

Environment, Planning and Sustainable Development Directorate
EPSDDComms@act.gov.au

Comments on the Draft new Territory Plan and the Draft Inner South District Strategy

Thank you for the opportunity to comment on the draft Territory Plan and Inner South District Strategy.

The communication of the concepts has been disappointing from a community perspective. The impact that these documents may have on the community is significant, and it would have been anticipated that the consultation was open and inclusive. This has not been the experience of the Inner South Canberra Community Council (ISCCC) and the Red Hill Residents Group (RHRG).

A recent article in the Riotact (11 February 2023) said it best: “a lack of information and an unwillingness of planning directorate officials to front public meetings is hampering the community consultation for the draft Territory Plan and the proposed District Strategies”. The community continued to be “starved of essential information and not able to quiz officials”. In addition, the EPSDD maps providing the vital information regarding future planning were “too small for people to scrutinise but a request for high-resolution maps as far back as November had come to nought”. It was only as recent as 15 February that these maps were finally made available. ISCCC was unable to provide this information to its public forum on 7 February, despite requests as far back as November last year. In the same article, Marea Fatseas (ISCCC Chair) stated that “the government had been working on this for three years yet could not furnish maps that people could read so they understood how the proposed changes might affect them”.

“Future Investigation Areas” have been a major concern to residents. The maps are of a very low density and difficult to understand. Residents know the importance of being clear in such areas, as down the track there will be the inevitable “we advised of this possibility in the District Strategy”. How have these areas been selected? Is there room for comment on them individually? Or is it the case that when the District Strategy is approved, there is a tacit approval for significantly increased density in these areas?

The draft Territory Plan is unjustifiably complex, voluminous, and potentially difficult to apply and administer. The focus on ‘outcomes’ statements is likely to produce confusion, conflict, and uncertainty because of the difficulty of assessing compliance and this will further reduce the already low levels of confidence and trust of the community in the planning system. There is a great irony that this more complex proposal has the aim of simplifying the planning system. It may do so for developers, but not for the community.

It is also of great concern that most of the ‘rules’ and ‘criteria’, which are critical for the community (and ACAT) to use in assessing compliance with planning policies, are to be moved out of the Territory Plan and into non-statutory ‘supporting materials’, where they can be changed at will without scrutiny by the community and Legislative Assembly and ignored as desired by the non-transparent planning authority, which appears to just doing the bidding of the government and the development industry.

Technical specification documents are not legally enforceable, as they are not part of territory plan. These would now contain many of the current rules, including development and site controls, height, bulk and scale. The issue is that these statements are qualitative, broad in nature and not measurable. They are not a basis for consistent decision-making and assessment against a broad range of desired outcomes will be more open to differing interpretations. This gives ACTPLA enormous discretion to approve applications, and it may be hard to win an appeal against approvals, as this will involve assessing competing subjective judgements.

This issue can be solved by making the desired outcomes real, based on verifiable evidence and objective tests of compliance (for example solar access). Existing rules, such as mandatory assessment requirements, could be retained (eg. the V369 Living Infrastructure provisions). There could also be consideration given to applying a height limit for all residential zones of 11.5 metres, as applies in Deakin.

Conclusions from the ISCCC Forum on 6 Feb showed that overall attendees were dissatisfied with the current territory, proposed territory plan and district strategies, and with the process of consultation. The Chair summarised the following key conclusions, including:

- There is a lack of information provided by the ACT Government including good quality maps to help the community provide feedback.
- Community groups can't be expected to have meaningful input into policy when they don't have accurate and detailed information that informs them of the impact of what's being proposed. The ISCCC can say this isn't acceptable and argue that the date for submissions should start from when we are given proper information.
- There is no evidence of putting the Community first.
- Ask for the rationale underpinning the proposed zoning (eg General Urban, Urban Centre, urban Core).
- If we are to have an outcomes-based system, it needs to be measurable. What is proposed isn't. There is a need to have compliance irrespective of the system.
- The need for a right of appeal was emphasised.
- There needs to be more focus on heritage and how that is dealt with in the territory plan and district strategy. The importance of maintaining heritage including built heritage and cultural heritage and not just environmental heritage was emphasised.
- There is the need to design for climate change and at the moment it doesn't seem to be designed that way, both in terms of things like green space on blocks and EV charging in apartment buildings etc.
- The need for public housing to be included in new developments is important in the Inner South.

- People expect certainty about what can be built next to them or nearby. Clear rules are needed for knock down, rebuilds.
- People want clear guidance so that they know that they are not going to lose their solar access and that there's going to be adequate green space on residential blocks and near urban intensification areas.
- Residents feel disempowered and that they're not going to be listened to. The process seems to be being done in such a way that the Government is ticking the box that it has carried out community consultation, but the Government knows what it wants to do.
- The need to work cooperatively with the heritage unit and the current clear heritage rules is important, and to improve property buyers' awareness of heritage areas and requirements.
- Send the government the ISCCC's draft District Strategy again.
- When approvals are done, they need to be done in a reasonable time frame. Explore what can be done to address other barriers within the system to speed up appropriate precinct scale development to meet the needs of current and future generations.

Red Hill residents' concerns included comments such as:

- The relatively small time allowed for comments – and for residents to get their heads around a very complex proposal.
- If the overriding guidance is community, it has been overlooked.
- There is a need for genuine First Nations consultation.
- The public green space and the private green spaces all contribute to Red Hill's green space. The dual occupancies reduce that private green space opportunity. Could we rethink the Government's proposed reduction from 30% to 24% planting area on residential blocks and argue that that's not compatible with the climate change issues that we're facing?
- There are random proposed high density hot spots in the Government's Sustainable Neighbourhoods map (Fig 36 in Draft District Strategy). There is a high-density blob above the recently developed Nelson Park? There was extensive community communication to come up with the final product in The Parks development and now it appears rewritten?
- The community is the whole of Canberra. How can these blocks be randomly selected? What is the formula? Who is making decisions?
- It appears that developers can now make their own rules.

- There is a concern about the infill increasing noise levels
- The new Territory Plan creates a “power inequality between residents’ situation and that of the developers”. This refers to the financial resources, knowledge and experience of the developers in comparison with most residents having little to no knowledge and having to tackle complex planning submissions.
- The “Listening Reports” will only be of value if the government has actually heard what is being said by the community.

The EPSD Directorate may acknowledge the Ngunnawal people and recognise the special relationship and connection they have with this country, but this does not necessarily translate to entering discussions with the Ngunnawal people and taking their views into consideration during such planning exercises. The RHRG is interested to see the results of collaboration with the Dhawura Ngunnawal Caring for Country Committee (DNCCC). The strategy states that the government will continue to collaborate with DNCCC on opportunities to provide input on knowledge, culture, and traditions, however there are no specifics regarding the outcomes of these discussions.

The RHRG has been in contact with Ngunnawal representatives (elders), and we expect to be speaking to them shortly. We will come back and provide their advice in due course.

The obvious subjective nature of outcomes-based planning means there can be a huge difference between what is promised and what is actually delivered. The outcome I have in mind, and the outcome a developer has in mind will be very different and that leads to the question – whose outcome and what outcome is being considered?

In summary, the community feedback we have been receiving is strongly against the draft Territory Plan and draft Inner South Strategy in their current formats. We are not sure how feedback was obtained to come up with these new plans, but it appears mis-guided and not a true reflection of the community. No amount of spin for largely unregulated outcome-based development can hide the inescapable negative consequences of subjective outcomes, “upzoned” zoning areas and relentless loss of green space. The ultimate outcome is rarely the enlivened urban area promised. More often actually delivered is environmental urban landscape destruction with an inevitable inheritance of loss.

Melissa Bennett
Chair, Red Hill Residents Group

23 February 2023