parks allowed near Costco, with resulting creation of heat islands?

A. The land is not ACT Government responsibility.

Q. Do we have any statistical base for determining the tree canopy cover, and hence extent to which new developments may impact adversely on the target of 30%?

A. Canopy cover information is available in interactive form on an ACT Government website. You can look up your block and see what your canopy cover was in 2020. And the information is available at suburb level (see <https://www.cityservices.act.gov.au/trees-and-nature/trees/urban-forest-strategy>).

Q. A lot of the construction or destruction in RZ 1 is actually occurring through exempt development. How is development exempt when the criteria aren't there to be assessed?

A. It seems that there is a Control under the Exempt Development Regulation that has very clear rules that seem to have been taken straight out of the existing Territory Plan and put into this Control [full name of the Control is the Planning (Exempt Development) Single Dwelling Housing Development Control Declaration 2023 (No 1)].

### Comments

- The problem in achieving the 30% canopy cover is that the government has in mind that a lot of the 30% canopy cover might be in the street trees and public open space, but they're not going to be able to achieve that just with the public open space. It's going to have to also include canopy cover on private open space.
- There has been no review of development in RZ2 near shops, facilities and public transport.
- The planning process has had a disastrous outcome for the residents of Oaks Estate. Oaks Estate has been moved into the new East Canberra District Strategy. It is the smallest and poorest suburb in the whole of Canberra, while the East Canberra District Strategy comprises mainly of rural and commercial land and provision for freight. There has been no consideration in the longer term about what will happen with Oaks Estate under this new planning system. Nothing to address the lack of transport to Oaks Estate, sweeping generalizations about access for Oaks Estate residents to New South Wales services. Residents would like to pursue inclusion in the Inner South District Strategy, not in the East Canberra District Strategy.

## **Session two-New Heritage arrangements**

The new Chairperson of the ACT Heritage Council, Duncan Marshall AM, addressed the forum about the Heritage Council and new heritage arrangements.

The key points raised included:

- It is important for the Heritage Council to be out in the community listening to what they have to say about heritage and to allow the community to interact with the Heritage Council.

### Heritage Council

- After the hiatus created by dismissal of the Heritage Council, the ACT Government appointed a new interim Heritage Council.
- That council has been operating for about six months of its twelve-month term.
- This is a review period. There may be further changes.
- The Council is up and running and doing things like developing the Heritage Register, and making decisions about the registration of heritage places in the ACT. The Council is dealing with the more significant development applications or development proposals that may arise, and dealing with conservation, management plans, and development policies.
- There is a lot more to be done regarding policy development.
- The Council is not waiting for the review process, it is moving forward making changes to the extent that it can.
- There's a substantial backlog of nominations. There's a very substantial backlog of advice that's being sought from the Heritage Unit and the Heritage Council with very long delays in people getting the helpful advice that they need about whether or not they can do particular things within their heritage property.
- They would like to start early conversations with people about the changes they want to make before they finalise their plans, then there is a better chance of influencing sympathetic outcomes.
- In the planning conversation, there was a big interest in monitoring and compliance. There is a big gap in the work of the ACT heritage system. There is some activity in terms of compliance, but it does seem very sporadic.
- There are questions around the effectiveness of the evaluation of the heritage systems that have been in place for decades.

### Review and Reform Process

- It is an ACT Government process. It's not an ACT Heritage Council process, however, the Council is engaged with the consultant team and the government people who are working on that review and reform process.

- The report is out for public consultation at the moment. It closes for public comment on Friday 13 October.
- There are recommendations relating to Aboriginal Cultural Heritage in the Act. One of the areas where the ACT heritage legislation is behind other jurisdictions or national best practice is with regard to Aboriginal or Indigenous cultural heritage. There is a suite of recommendations within the Review Report about creating the body and the systems to enable the Aboriginal people of the ACT to have that degree of control of their heritage.
- The other major theme relates to strengthening governance and administration of the ACT heritage system.
- There is a recommendation that the system needs to be much better resourced, particularly to get better good outcomes.
- There are recommendations relating to the reform of the nomination process. I have heard concerns about some of the recommendations relating to, for example, what's to happen to the nominations which were made prior to 2004-2005. I am having a rethink about how that suite of recommendations might be improved.
- Pre-lodgement engagement, that pre-engagement with people about changes or proposals they may have for their heritage places is another key recommendation within the Review report.
- There is a recommendation about getting a fit for purpose contemporary Heritage Register, which makes information quickly, simply and easily available to the community.
- There are recommendations about stakeholder engagement and engagement with the community, about compliance, about sustainability, about changing the legislation so that the ACT Heritage Council can comment on adjacent developments.
- There are recommendations about transparency.
- There's a recommendation around the idea of late inheritance strategy.?

### Questions and Answers

Q. Can you put solar panels on a heritage listed home?

A. The policy is that things like services that might be put on a roof, and they could include hot solar, hot water, the encouragement or the guideline says, try and locate those on the non-street facing planes of your roof. And in fact, the policy says that where there's no other alternative, then you can even perhaps put them on the street facing side. The situation has changed with things like rooftop solar and solar arrays can be much more substantial in their overall coverage. The pressure is now on for us to consider putting rooftop solar in a lot more locations, which may well be visible, but we've kind of got to think through the policy situation for that. And if you actually go onto Google Maps or similar, you can actually see where the solar panels are on.

Q. Do you see opportunities for community groups like the Inner South Canberra Community Council supporting the work of the Heritage Council. If so, how?

A. By being Heritage champions,

Q. Current status of a heritage plan for the West Basin

A. That is a National Capital Authority planning control matter.

Q. Do we heritage list trees.

A. There is a capacity to list groups of trees and significant trees under the Tree Protection Act.

Q. There were 65 submissions to the Legislative Assembly Inquiry into Heritage. Only one of them, the Government, was referred to in the report and I wondered if you have any capacity<sup>7</sup> to look at the input from all the people who committed to writing those.

A. The parliamentary inquiry is actually separate to the government inquiry.

The government review was an interjurisdictional review, and we didn't go out to public submissions because we knew that that process was happening with the parliamentary inquiry. (Rebecca Vassarotti)

#### Comments

- For those of us who live in Heritage Precincts, and it does flow on, of course, into RZ1 zones, there's a real issue, in heritage Precincts, about exempt developments.
- And we must talk extensively about that, because this Stenning report is not going to solve that problem. I don't think that the people who are doing that report, and most of it to this date, has been desktop, even appreciate what's going on the ground here in Canberra with development.
- Goes to the nominations - 80 to 85 of them - that predate 2003. If you look at the heritage register and go down by suburb and look at Oaks Estate, it looks like it has been registered as Heritage listed. It is the oldest part of the ACT. A large amount of work was put into the nomination of Oaks Estate, but it was rejected.
- Perhaps in other jurisdictions with local heritage nomination processes, Oaks Estate may have been successful with its nomination. The ACT doesn't have a system to deal with local heritage. (Duncan)

Meeting Closed 9.00pm