



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT**

(Reference: Planning system reform project)

Members:

**MR M GENTLEMAN (The Chair)
MR Z SESELJA (The Deputy Chair)
MS M PORTER**

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 9 OCTOBER 2007

**Secretary to the committee:
Dr H Jaireth (Ph: 6205 0137)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

WITNESSES

LAVIS, Ms JACQUI, Deputy Chief Planning Executive, ACT Planning and Land Authority **1**

SAVERY, Mr NEIL, Chief Planning Executive, ACT Planning and Land Authority ... **1**

The committee met at 2.40 pm.

LAVIS, Ms JACQUI, Deputy Chief Planning Executive, ACT Planning and Land Authority

SAVERY, Mr NEIL, Chief Planning Executive, ACT Planning and Land Authority

THE CHAIR: Good afternoon, members and members of the public. Welcome to the planning and environment committee's briefing on the territory plan and planning system reform project. I welcome Mr Neil Savery, the Chief Planning Executive from ACTPLA, and Ms Jacqui Lavis, the Deputy Chief Planning Executive from ACTPLA.

This afternoon we have an update briefing from the authority. If stakeholders, members of the public, are interested in asking any questions, please direct them through the secretary to the committee afterwards and then we can get those questions answered for you. Witnesses would be aware of the privileges statement in front of them. So Mr Savery, if you could begin the briefing, thank you.

Mr Savery: Thank you, chair. As you are aware, the main focus of planning system reform, particularly in the public gaze, has been the Planning and Development Act, which was recently debated in the Assembly, and I'll quickly go back through that. But there are a number of other aspects to planning system reform which are instrumental in ensuring its successful implementation in the coming months. What we intend to do is take you through the other aspects of that which are illustrated. It's not altogether clear, so maybe not everyone can see that, but we've got the planning and development regulations; the territory plan; the electronic development IT platform; the practices and procedures review; and communication, education and training.

I emphasise that planning system reform depends on a number of interoperative components. If we are not able to complete our tasks in relation to all of these then the success of the implementation will be diminished. It will not mean that we do not have system reform, but it will mean that we haven't achieved all that we need to achieve. It also means that what we have is a very ambitious program, despite the fact that it is close to three years since we started the process of developing the technical papers that were put out for public consultation, as well as the directions paper which gave an overview of where we may head with this entire exercise. To actually now convert it and put it into operation on the ground is going to require a combination of all of those elements there.

Just before I go on to the new territory plan, just to reiterate in relation to the Planning and Development Act, at this stage, as you're aware, the Assembly has passed the legislation and it is intended that that will become operative on 31 March 2008. In order to enable that to happen, all of those other things have to be put in place. So we need the IT platform, we need the new territory plan, we need our new practices and procedures around development assessment, lease and compliance, and we need to have undertaken a high degree of education and training, particularly amongst the users of the system, which I'll come back to in the presentation.

The new territory plan has been the topic of debate most recently in respect of

planning system reform. Having exhibited the initial redraft of the territory plan, you would be aware that the government then convened a reference group and engaged an independent assessor to assist the planning authority in determining what, if any, changes should occur to the territory plan as a result of that consultation but also to deal with the issue around the extent to which any policy might be changed within the territory plan dealing with the conflicting objectives of seeking to, wherever possible, maintain policy neutrality but accepting that in certain circumstances, it is impossible to maintain policy neutrality in order to meet the new structure of the territory plan in order to resolve conflicts between policy that exists not only within the territory plan but elsewhere within the planning system and also to deal with the fact that certain policy was redundant. So just the exercise of removing redundant policy means that it is no longer policy neutral.

The fact that, for instance, we are going from land use policy areas to zones—and there are fewer zones than there are land use policy areas—means that you have to resolve what zone applies to a land use policy area, which, however we might try to structure it, has the prospect of some subtle change of policy application to that area. Because of the track-based system associated with the legislation which becomes operative through the territory plan where we have exempt code, impact, and prohibited—what’s the fifth one?

Ms Lavis: Merit.

Mr Savery: Merit, sorry.

Ms Lavis: Impact.

Mr Savery: Impact.

Ms Lavis: Prohibited.

Mr Savery: And prohibited. The alignment of land uses within those tracks and then applying those to the different zones inevitably means that there is the prospect that things might change. What we have endeavoured to do through both the reference group analysis as well as the independent assessor’s work and our own work is ensure that wherever any inconsistencies emerge through that process they are rectified through the current exercise.

The second dot point there is quite critical to emphasise. The territory plan is the engine room of any planning system. Every planning system has an ordinance; ours is the territory plan. The introduction of the track-based assessment through the Planning and Development Act fundamentally changes the way in which the territory plan operates, how it is to be interpreted, how a policy interacts with it, how public consultation is undertaken depending on what track you are in, how third party appeal rights are affected as a result of what track you are in, as well as determining those land uses and development that have to be the subject of environmental impact assessment, or, as is obvious, if they were in a prohibited column, those land uses that have no prospect of being considered unless a variation to the territory plan is to occur.

It's a simplified and transparent access to all the planning controls for development in all tracks. It is our view that this will provide a greater level of consistency in the assessment process by us being able to better articulate what the provisions are, particularly around exempt and code through the development of the codes. It means that there is greater prospect of consistency in the interpretation of that policy because of the rules.

Of course if you go into the merit track or beyond we're potentially using criteria as the basis for assessment rather than the rules, although rules are still able to be used as part of that process, but it gives people the option and the development assessment staff the option of determining what is the appropriate track for the assessment of that particular application. If it happens to fall into the code track then we have a much greater potential for there to be inconsistent interpretation and application of policy to that particular land use.

Importantly, other standards of government agencies can be incorporated over time. This is, I think, something that is fundamentally important to the system. We have a difficulty at the moment where other government agencies that interact with the planning system, particularly the key referral agencies, often have their own standards that only become known and aren't always consistently applied when an application is received and it is referred to them. We're now providing an opportunity for those standards to be incorporated into a generic form of code or other type of policy arrangement that would sit inside the territory plan which gives everyone the opportunity to go to one document to find where those standards apply, and again ensure greater levels of consistency.

Elements of this work have been the subject of analysis by the reference group and the independent assessor to determine the extent to which any of it deviates from current policy and practice, and whether or not that transgresses the objective of wherever possible seeking to maintain neutrality in the conversion from one plan to the next.

I think the rest is pretty straightforward, except for the last dot point. As a result of the work that is now underway there are reports going to the minister for his consideration. There is going to be a final round of public consultation on the revised restructured territory plan, which will take place in November. It will occur for four weeks and that will provide the public with another opportunity to examine what changes have been made and how we have addressed the matters that they raised with us through the first round of public consultation.

The regulations are actively being worked on at the moment. Obviously, the regulations give effect to many aspects of the legislation. Very importantly, there are those matters around environmental impact assessment, both the strategic environmental assessment and the EIS processes, exemptions from development approval and the circumstances in which subletting is permissible. The intention, as you see down the bottom, is that these regulations will also be released for public consultation. I suspect it won't be in late October; it will probably be in November at the current rate. Nonetheless, the interoperability of the regulations with the legislation is a critical feature of the legislation.

You will see in the third dot point that single residences and new estates are exempt

from requiring development approval. You would be aware of that through the debate on the legislation, but the regulations have to be prepared for that. We're also looking to add to that extensions within specified thresholds in all areas to be exempt from the requirement for a development application.

New regulations have also been prepared under the Building Act to support the expanded role for building certifiers in their role in certifying that a development is exempt from a planning approval or development approval. There are also new regulations under the Magistrates Court Act to establish an infringement notice scheme for certain relatively minor offences. For all of those matters the head powers have been created in the legislation and now it is a matter of getting the regulations documented.

The electronic development system—from time to time I think we have also touched on this in past conversations; certainly in estimates and in annual reports we have talked about this. The reality is that we're now well advanced in the development of this system. The RIF funding that we received has provided us with a platform upon which we can, if you like, lob an electronic development assessment system which is based around a series of forms that can be lodged electronically. Some of this is actually under active road-testing, particularly the building approval component, but essentially the advantage this gives us is that any person wanting to lodge a development application can do so electronically. Whilst it won't be available immediately, the technology will enable us to approve the DA electronically as well, but you would appreciate there are some legislative matters about having an electronic signature on a document that's to be used for the purposes of development approval and how we deal with that.

But also it enables any member of the public as well as the planning staff to track or to workflow monitor the development application. In the coming months and post 31 March we will have the implementation date fixed, and modules will be progressively developed that will enable us to assess and issue decisions on all the forms of application. Also it will be available on the web. That is the basis upon which other people can monitor or track where various development applications are at any particular point in time. This will give ACTPLA a leading-practice IT system which will facilitate a more streamlined approach to the lodgement and assessment of applications and access by customers, professional bodies and others.

So I can't in any way underestimate the importance of having this system up, particularly in light of our difficulty in being able to properly resource all of our development assessment areas, including customer service and the applications secretariat. It is just difficult to recruit and retain staff at the moment, and the more that we can use electronic systems to assist us the better.

Making it happen on the ground is an area that is happening behind the scenes now. Our initial focus is on training our staff and then, soon after and in parallel, we will be working with key users of the system in the first instance and then, more broadly, the general public. The reason why we have to focus on our staff and the community users of the system is that they are the people whose lifeblood is built around operation of the planning system. They need to know the operation inside out, so we have developed a program of education and training that will assist everyone in that

undertaking. We have actually, in consultation with a number of key users, tailored the training program to suit their particular needs.

So this is a big challenge for us both in terms of freeing up staff resources to be able to undertake the exercise and also having the opportunity, or creating the opportunity, to communicate it effectively with all of those users.

Moving down to the fourth dot point, the staff information sessions have begun and need to be completed before the programmed introduction of the new system. We are going to have a planning explain guide which, as the title suggests, uses language that hopefully explains the system more readily to users and people who have an interest. That will be available on our website. Extracts from the guide will also be able to be used as a stand-alone fact sheet.

Consultation on the process with other territory agencies is also critical, particularly again for the referral agencies. So we are developing protocols with, for instance, the Land Titles Office in respect of matters that they're involved in that relate directly to the planning system. A series of question and answer topics will be accessible from ACTPLA's website as well, so they've been developed. We will be carrying out advertising to ensure that the public is aware of the introduction of the new system. A planning system reform hotline will be available to the community to ask questions about any element of the new system. As we draw towards the introduction of that, obviously there will be some publicity around it and contact details. We also have established a committee to oversee the development of all elements of the planning system implementation strategy.

So that is the overall presentation. The intention was, having given you a general overview, if you have any particular issues or questions that you want to ask us, we'd be happy to respond to them.

THE CHAIR: I have a particular one in reference now to the movement of an inquiry about an application by electronic means. Are you going to have an interface set up with ACTPLA's website whereby you use a login system, or is it going to be simply open for users?

Mr Savery: My understanding is that there is a login system in the initial phases and it is largely for practitioners, because that's part of the developmental phase. Because we will be focusing our efforts on their ability to understand and work within the system, we'll give them a logon. But at a later stage there has to be the ability of anyone to lodge an application through the system. It won't be possible to just give them a logon. So that will be developed in time. For instance, an architect or a surveyor who registers with the authority will get a logon number and they will use that routinely.

Ms Lavis: I think the advantage of those is that, obviously, people who are regular users will be able to eventually have a sort of pre-population data so that your company name and details and whatever would always be automatically populated.

THE CHAIR: It will make interfacing a bit quicker.

Mr Savery: Yes.

Ms Lavis: Yes, but for the casual user you'll go in and you'll create a one-off account in the way that you might with a transaction booking an airway ticket or something like that. Of course, ultimately you'll then be referred to a payment window where you will pay your fees online. But these are details that will be rolled out over time, so the level of functionality will increase over time as the system becomes more sophisticated.

Mr Savery: It's a Microsoft platform that is being developed and they're using their experiences from other similar DA systems, so we're going from their experience.

THE CHAIR: Good. Ms Porter, do you have any questions?

MS PORTER: No.

THE CHAIR: Okay. I think that's probably the update for us then. With that, I thank ACTPLA for coming in and providing the briefing to the committee and also just remind members of the public that, if they want to ask some questions, we're happy to take those. If members have a little bit of time left, we may take a couple of questions from the public.

Mr Guth: I am John Guth, the Secretary of the Rural Landholders Association. We're not in the development business—we're running farms—but we are stakeholders in the sense that a lot of our long-term plans involve doing things on the farm which are ancillary to agriculture, so governments, through the ACT, have had a long policy of officially encouraging farm tourism and rural business. So we just want to keep an eye on things.

We know that the focus of the planning reform is not aimed at us, but we also know that the situation around our holdings can be complicated because it goes over a long history of different things happening in government in the ACT. And when reforms like this happen—and as you say, you're taking some categories and translating them to others—we just really are concerned that there is careful attention being paid to the non-urban area, even though it's not the focus of your work.

Ms Lavis: Certainly, we've had conversations with Mr Guth and his colleagues in their representative group and they have made a submission on the territory plan as it was exhibited. In fact, they have raised a number of good points about the relationship of perhaps the clauses that are picked up on particular leases. As Mr Guth was indicating, leases have changed over time in terms of the way rural leases are worded. So we have actually made some changes in the review of the territory plan following consultation. We have made some changes to some of the development tables that relate to non-urban land areas and introduced some of the requirements on ancillary uses so that in fact rural leaseholders will be able to access a full range of land use options for their properties.

I think when the next version of the territory plan comes out for public consultation, you are going to be quite pleased with what you see. And that, I think, has been the flavour of the work we've been doing over the last few months. As you know, the

consultation process, the first round consultation process, was extensive. We have had a process of very thorough and detailed review, with the opportunity to work with the expert reference group and the independent assessor, and so we've got a series of detailed responses to the issues that have been raised, and that just happens to be one of them.

Mr Cox: My name is Kevin Cox and I'm from the Gungahlin Community Council. This is not actually a criticism of the planning authority or what they have done; it is more a criticism of the directions that they were given and the original bill that went through. We have continually asked for some way for the plan to be measured in terms of its social outcomes. In other words, out in Gungahlin, as you know, we think that we are deprived a little bit in relation to other areas of the community in respect of community facilities.

And there is always an argument about this, and we are disappointed that there isn't some way, if you like, of having a service agreement in relation to the planning outcomes. It could be something as simple as the total amount of money spent on community services within a particular area, or it could be the total number of open space activities. All sorts of different things could be done. This was not in the brief that the planning authority were given. We put in some submissions on how we thought the original bill could have been changed in order to incorporate that, and we're disappointed that there is no way of knowing whether the outcomes of the planning process over the next few years are actually satisfactory or not in terms of—

THE CHAIR: That may be more of a question, if I could say, for the minister rather than the authority, but we're happy to take that on board.

Mr Savery: If I could, chair—

THE CHAIR: Yes, Mr Savery.

Mr Savery: I would just make an observation in response which isn't a criticism of the philosophy, because I don't in any way criticise or question why Gungahlin Community Council and other communities would have that aspiration, but the point I make is that the planning system is not in control of everything that the community has delivered in terms of services. So transport, community facilities et cetera, if you're trying to measure all of that through the planning system, the planning system is not in control of it all. I think it is more a question for a whole-of-government process, and it wouldn't and shouldn't just apply to Gungahlin community; it should apply to any community.

Mr Cox: Absolutely.

Mr Savery: I just don't think that the territory plan or the planning system is necessarily the vehicle by which you do it, because, as I say, it's not all inside our control. And we are certainly not set up to be a measuring authority or a yardstick authority to see what other agencies are doing: health, performance of healthcare and childcare facilities and those sorts of things.

THE CHAIR: Yes, that's why I indicated that perhaps it was more —

Mr Cox: Yes, I understand there's a much deeper, broader picture, but to give you an example: how many jobs are we planning for out in Gungahlin? It would seem to me that that would be one of the things that should be in any sort of—maybe it is part of the direction that the planning authority should have, but it seems to me that those types of things are, and I understand that they're not in the planning authority's—

THE CHAIR: Purview.

Mr Cox: precinct, but you need some guidance on how to do these things. And the suspicion is that there isn't any guidance and that these things just happen willy-nilly according to the political whims of the time.

THE CHAIR: It certainly is, I think, more of a question for government rather than the authority, but the committee would be happy to take that on board and forward it to the minister's office.

Mr Cox: Thanks very much.

Ms Lavis: In terms of the building blocks of Gungahlin, there is a significant area of undeveloped commercial land, the zoning of which has been enhanced, if you like, through some of the work we've done on the territory plan in terms of some increases in area of commercially zoned land. Of course, it is a function of the private sector as much as anything in terms of whether that land is developed for the sort of commercial development that would generate significant job growth. In parallel to that, there are decisions of, certainly, the commonwealth government in terms of location of office space.

So the land is available. I suppose from the territory plan perspective, the land is certainly available and there are other forces that would determine the timing and availability of the sort of development that would make provision for employment-generating activities.

Mr Cox: Thank you.

THE CHAIR: Any further questions for ACTPLA while we are here? Yes, we've got one more question.

Ms Rees: My name is Peta Rees. I have an investment property in Ainslie, on Limestone Avenue, in the Corroboree heritage precinct. I was just wondering if there was any consideration for planning in the Corroboree area. Thank you.

Mr Savery: Through you, chair, I'm not aware of anything specific. Obviously, the heritage precinct is managed through the heritage council. Any development application that we would receive, if you are talking about individual developments, would be subject to their assessment. But we are not, as an agency, undertaking to do any sort of planning for that area, if that's the purpose of your question.

Ms Rees: Yes.

THE CHAIR: The committee hasn't heard of any other arrangements, either.

Ms Lavis: The heritage council has also just recently done some work on heritage guidelines which are an adjunct to the operation of the Heritage Act. I am not sure that they are available in the public arena as yet, but they will be available very soon. They are, are they? Yes. And those actually set some fairly strict parameters for development in heritage precincts, so development would have to be subject to those heritage guidelines in terms of the advice the heritage council would then offer the planning authority.

THE CHAIR: Yes. We might try and get a link to that from our planning committee site.

Ms Rees: How long would that be in the pipeline?

Ms Lavis: Hannah might know more than I do about the timing of that. Hannah, those are available at the moment, I think, are they, on the—

Dr Jaireth: Yes. I emailed them last week. They're just out. It was last Saturday.

Ms Lavis: Yes, okay. So I think they're open for a public consultation process, commentary, and then, I would imagine, once that's been concluded they will be enacted as an adjunct to the Heritage Act.

Ms Rees: I see. I have a block that's big enough for two houses. There seems to be a problem with approval.

Ms Lavis: I think the best place, through you, chair, would be to actually make contact with the heritage unit and discuss any proposal with them.

Ms Rees: Yes. Thank you.

THE CHAIR: Thank you. Are there further questions for our officials? Thanks very much once again for giving us the update on the system reform. We hope it all goes according to plan. I understand you're doing a lot of hard work on it, so congratulations. Thanks once again, members of the public, for coming in.

The committee adjourned at 3.10 pm.