Territory Plan Section
EPSDD
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Attn: [redacted]
via email to terrplan@act.gov.au

Dear [redacted]

Re: DV368 City and Gateway South Northbourne Avenue Corridor (notes added to this private submission)

Overview
The City and Gateway work dates back over 10 years, and was a collaborative undertaking between the Federal and ACT governments. To date it has resulted in a Framework document that sets up a general outline of a popular vision. The dominant theme of the Framework is about quality design in terms of built form and public space, with networks of open space and active travel cycling and pedestrian infrastructure linking areas, efficient nodes at key locations, and an inclusive social mix.
However the Framework is extremely vague about why that's not already the case given a modern planning system with multiple layers of legislation and administration, both a National Capital Plan and a Territory Plan, and numerous government Directorates and the ACT Heritage Council providing input and professional bodies providing training. The Framework is also extremely vague about how that new vision of urban design excellence will be delivered or what the costs and benefits will be in terms of traffic modelling, climate modelling, heritage and social and environmental and economic impacts.
The National Trust made a comprehensive submission in relation to the draft Framework and its approach to heritage issues, which was ignored, as was North Canberra Community Council's.

This is again another ACT Government consultation questioned and ignoring comment/suggestions.
That final Framework document, released in mid December 2018, was followed by the NCA's amendment 91 to the National Capital Plan in mid January 2019, which was approved by the Federal Minister in under 3 months. The consultation process was rushed, the NCA denied many groups their urgent requests for further time to consider, and refused to release any background material or show modelling. The National Capital Design Review Panel, which had already been operating for over a year on an ad hoc basis, was made official. The National Trust made several representations in relation to the draft amendment and its likely adverse impacts on a fundamental element of the Griffin Plan, the Majura-Black Mountain landscape axis embodied in Majura Avenue and its vistas, and was once again ignored, as was North Canberra Community Council. Over 70 entities made submissions, almost all of which were summarily dismissed by the NCA in the rush to lock in the amendment before the federal election.

Draft variation 368 (DV368), released on 12 December 2019, proposes sweeping changes to the Territory Plan in the name of consistency with the National Capital Plan (which EPSDD wrongly claims is a requirement[1]) but fails to clarify what those changes are or will mean. Public notification between 12 December 2019 and 28 February 2020, during the period of catastrophic fires up and down the coast with over a billion native animals killed, major loss of life and property, record high summer temperatures, a state of emergency, disastrous air quality and a devastating hailstorm, has massively reduced engagement. Fewer than a dozen independent submissions had been received by the deadline.
This is again another ACT Government consultation questioned and ignoring comment/suggestions.

[1] See Section 48 of the *Planning and Development Act 2007*

48 Object of territory plan
The object of the territory plan is to ensure, in a manner not inconsistent with the national capital plan, the planning and development of the ACT provide the people of the ACT with an attractive, safe and efficient environment in which to live, work and have their recreation.

DV368 departs from the NCA amendment in a number of key respects, without any explanation of why that would be or the implications. Suspect implications are known (not good) so therefore say nothing. For instance, DV368 prohibits places of worship and public assembly along Northbourne Avenue and specifies that retirement villages and supportive housing are prohibited on existing primary school and high school sites. It replaces 2 existing precinct codes with a new Northbourne Avenue Corridor Precinct Code (NACPC) which incorporates many statutory changes that are not documented anywhere in the preceding Explanatory Statement.
It introduces previously prohibited commercial and retail uses into the RZ4 zone. There has been no presentation given to North Canberra Community Council or other community stakeholders.

Both the National Trust and North Canberra Community Council rely on volunteers. Many community associations, social services and resident groups, together with close to 25,000 private households and approximately 20,000 ANU students and faculty are directly impacted by the proposed changes but are unaware of them.
The COVID-19 crisis has heavily affected the resources available to examine complex lengthy documents (this is 70 pages, containing 10 appendices, but in order to make sense of the changes the reader must also refer to 5 separate suburban precinct codes, the Multi-Unit Housing Development Code, the Inner North Precinct Code and the Northbourne Avenue Precinct Code, the RZ4 medium density residential zone objectives, and the Commercial Zones Development Code), analyse a gigantic body of legislative and policy content and prepare, distribute, discuss and revise considered submissions.
The burden on community members is grossly unreasonable at this time. Furthermore, given the track record to date, investing the time and energy would appear to be a total waste since so little heed has been paid. This is again another ACT Government consultation questioned and ignoring comment/suggestions.

Heritage concerns
DV368 ignores the principle of design within a heritage context and ensuring that heritage values and significance are not compromised. The area covered does contain heritage sites as is mentioned by the ACT Heritage Council on page 17 except they fail to identify the Dickson and Lyneham Flats.
Good urban design recognises heritage places and accepts that there should be consideration of heights and context when new buildings are placed beside or near heritage places. DV368 overlooks this and needs to be reviewed to provide a better urban design outcome.

The National Capital Design Review Panel is endeavouring to apply the principles of good urban design but if heights are permitted within planning instruments then it is virtually impossible to prevent maximisation of development and a poor outcome. DV368 needs to be amended to explicitly respect heritage places and ensure a good design outcome in an urban context.
The places affected are those listed in the ACT Heritage Council advice on page 17 but also the vistas from Majura Avenue to Black Mountain, Havelock House, Dickson/Lyneham Flats, Holy Trinity Lutheran Church in Turner and SDA Church Turner.

There is a cursory mention of respecting the Griffin Plan as a key element in 2.15 but the design of the Macarthur node ignores his vision for Majura Avenue.

Public open space is essential if the intensity of building as intended is realised, to meet the needs of a very much larger resident population containing all age groups. The proposed setbacks and lanes will not provide the open space and recreation space required. The denser the residential development the MORE need for open spaces and greater setback. Assuming Haig Park can manage the total demand is not reasonable or suitable. More open space is essential if wellness and healthy living is to be considered let alone achieved.

Planning concerns
This is a complicated piece of legislation made up of a series of 10 Appendices that contain changes to 5 suburban precinct codes (Dickson, Lyneham, O'Connor, Turner and Braddon), together with a new Northbourne Avenue Corridor precinct code (NACPC) that redefines the corridor to include both the immediate corridor plus roughly double that on either side including some random islands with no clear connection to the rest. No area data or breakdowns have been provided. Haig Park and some roads are excluded but most small roads and schools within the suburbs will be subject to the NACPC or directly adjoin land that is. Lack of sequential page numbering in the draft makes it hard to follow. There is no

summary of which bits already exist and which are entirely new, and the reader is simply told that the codes have been "modernised" or "clarified".

The new NACPC replaces 2 previous codes (Inner North and Northbourne Avenue), and while it's related to the earlier National Capital Plan amendment 91 it departs substantially from what was contained in that and adopts a peculiar technique of referencing the National Capital Plan's special requirements only in the Introduction and ignoring them after that. From a statutory standpoint, the Introduction has negligible effect. From a legal standpoint, this is neither satisfactory nor defensible. It places an unnecessary burden on ACAT to hear arguments and determine to what extent ACTPLA is bound to have regard to the special requirements of the National Capital Plan.

The Explanatory Statement is extremely superficial, and omits to mention that the dominant theme of both the National Capital Plan's new special requirements plus the final City and Gateway Framework document (that was jointly endorsed) was to significantly improve urban design outcomes and design quality by specifying tighter standards and rules for landscaping and built form.
Neither the aims nor objectives are mentioned anywhere in the proposed NACPC, so from a practical point of view the rules and criteria have been divorced from the rationale and show no regard for it.

There is no mention within the NACPC or Explanatory Statement of heritage as a consideration or a value. The Explanatory Statement fails to mention a substantial revision to the RZ4 zone that occupies a large proportion of the land that DV368 applies to, or a substantial shift in the way that parking provision will be calculated, from a minimum rate to a maximum rate. Up until now, RZ4 has been a residential medium density zone. Commercial and retail floor space have been prohibited. DV368 switches off that prohibition in RZ4, which has important ramifications. The effect of increasing building heights at the Macarthur node in terms of the vista to Black Mountain has not been addressed, and no 3D graphic representation has been made available to the public other than artists impressions. These are not helpful, as they frequently distort spatial depth of field and extent of landscaping to minimise the viewer's perception of scale and bulk.

Parking

5.2 Parking R37 This rule applies to multi-unit residential development in residential and commercial zones. The maximum parking provision rate is as follows: Red number normal code
a) studio or one-bedroom dwelling – 1 space maximum
b) two-bedroom dwelling – 1.3 1.5 spaces maximum
c) three or more bedroom dwelling – 1.5 2 spaces
d) every 8 4 dwellings – 1 visitor space Minimum and maximum parking provision rates contained within the relevant development or general codes do not apply. Note: Parking calculations are rounded up to the nearest whole number.
No reduction in parking requirement – if anything a slight increase as seen by the cars parking on the streets and nature strips with all the new local developments here in Braddon.
5.3 Parking structures R40 Vehicle parking is only permitted in a basement. At-grade, podium or other above ground vehicle parking is prohibited. GOOD

Core Issues

The City and Gateway project has taken government agencies a long time to reach this stage, but external scrutiny from community stakeholders all along has been minimal.

From a social planning perspective, DV368 warrants a thorough social impact assessment and urban design analysis that takes in heritage and connection to place. *That is missing, as is any traffic impact analysis or environmental impact analysis or economic impact analysis.*
The threat to heritage and its contribution to place making, and long term sense of community cohesion and belonging and distinctive identity, are significant issues that DV368 fails to address in meaningful ways and are in no way picked up elsewhere.
The process conducted as a whole suffers from a lack of rigorous scrutiny and underlying research and analysis and evidence, which discredits it. One cannot base a major planning initiative surrounding the primary and central approach route to the national capital on some flimsy sketches and a nominal set of prescriptive quantitative rules typically diluted by subjective criteria. Understanding what is there already,

what works well and what doesn't, and what the central objective is meant to be is fundamental. Serious impact on amenity especially for those of us who live here.

One of the big benefits of RZ4 close to public transport is the supply of compact housing in easy walking distance of a light rail node. Allowing commercial into a residential zone increases land value, making RZ4 into another flavour of a mixed use commercial zone. It changes traffic and noise, building standards, fire risks and insurance. It reduces the total stock of dwellings by allowing non-residential in the mix, which changes their cost per square metre, and increases the land value by offering the potential for a supermarket or offices on land that previously could only be used for residential. Boosting land value boosts rate revenue and almost certainly also increases dwelling prices both within the RZ4 zone and in neighbouring RZ3, RZ2 and RZ1 zones, so *the net impact is to reduce the affordability of housing within reasonable walking distance of a public transport node and therefore encourage smaller units with less private open space and fewer parking spaces in new developments*.

From a planning point of view, there are pros and cons. *Competition with established local shopping centres could undermine their viability*, since many of the local centres do not command high rents, are in direct competition with group and town centres and depend on local residents to journey to them. On the other hand, small convenience shops or medical offices in a development may be helpful to people who don't own a car.
On balance, I would maintain that the benefits of consolidating services into local shopping centres that act as social hubs and meeting places, and offer relatively affordable commercial tenancy space on the first floor, are significant and there should be tight controls on any proliferation. It makes sense to identify nodes that surround the light rail stations and focus services there, which the NACPC fails to do.

From a planning perspective, I am also concerned that *DV368 contains a bundle of significant planning policy departures that are unexplained and untested*. Any careful reading of DV368 will throw up many questions such as why certain land uses will be prohibited that were hitherto permitted, others will be permitted in the merit track that were previously prohibited, why DV368 only applies to the section south of Antill and Mouat, how new commercial uses introduced into the RZ4 zones will affect housing affordability, and compete with existing local and group centres, and what redevelopment will mean in terms of percentage of tree canopy cover in 5, 10, and 25 years time .

North Canberra Community Council has had no public meetings during the notification period. No presentation was announced or given to inform residents and businesses in the affected suburbs and take questions. To the best of my knowledge there have been no other attempts made to engage and inform the general public during this period or take questions. This makes it very hard for the ACT government and the Planning Minister to state with any confidence that DV368 has received the scrutiny and been subjected to the level of debate and healthy discourse that good planning depends on.

It seems to me that too much emphasis has been placed on distributing the highest yields to sites where the Commonwealth and ACT governments stand to profit, and too little emphasis on providing information and an accurate model that helps people begin to engage with the material. I would urge the EPSDD to postpone sending DV368 to the Minister and consider preparing a Discussion Paper to tease out the issues and invite broader public debate.

I remain extremely concerned about the *loss of the vista to Black Mountain that is an intrinsic and fundamental part of the Griffin Plan*, because the building heights that the NACPC requires (it stipulates that buildings on those 4 corners must be at least 80% of the specified height, a very unusual planning control) threatens to sever the landscape connection that makes the Majura Avenue approach route legible. Surely better to graduate the corners from two or three storey increasing in height from the corners

Kind regards,

[redacted], Retired member Engineers Australia, and Australian Institute of Project Managers
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