

Draft Planning Bill



**Consultation Report
September 2022**



Acknowledgment to Country

Yuma

Dhawura nguna ngurumbangu gunanggu Ngunnawal.
Nginggada dindi dhawura Ngunnawalbun
yindjumaralidjinyin.
Mura bidji mulanggaridjindjula.
Naraganawaliyiri yarabindjula.

Hello

This country is Ngunnawal (ancestral/spiritual)
homeland.

We all always respect elders, male and female,
as well as Ngunnawal country itself.

They always keep the pathways of their ancestors alive.
They walk together as one.

The Environment, Planning and Sustainable Development Directorate acknowledges the Ngunnawal people as Canberra's first inhabitants and Traditional Custodians. We recognise the special relationship and connection that Ngunnawal peoples have with this Country. Prior to the dislocation of Ngunnawal people from their land, they were a thriving people whose life and culture was connected unequivocally to this land in a way that only they understand and know, and is core to their physical and spiritual being. The disconnection of the Ngunnawal people from Culture and Country has had long-lasting, profound and ongoing health and well-being effects on their life, cultural practices, families and continuation of their law/lore. The Environment, Planning and Sustainable Development Directorate acknowledges the historic dispossession of the Ngunnawal people of Canberra and their surrounding regions. We recognise the significant contribution the Ngunnawal people have played in caring for Country as for time immemorial they have maintained a tangible and intangible cultural, social, environmental, spiritual and economic connection to these lands and waters.

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Director-General, Environment, Planning and Sustainable Development Directorate, ACT Government, GPO Box 158, Canberra ACT 2601.

Telephone: 02 6207 1923

Website: www.environment.act.gov.au

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INTRODUCTION

The Planning Bill 2022 (Planning Bill) is a proposal for a new law that will be presented to the Legislative Assembly for consideration. The Planning Bill sets the foundation of our reformed planning system and will be a key tool in delivering a simpler and easier to use system. It provides the opportunity to build an improved system that is outcomes-focused and promotes good planning, design and development across Canberra, while supporting the wellbeing of our residents and protecting our natural environment.

The current legislation (the [Planning and Development Act 2007](#)) has grown complex and cumbersome as changes have been added in a piecemeal way over time. We are proposing a new Planning Bill to establish a reformed planning system that can deliver good planning, design and development outcomes across the ACT.

The Planning Bill proposes key changes to the existing Act, while retaining the features that have worked well under the current system and will remain fit for purpose in the reformed system. The Planning Bill will:

- put people at the heart of the planning system by focussing on liveability, prosperity and the wellbeing of all Canberrans
- be a great opportunity to build a planning system that promotes great planning, design and development outcomes for Canberra and the community
- support a reformed planning system that is transparent, simple and easy to use so:
 - industry, environmental groups and the community have trust and confidence in the new system
 - the right type of investment and development is encouraged.

From Wednesday 16 March 2022 to Wednesday 15 June 2022 we asked Canberrans to have their say on the draft Planning Bill and some of the key policy directions it proposes. We have now reviewed all feedback received and made changes to the Planning Bill, prior to its presentation to the ACT Legislative Assembly.

This consultation report captures and responds to all comments, concerns and ideas that were raised during the consultation process.

COMMUNITY ENGAGEMENT

THE CONVERSATION

The Government consulted with the public and stakeholders in a number of ways given the complex nature of the Planning Bill. The engagement targeted the whole of the ACT, given planning affects each and every person living in the Territory.

Throughout 2021, the existing Environment and Planning Forum and the Stakeholder Working Series, consisting of industry and community representatives, were used to discuss early policy approaches to features and changes proposed in drafting a new Planning Bill.

A legislation working group, consisting of legal and planning practitioners, was also convened to discuss the drafting of provisions and policy approaches. The group met several times in the 2021/22 to provide feedback and advice to the Project team.

[Engagement on the draft Planning Bill](#) was held from 15 March to 15 June 2022.

Given the complex nature of the draft Planning Bill, online information sessions were held for the public and stakeholders to help inform consideration of the draft Planning Bill and in preparing submissions. Online sessions included:

- pre-launch briefing for key industry and community stakeholders (approx. 30 people attended)
- pre-launch briefing for the media (five media outlets attended)
- general information sessions on 30 March 2022 (5 people attended) and 8 April 2022 (11 people attended)
- topic-based information sessions:
 - Development assessment on 14 April 2022 (24 people attended)
 - Environmental impact on 4 May 2022 (35 people attended)
 - Plan making on 18 May 2022 (25 people attended)
- a question and answer ‘drop-in’ session on 3 June 2022 (26 people attended)
- a whole-of-ACT-Government session on 27 May 2022 (14 people attended)
- a session for industry stakeholders on 23 May 2022 (52 people attended).

The main engagement was through the ACT Government’s [YourSay Conversations](#) portal, with links for more information to the detailed Planning System Review and Reform information on the [ACT Planning website](#).

Engagement was supported by three levels of information tailored to the needs of different audiences:

- I. Fact sheets that summarised the new legislation
- II. An overview document (Planning Bill Policy Overview Paper)

III. The draft legislation.

The community was able to present their submissions and feedback in three ways, to give people choice about how to participate in this engagement process:

- I. Quick comments published on the website and open for discussion
- II. Detailed feedback through an online form
- III. Written submissions, either submitted through YourSay or emailed to the directorate.

To reach as wide an audience as possible, the engagement was supported by:

- a media launch on 15 March 2022 and follow-up newspaper and radio interviews
- an article in the Our Canberra electronic newsletter of 31 March 2022
- 10 EPSDD social media posts over the engagement period
- ACT Government social media post on 23 April 2022
- four posts on Minister Gentleman's Facebook
- articles in ACT Government newsletters to culturally and linguistically diverse (CALD), disability, Aboriginal and business communities
- emails to industry and community stakeholders, also requesting they publicise the engagement to their members
- engagement with the ACT Government's Environment and Planning Forum, also requesting they publicise the engagement to their members
- emails to individuals who have taken part in previous planning engagements
- an ACT Government all-staff message
- launch of a new Planning Review and Reform Project animation that was boosted through ACT Government (reached 15,895 people) and EPSDD (reached 6,517 people) Facebook pages.

WHO WE ENGAGED

This engagement targeted the whole of the ACT, given planning affects each and every person living in the Territory in some way.

Specific engagement was through a wide range of community groups interested in planning, such as the community councils, Greater Canberra, ACT Council of Social Services (ACTCOSS), the Conservation Council and industry bodies such as the Planning Institute of Australia, Australian Institute of Landscape Architects, Master Builders Association and the Property Council of Australia.

With the majority of engagement run through YourSay, the following engagement statistics show the extent of engagement on YourSay. Visits spiked after the engagement was publicised through the media launch and an ABC radio interview on 2 June 2022, Our Canberra electronic newsletter, ACT Government Facebook, Community Partner Newsletter (Community Services Directorate), and the launch of the animation.

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IEWS	VISITS	VISITORS	CONTRIBUTIONS	UNIQUE CONTRIBUTORS	FOLLOWERS
8,890	6,509	3,083	302	154	19

When engagement closed on 15 June, there were 329 total submissions on the draft Planning Bill (including those not submitted through the YourSay platform) made up of:

- 210 quick comments
- 26 feedback forms
- 66 online submissions from both individuals and organisations, including community and industry organisations
- 27 emailed submissions.

Where approval has been received for publication, the submissions are online.

KEY CONSULTATION THEMES

Several key themes emerged in the submissions to the paper which provided information on changes from policy positions contained in the *Planning and Development Act 2007* (2007 Act):

THEME	BROAD COMMENTS
<p>Consultation and transparency</p>	<ul style="list-style-type: none"> • There was general support for the introduction of principles of good consultation into the planning system and consistent views that those should be comprehensively articulated. • The majority of submissions that commented on the topic supported the inclusion of those principles in the Planning Bill although some also supported inclusion of those principles in regulation. • A number of submissions called for increased opportunities for public consultation throughout the development process and to increase the capacity for third party appeal rights. • There were varying views on the removal of pre-DA (Development Application) consultation.
<p>Object of the Planning Bill and good planning</p>	<ul style="list-style-type: none"> • There was general support for the Object of the Planning Bill and the Principles of Good Planning, but also suggestion in a number of submissions for further definition and refinement of those principles. • There were a number of different proposals for additional items to be included in the object primarily focused on environment, sustainability, and heritage. • Several submissions sought the inclusion of affordable and social housing into the object of the Planning Bill. • There was general support for the inclusion of principles of good consultation and a request for the principles to be defined in the Planning Bill, not a regulation or guideline.
<p>Strategic planning and design</p>	<ul style="list-style-type: none"> • There were several comments relating to the importance of design on both public and private developments, including landscape. • There were several submissions that proposed an increased role for the Design Review Panel (DRP) and Government Architect (GA) in the system. • Several submissions proposed that the Design Review Panel advice be incorporated as mandatory considerations in assessments of significant developments and Territory Priority Projects.
<p>Spatial Planning</p>	<ul style="list-style-type: none"> • There was significant support for the introduction of district level planning through the district strategies, and support for increased ‘line of sight’ from existing Government policies and strategies through the Territory Plan into the Development Assessment process.

Territory Priority Projects

- Territory Priority Projects (TPPs) were raised in a number of submissions with views on the topic quite varied.
- Several submissions suggested expanding the criteria to allow for private projects to be declared as TPPs.
- There were varied views on the role of the Chief Planner in the TPP process.

Other

- A significant amount of feedback (especially the quick comments) was received on topics that don't relate specifically to the Planning Bill but relate to urban outcomes including housing supply and affordability, resourcing, skills and capability.
- There were a number of submissions that supported an increase in housing options, increased housing density, and more places for retirees to live.

Please note: All comments proposing specific planning rules for development proposals have been referred for consideration in the drafting of the strategic and spatial planning documents (e.g. the Territory Plan, District Strategies, etc) that support the *Planning Act 2022*.

CONSULTATION SUMMARY AND REPONSE

A range of comments were received through the consultation period and that provided broad feedback on a range of matters that didn't specifically relate to the role of the Bill and individual chapters in the Bill. These comments have been reflected in the below tables, and a set of responses have been used to provide consistency in providing responses.

Six set responses have been used and cover a range from agreement, noting and not agreeing to the comments. Where comments were on matters outside the scope of the Bill they have been not agreed and note 'outside scope'. The categories of responses used include:

- Agreed – change made to Bill (*this is self-explanatory – the comment is agreed and a change has been made as a result of feedback*)
- Agreed in principle – change made to Bill (*this is where the principle of the feedback is agreed and that an amendment to something potentially already in the Bill has been made or that a change that is considered to retain the core principles of the Bill but also capture the principle of the feedback is made*)
- Agreed in principle – no change required (*this is where it is considered that the principle of the comments might already be reflected in the Bill or that elements of the comments might be agreed but it is considered no change is required to the Bill*)
- Not agreed / outside of scope (*this is where the comments are not agreed and not considered to align with the purpose, principles and role of the Bill and therefore outside scope of the Bill*)
- Noted (*this is where comments are neither agreed or not agreed; comments might relate to matters that are not relevant to the Bill or the scope of this project and therefore noted or acknowledged*)
- Noted – passed on to the relevant team/agency (*this is where comments are those as described above but where it is considered the comments are not within the scope of the project and can be directed to a relevant team of the directorate, or government for information in the work that the comment might be more relevant to*)

General Comments

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Review of Planning Bill	Government to review the Planning Bill after submissions to the new Territory Plan are reviewed.	Agreed in principle – no change required
	Need to consider alternative community-focused planning models.	Noted

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	Difficulty in evaluating Planning Bill prior to receiving revised draft Territory and District Plans. Consultation should occur on these and any associated documents.	Noted
Integration of strategies and policies	Planning Bill should provide clearer linkages with other relevant ACT Government policies.	Agreed in principle – no change required
	A Heritage Strategy be prepared for the ACT and integrated into the new planning system.	Noted – passed on to relevant team / agency
	Implications of COVID-19 need to be considered further in reforms.	Agreed in principle – no change required
Governance	Do not support removal of Commissioner for Land and Planning, Local Area Planning Advisory Committees and Local Area Planning Advisory Committees.	Not agreed / outside of scope
	Support a Senior Landscape Architect to be appointed as part of the Government Architect's office.	Noted – passed on to relevant team / agency
	Support establishment of an Independent Governance Board for the Territory Planning Authority.	Not agreed / outside of scope
	The role of District Committees should be enshrined in the Planning Bill. Establish Planning Review Panel to provide advice on Canberra's spatial framework and town planning.	Not agreed / outside of scope
	Establishment of a new Social Planning Unit.	Noted – passed on to relevant team / agency
	Support increased role for the Commonwealth Government.	Not agreed / outside of scope
	Need for suitably qualified Territory Planning Authority staff to support statutory obligations.	Agreed in principle – no change required
Role of Territory Planning Authority	Need to restore trust in planning decisions by the Territory Planning Authority.	Agreed in principle – no change required

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Social and Affordable housing	Planning Bill should support social and affordable housing outcomes.	Agreed in principle – no change required
	Need for increase in private and public housing.	Agreed in principle – no change required
	Planning system should address rising rents.	Agreed in principle – no change required
	Housing supply should increase.	Agreed in principle – no change required
	Reduce private sector involvement in public housing.	Not agreed/outside of scope
Environment	Planning Bill should support the use of solar and other climate change reduction initiatives.	Agreed in principle – no change required
	IUCN Red List should guide the species to be protected, rather than the EPBC Act.	Not agreed/outside of scope
	Planning Bill should facilitate environmental protection and conservation.	Agreed in principle – change made to Bill
	Include Key Threatening Processes under the <i>Nature Conservation Act 2014</i> .	Not agreed/outside of scope
	Support for good quality green open spaces.	Noted – passed on to relevant team / agency
Housing density	Support for mixed use zoning and medium /higher density residence initiatives in Canberra.	Noted – passed on to relevant team / agency
	Support / do not support urban infill.	Noted
	New developments should cater for large and single living residences.	Noted – referred to relevant team/agency
	Second dwellings / tiny homes should be encouraged to bridge affordability gap.	Noted – referred to relevant team/agency
	Support development of surrounding NSW, rather than focussing solely within ACT borders.	Noted

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	Support townhouses to accommodate population growth.	Noted – referred to relevant team/agency
Planning Design	Streets should be designed as safe, shared spaces.	Noted – referred to relevant team/agency
	Planning system must focus on sustainability (ecological and affordability, including running costs), amenity, comfort, safety and attractiveness.	Agreed in principle – no change required
	Support more shared local parks/amenity.	Noted
	Support innovation.	Noted
	Next land release a section should be set aside for SMART buildings.	Noted – referred to relevant team/agency
	Support for European style city design and planning.	Noted
Heritage	Heritage rules are stopping the development of the city.	Noted – referred to relevant team/agency
	Need for more / fewer heritage restrictions.	Noted – referred to relevant team/agency
Public transport and active living	Support safe, attractive and comfortable walkability and good public transit.	Noted – referred to relevant team/agency
	Transport & parking aspects of planning should support public transport.	Noted – referred to relevant team/agency
	Reform the car-centric Municipal Infrastructure Design Standards used by the ACT.	Noted – referred to relevant team/agency
	Bike paths and locker should be prioritised.	Noted – referred to relevant team/agency
	Allow front fences for safe outside play.	Noted – referred to relevant team/agency
	Support reduced role of cars in transport.	Noted – referred to relevant team/agency

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	Health and Wellbeing should be a priority and should be measured against planning laws and outcomes.	Agreed in principle – no change required
Leases and licences	Planning Bill should include recognition that the primary purpose of residential areas is for residential purposes, rather than business.	Noted
	Support stronger enforcement of home business and strengthened guidelines.	Noted
	Review regulations on noise levels in residential areas.	Noted – passed on to relevant team / agency
Utilities	Planning Bill should support service providers and utilities in ensuring sufficient servicing to meet growth and infill.	Agreed in principle – no change required
Communication and engagement	Insufficient information and time was provided during consultation on the Planning Bill. Support increased awareness and promotion of consultation.	Noted
	Further consultation should occur prior to the Planning Bill's introduction.	Noted
	Support recommendations of the Standing Committee on Planning and Urban Renewal - Inquiry into Engagement with Development Application Processes in the ACT.	Agreed in principle – no change required
	Legislative Assembly's Planning Committee should provide additional scrutiny of the Planning Bill, ideally through an Inquiry.	Noted
	Planning Bill should be withdrawn and drafted by an independent body.	Not agreed / outside of scope
	Establish a panel of community and industry stakeholders to contribute to the co-development of the new Territory Plan and District Strategies.	Noted – passed on to relevant team / agency
	Planning Bill does not offer a system that is accessible, easy to navigate and encourages participation in planning.	Noted

	Should have increased resourcing for community engagement.	Noted
	Need for Government funded training and education programs for industry and community.	Noted – passed on to relevant team / agency
Guidelines / Legislative instruments.	Guidelines must provide clarity, accessibility, respect, inclusivity, timeliness, proportionality and representation, and consider the South Australia <i>Planning, Development and Infrastructure Act 2016</i> .	Agreed in principle – no change required
	Support the inclusion of a Planning and Design Code instrument that sets out a comprehensive set of policies, rules and classification, and provides for other matters envisaged by the Planning Bill, to guide public participation.	Agreed in principle – no change required

Object, principles and important concepts (Chapter 2)

Draft Planning Bill Position

The Planning Bill broadens the objects in the current *Planning and Development Act 2007* to provide a wider purpose and scope, and an ‘outcomes-focussed’ planning system. The proposed objects of the Act are liveability and prosperity, ecologically sustainable, well-being of residents, effective, efficient, accessible and enabling, outcomes focussed, and community participation. These objects will support a planning system centred on quality, results and performance rather than compliance with prescribed technical rules.

The ‘principles of good planning’ and the ‘principles of good consultation’ are established to demonstrate how good planning and consultation should occur. The ‘principles of good planning’ highlight the importance of good strategic planning, and the range of planning principles to be considered when undertaking strategic and spatial planning. The ‘principles of good consultation’ recognise the importance of public consultation in planning processes. The Minister is given power to make a guideline setting out principles of good consultation and how those principles will be implemented under the Act.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Objects – General comments	Objects of the Planning Bill are supported / not supported / require further refining (see below).	Noted

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	Objects of Planning Bill should be regularly evaluated, with an outcomes report provided to the Minister and Legislative Assembly.	Noted
	A clear indication of how objects of the Planning Bill will be implemented should be provided.	Noted
	Further clarification is needed on the hierarchy of planning strategies and other Acts.	Noted
	Additional terms should be defined in the Planning Bill.	Agreed – change made to Bill
	Provide common terminology for similar terms across the Planning Bill and other related Acts.	Not agreed/outside of scope
Objects – First nations people	Protecting and promoting first nations people knowledge, culture and traditions should be incorporated into the Planning Bill objectives.	Agreed in principle – no change required
	Section 5(2) of the <i>Planning Act 2016</i> (QLD) which sets out an objective of valuing, protecting and promoting Aboriginal and Torres Strait Islander knowledge, culture and tradition, should be reviewed and incorporated into the Planning Bill.	Agreed in principle – no change required
	Reference to the Ngunnawal people should be removed / retained.	Agreed – change made to Bill
	Connection to Country approach should be included in planning, design and urban projects.	Noted – referred to relevant team/agency
	Further clarity is needed for how first nations people will be considered in planning processes and their knowledge incorporated.	Noted
Objects – Environment and sustainability	Additional items in relation to environment and sustainability should be incorporated into the Planning Bill objectives.	Agreed in principle – change made to Bill
	Emission reduction targets, net zero policy and climate resilience should be included in the Planning Bill's objectives.	Agreed in principle – no change required

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	Object of the Planning Bill should more explicitly consider climate change impacts in planning decisions.	Not agreed/outside of scope
	Definition of <i>Ecologically sustainable development</i> should be further refined / removed / retained in objectives.	Noted
	Strengthen protections in Planning Bill for environmental protection. Environmental assessment should be a key element to the Planning Bill.	Agreed in principle – no change required
	Support for inclusion of biodiversity in objectives.	Noted
	Precautionary principle should include guidance for decision makers similar to NSW legislation.	Noted
	Need for integration with <i>Nature Conservation Act 2014</i> to achieve ecologically sustainable development.	Agreed in principle – no change required
Objects – Heritage	Amend objective to reflect the references to places and objects of natural and cultural significance and the meaning of heritage significance as per the objects of the <i>Heritage Act 2004</i> .	Agreed in principle – no change required
	Heritage outcomes should include cultural heritage in addition to natural environment conservation.	Agreed – change made to Bill
	Heritage outcomes and aesthetic characteristics of neighbourhood should not prevent good development proposals.	Noted
Objects – Economic outcomes	Economic and financial aspirations should be retained from the <i>Planning and Development Act 2007</i> .	Agreed in principle – no change required
	Economic outcomes should be weighed against social and environmental benefits.	Agreed in principle – no change required

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	'Achievement of economic development' should be further refined / included / not included in the Planning Bill.	Noted
	Supporting employment base should be incorporated into Planning Bill objectives.	Noted
	Inclusion of 'prosperity' supports developer profits and should not be an objective.	Noted
Objects - Population	Population target or limit should be defined in the Planning Bill or in the Territory Plan.	Not agreed/outside of scope
	Planning for population growth, combined with the impacts of climate change, should consider implications for energy, food and water security.	Agreed – change made to Bill
Objects - Community participation	Planning Bill will reduce community participation.	Not agreed/outside of scope
	Community engagement should be weighted towards engagement at an early stage.	Agreed in principle – no change required
	Proposed process for community participation will not demonstrate level of input required to achieve community trust.	Noted
	Development application should outline reasons for proposal so community can make an informed decision.	Agreed in principle – no change required
	Consultation should have a clear purpose, be targeted, clear timeframes for providing feedback, and in accessible language and formats for community and stakeholders.	Agreed in principle – no change required
	Adequate time should be provided for consultation and consideration by decision makers.	Agreed in principle – no change required
Object - Supporting data, information and processes	Availability of supporting spatial/heritage/environmental data, information and engagement processes will be important for achieving the Object of the Planning Bill.	Agreed in principle – no change required

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Objects – Innovation	Need further clarity on how innovation will be implemented and supported by the Planning Bill.	Noted
Objects – Activation and Liveability	Objectives should encourage use of public transport and active travel and discourage vehicle use.	Agreed in principle – no change required
	The housing needs of people with differing needs and capabilities, including disabilities and ageing population, should be reflected in this objective.	Agreed in principle – no change required
	Sporting space and facilities should be included as an objective.	Agreed in principle – no change required
Objects - Transparency	Transparency should be included as an objective.	Agreed in principle – change made to Bill
Objects - Intergenerational equity	Objective should identify how intergenerational equity will occur.	Noted
	Clearer process needed to specifically deal with issue of intergenerational equity.	Noted
Objects - High-quality design	High-quality design principles should be explicitly stated in the Planning Bill.	Agreed in principle – no change required
	High-quality design principles should be mandatory, and the development should be consistent with the design principles and any design advice of the Design Review Panel, where consulted.	Agreed in principle – no change required
	High-quality design principles should be clear that local settings and contexts can evolve over time, including through development, to better meet changing community and environmental needs.	Agreed in principle – no change required
	High-quality design principles should include a provision related to building quality and energy efficiency.	Agreed in principle – no change required

	High-quality design principles, subsection c, should be amended to ‘built form and public spaces should be designed to be inclusive and accessible to people with differing needs and capabilities, including through universal design practices and accessibility standards’.	Agreed in principle – no change required
	The housing needs of people with differing needs and capabilities, including disabilities, should be reflected in this objective. ACT must create a mandate for all properties in the ACT built to meet universal design standards.	Agreed in principle – no change required
	Aspects of 'high-quality, people focused and design-led built outcomes that respond and contribute to the distinctive characteristics of the local area, and sense of place' may contradict.	Noted
Objects – Affordable and social housing	Affordable and social housing should be included as an objective in the Planning Bill.	Agreed in principle – no change required
	Include term ‘housing affordability’ rather than ‘living affordability’.	Noted
Outcomes Focussed Planning	An ‘outcomes-focussed’ planning system is / is not an appropriate way to assess development proposals.	Noted
	Limited evidence this process will achieve the desired outcomes and produce high quality developments.	Noted
	Clearly defined rules and guidelines should apply to guide developers.	Agreed in principle – no change required
	Outcomes focussed planning system may not have sufficient parameters or requirements to guide development.	Noted
	Outcomes focused planning system must be supported by effective compliance regime.	Agreed in principle – no change required
	Outcomes should be measurable and easily understood and analysed by the public.	Agreed in principle – no change required

	‘Desired future planning outcomes’ and ‘good planning outcomes’ should be clearly defined in the Planning Bill.	Noted – referred to relevant team/agency
Principles of good planning	The principles of good planning should include consultation, strong governance, collaboration, affordability and reduction of emissions.	Agreed in principle – no change required
	Good design principles should be defined and have regulatory effect.	Agreed in principle – no change required
	Refine definition of 'Activation and Liveability Principles', 'Urban Design Practices' and 'Urban Regeneration Principles'. Consistent terminology should be used throughout the Planning Bill.	Noted
	Principles of good planning should include consideration of social need and public benefits. The housing needs of people with differing needs and capabilities, including disabilities, should be reflected in this objective.	Agreed in principle – no change required
	Principles of good planning should include guidance on how they will be prioritised and implemented. Planning Bill should state that the principles do not constitute a hierarchy of importance.	Agreed in principle – no change required
	Principles of good planning should: <ul style="list-style-type: none"> • include natural environment conservation principles • include Gunning Principles for Public Consultation. • provide that development should be designed to minimise noise in residential areas • reduce air and light pollution • promote equity between present and future generations • support retention of heritage; and • support development for the ageing. 	Agreed in principle – no change required

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	Any proposals for activations, particularly commercial, should be assessed for appropriateness rather than being encouraged on principle.	Noted – referred to relevant team/agency
	Urban regeneration must be considered against other factors (i.e. minimise climate change, bush capital, etc).	Agreed in principle – no change required
Principles of good consultation	Principles of good consultation should be included in the Planning Bill.	Agreed – change made to Bill
	Consideration should be given to adopting the South Australian provisions, including guiding principles and what the guidelines must cover.	Agreed in principle – change made to Bill
	Principles of good consultation guidelines should undergo consultation with industry and the community prior to approval. The guidelines should be mandatory and be set by disallowable rather than notifiable instrument.	Agreed in principle – no change required
	Planning Bill should include provision for Community Participation Plans, such as in NSW, to inform the public on how and when Government invites community participation.	Noted
	Planning Bill should include provisions that encourage and reward best practice community participation and the delivery of agree outcomes for the community.	Agreed in principle – no change required
	Guidelines should: <ul style="list-style-type: none"> • outline purpose of the consultation with communities and provide a clear description of the subject matter the consultation is about; • include details of what developments will require consultation, the nature of the consultation and the type of communication; • outline timeframes for consultation; • include community consultation Charter instrument to guide public participation in the preparation and amendment of designated policies, strategies and schemes including mandatory requirements; 	Noted

- provide guidance for consultation with first nations people;
- promote and support broad based consultation including individuals and smaller organisation without the level of professional support available to other stakeholders, people with disabilities and first nations people;
- require that significant developments, Environmental Impact Statements, Estate Development Plans, priority projects and developments that are required to go the Design Review Panel are expected to undertake pre-application community consultation;
- detail best practice consultation methods; and
- detail whether these principles are to be applied to proponent led Territory Plan Variations and the preparation and assessment of Development Applications.

Establish 'Register of Significant Stakeholders' in the Schedule of the Planning Bill outlining community bodies and their issues.	Not agreed/outside of scope
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Territory planning authority and chief planner (Chapter 3)

Draft Planning Bill Position

With the shift from a rules-based system to an outcome focussed system, a new planning authority is proposed to be established to distinguish between the old and new systems. The new Territory Planning Authority keeps its role as an independent decision-maker, led by the Chief Planner and will have increased functions, in line with the object of the Act, including to promote high quality design and good planning outcomes. Limited changes are proposed to the role of the authority, however, the authority would have an increased role in advising on desired future planning outcomes and seeking improved development outcomes through the development application process.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Territory planning authority, chief planner and Minister – general comments	Support / do not support chapter 3 as drafted.	Noted
	Should reduce reliance on Ministerial guidelines and regulations that have limited community input.	Noted
	ACT should investigate the model of Local Planning Panels in NSW.	Noted
	Territory Planning Authority should provide opportunities for participation in planning and decision-making processes.	Agreed in principle – no change required
	Define cohesive planning and outline how this will occur.	Noted
	Chief Planner should have planning experience and expertise.	Agreed in principle – no change required
Territory Planning Authority - Functions	The Territory Planning Authority should 'promote', rather than 'deliver', 'provide' or 'implement' when fulfilling its functions.	Noted
	Chief Planner and the Territory Planning Authority will need to proactively inform the public how planning decisions have been made and explain the operation of the new planning system.	Agreed in principle – no change required
Territory Priority Projects	Support / do not support the establishment of territory priority projects.	Noted
	Criteria for the Minister to declare a development a Territory Priority Project is unnecessarily restrictive and exposes the Territory to pointless judicial challenges.	Agreed in principle – change made to Bill
	The Chief Planner's ability to veto a territory priority project is undesirable, given the Chief Planner is not politically accountable.	Agreed – change made to Bill

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	Social and public housing should be able to be declared a Territory Priority Project, and there should be scope for a wider range of projects to be declared where extensive consultation has occurred.	Agreed in principle – no change required
Decision making – Minister / Chief Planner	Support removal of Ministerial call-in powers.	Noted
	The Chief Planner / Minister should be the decision maker for territory priority projects.	Agreed in principle – change made to Bill
	Ministerial decisions should only occur after seeking independent expert advice and input from the community.	Agreed in principle – no change required
	Minister's power should be limited to making a Regulation which is subject to disallowance by a majority of the Assembly.	Noted
	Planning Bill gives too much discretion to the Minister and Chief Planner.	Not agreed/outside of scope
	Criteria for Ministerial directions should be included.	Agreed in principle – no change required
	Greater clarity needed on role of Chief Planner and Minister in planning.	Agreed in principle – no change required
	Planning Bill should introduce a duty on decision-makers to refuse development applications for proposals that will have a significant adverse impact on Aboriginal cultural heritage.	Not agreed/outside of scope
Decision making – Legislative Assembly	Legislative Assembly should consider planning matters as an ongoing item, and be the primary decision maker.	Not agreed/outside of scope
	Ministerial directions should be a disallowable instrument, rather than notifiable instrument to allow the Assembly five days to move and debate the direction.	Not agreed/outside of scope
	Legislative Assembly should have role in planning policy to enhance public input on development applications.	Agreed in principle – no change required

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	Greater involvement by the Legislative Assembly in scrutinising the planning system and developing policy, including by making the Planning Strategy, Territory Plan, District Strategies and Territory Priority Projects subject to Disallowable Instruments rather than Notifiable Instruments.	Noted
Governance - Territory Planning Authority	New authority should have an advisory board including representatives from ACTOSS, ACT Climate Expert Panel, indigenous community, Canberra Conservation Council architects and planning professionals and the combined community councils.	Agreed in principle – no change required
	An independent planning panel / board should be convened to provide strategic advice to the Minister, the Standing Legislative Assembly Committee and the Territory Planning Authority. This would assist / replace Territory Planning Authority.	Not agreed/outside of scope
	Planning Bill provides greater visibility of the Territory Planning Authority.	Agreed in principle – no change required
	Should review statutory roles and responsibilities to manage any potential conflicts of interest.	Agreed in principle – no change required
Governance – Chief Planner	Planning Bill provides greater visibility of the role of the Chief Planner.	Agreed in principle – no change required
	Do not support discretionary powers of the Chief Planner.	Noted
	Planning Bill should clarify if an individual can have repeat terms of appointment as Chief Planner. Chief Planner should have no fixed term.	Not agreed/outside of scope
	Chief Planner and Director-General of Environment, Planning and Sustainable Development Directorate should be held by different individuals. Chief Planner should not be most senior position in the Directorate to avoid conflict of interest. Chief Planner should report directly to the Minister.	Not agreed/outside of scope

Strategic and spatial planning (Chapter 4)

Draft Planning Bill Position

Greater emphasis is given in the Planning Bill to strategic and spatial planning to allow the ACT Government to plan for how the Territory’s growth should be managed and identify land for urban development while protecting areas of environmental value. The Principles of Good Planning must be taken into account in strategic and spatial planning.

The Planning Strategy is the key strategic planning document in the Territory. The Planning Strategy must set out the long-term planning policy and goals for the ACT, consistent with the object of the Act. It must also include an overarching spatial vision, strategic directions for the ACT and the desired future planning outcomes.

District strategies are proposed to fill the disconnect between city-wide strategic planning and the detailed, site-specific Territory Plan. A district strategy is a continuation of strategic and spatial planning at the district level. District strategies will contain the long-term planning policy and goals for each of Canberra’s districts and must be consistent with the planning strategy. They include strategies, spatial policies, and desired future planning outcomes for each district to guide and manage change in the future. They will set out principles and policies for development of areas within the districts, including future urban areas, and may identify areas where future detailed planning is needed.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Strategic and spatial planning – general comments	Principles of Good Planning must be taken into account in the Strategic and Spatial Planning.	Agreed in principle – no change required
	Difficulty in evaluating Planning Bill prior to reviewing draft Plans/Strategies. Consultation should occur on these documents.	Noted
	Plans/Strategies should be disallowable instruments and Legislative Assembly should approve these documents.	Noted
	Planning Review Panel is needed to provide independent advice on the Planning and District Strategies.	Agreed in principle – no change required

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	Planning Bill should include performance indicators/measures of Plans/Strategies that facilitate monitoring and trigger reviews.	Agreed in principle – no change required
	Plans/Strategies should be reviewed every 1 / 2 / 5 / 10 years.	Agreed – change made to Bill
	Clarify hierarchy of Plans/Strategies compared to Codes.	Noted
	Planning Bill should clearly identify when District Strategies and the statement of planning priorities are relevant to each decision under the Planning Bill.	Agreed in principle – no change required
	Recognise the status of existing and future strategic, concept, structure and master plans in Acts. Existing documents should be recognised in the Planning Bill.	Agreed in principle – no change required
	Planning Bill should require development of plans for waste management, air quality, dust landscape, climate change design, construction, water management, grasslands management and cultural values.	Agreed in principle – no change required
	Strategic and spatial planning should consider needs of the region surrounding the ACT.	Agreed in principle – no change required
Planning Strategy	Planning Strategy should be a relevant consideration for significant developments / development assessment and approvals / Territory priority projects.	Agreed in principle – no change required
	Planning Strategy must consider the ACT Heritage Strategy and natural and cultural heritage values.	Agreed in principle – no change required

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	Review of Planning Strategy should consider whether it reflects the long-term planning policy and goals for the ACT, including the objects of the Planning Bill.	Agreed in principle – no change required
District Strategies	Include mandatory requirement in Planning Bill for district strategy to be developed. Timelines on development of Strategies should be included.	Agreed in principle – no change required
	District strategies should include a district strategy code for each district.	Agreed in principle – no change required
	District strategies must consider the ACT Heritage Strategy and natural and cultural heritage values.	Agreed in principle – no change required
	District strategies should enhance the character of an area and align with the aspirations of residents.	Agreed in principle – no change required
	Planning Bill should include or acknowledge the needs of communities living in the catchments of our town centres, group centres and local shops.	Agreed in principle – no change required
Estate Development Plans	Allow for Territory Plan and Estate Plans approval should run in parallel or as an integrated process.	Noted
	Estate Plans to consider good planning principles.	Agreed in principle – no change required
	Estate Plans should include considerations of character of the local area, desires of the residents of adjoining suburbs and impacts on neighbouring shops and amenities.	Agreed in principle – no change required
	Estate Plans should require tree management plans, and environmental and human impact studies.	Noted
	Estate Plans should consider the ACT Heritage Strategy / Heritage Act.	Agreed in principle – no change required

	Estate Plans should mandate what services must be available and construction timeframes.	Not agreed/outside of scope
	Clarify consultation requirements for Estate Plans.	Noted
	Clarify the status of Estate Plans in the period between its approval and its integration into the Territory Plan.	Noted
Statement of planning priorities	Minister must (rather than may) give the territory planning authority a written statement of planning priorities.	Not agreed/outside of scope

Territory plan (Chapter 5)

Draft Planning Bill Position

With the shift to an outcomes-focused planning system, the rules and criteria approach within the current Territory Plan is no longer considered suitable. A new Territory Plan will be drafted which must promote principles of good planning, must give effect to the ACT Planning Strategy and district strategies and may give effect to relevant outcomes related to planning contained in other Government strategies and policies.

The Planning Bill will better connect the Territory Plan and other ACT Government policies and strategies with planning-related outcomes. The Planning Bill provides these should be considered when making and amending the Territory Plan, and provides processes for these policies to be efficiently added to the Territory Plan so it reflects current Government policy.

Minor amendments to the Territory Plan are the same as technical amendments under the *Planning and Development Act 2007*. They are prepared and approved by the Territory Planning Authority following public notice and any required consultation.

Major plan amendment may be initiated where the Territory Planning Authority initiates its own amendment, the Minister may direct the Territory Planning Authority to prepare an amendment or where a proponent applies for the Territory Plan to be amended.

Under the 2007 Act, there is no statutory process for a proponent to request an amendment. A proponent may now seek to amend the Territory Plan through application to the Territory Planning Authority to consider whether to accept the proposed amendment for consideration based on criteria set out in the Planning Bill. This amendment requires public and National Capital Authority consultation, may be referred to a Legislative Assembly committee for consideration, and is subject to Legislative Assembly review and disallowance (for a five-day period).

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If accepted, the application, supporting information and any subsequent documentation will be published on the Territory Planning Authority’s website. Once accepted, the Authority will prepare a proposed amendment, undertake public and National Capital Authority consultation, and provide the proposed amendment to the Minister for consideration.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Territory Plan – general comments	Existing Territory Plan should be retained / enhanced / revised.	Noted – referred to relevant team/agency
	Territory Plan should provide adequate guidance on desired planning outcomes and how they will be achieved, including endorsed strategic plans.	Agreed in principle – no change required
	‘Government policy’ should be defined in the Planning Bill.	Not agreed/outside of scope
	Planning Bill should provide more guidance on permissible or prohibited development types to guide Territory Plan / Territory Plan should be the statutory document that sets out permissible or prohibited development types.	Not agreed/outside of scope
	Planning Bill should retain requirements on zone objectives and development and precinct specific codes. Zone objectives should implement the Good Planning Principles and outline how this is to be achieved.	Not agreed/outside of scope
	Planning Bill should retain / replace section 52 of the 2007 Act.	Agreed in principle – no change required
	Ensure Territory Plan and District Strategies must be implemented in a complementary way with the Urban Forest Bill and other relevant legislation.	Agreed in principle – no change required

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	A five-yearly review of outcomes should be mandated, potentially through the Planning Bill.	Agreed in principle – no change required
Object of Territory Plan	The object of the Territory Plan should reflect the broader objectives of the Planning Bill in relation to sustainability, climate change and environmental protection.	Noted – referred to relevant team/agency
	Seperate objectives should exist for rural zoned land.	Noted – referred to relevant team/agency
	Agriculture is a valid long-term land use and should be adopted as an “intended outcome”.	Agreed in principle – no change required
Territory Plan Amendments	Major plan amendment should be disallowable, rather than notifiable instrument.	Not agreed/outside of scope
	Community-initiated major amendments to the Territory Plan should be provided in the Planning Bill, in addition to proponent-initiated amendments.	Agreed in principle – no change required
	Proponent-initiated amendments should be subject to the principles of good planning.	Agreed in principle – no change required
	Prescribed list of minor plan amendments should allow flexibility for the authority to exercise discretion where an unforeseen minor amendment is required.	Agreed in principle – no change required
	Planning Bill should be clear that on accepting a proponent-initiated amendment, the authority may alter the amendment before it proceeds.	Agreed in principle – no change required
	Proponent initiated territory plan amendments should be shortened from 60 to 30 days for initial review by territory planning authority.	Agreed in principle – change made to Bill

	Statutory timeframes and amendment processes for major plan amendments should align with the NSW Government's 'A new approach to rezoning' Discussion Paper'.	Noted
	Legal proceedings challenging major amendments to Territory Plan should be able to be brought forward sooner than three months.	Agreed in principle – no change required
	Legal proceedings should be permitted solely on the basis where amendments are inconsistent with the planning strategy or a district strategy.	Not agreed/outside of scope
Territory Plan - Consultation and engagement	Planning Bill should include transitional provisions for consultation.	Agreed in principle – no change required
	All major / minor proponent-initiated territory plan amendments should / should not be subject to broad consultation.	Noted
	Minister should refer draft amendments to the relevant Legislative Assembly Committee for their consideration on whether to conduct and inquiry.	Agreed in principle – no change required
	Territory planning authority should report on proponent initiated major plan amendments.	Agreed in principle – no change required
	Amendment required to bring the territory plan into line with the national capital plan should require consultation.	Not agreed/outside of scope
	Territory Planning Authority should prepare a publically available report to the Executive which outlines the reasons for or against adopting advice received on Territory Plan amendments.	Agreed in principle – no change required

	Should retain requirement from 2007 Act to provide response to community views.	Agreed in principle – no change required
	Design Review Panel should provide advice on Territory Plan Amendments	Not agreed/outside of scope

Significant development (Chapter 6)

Draft Planning Bill Position

A new concept of ‘significant development’ is introduced, broadly covering developments requiring an environmental impact statement, estate development plan or advice from the design review panel. Significant developments will have additional documentation and assessment requirements, and additional time for notifying and deciding the DAA simplified environmental assessment process is introduced where Environmental impact statement (EIS) exemptions have been omitted, recent studies will be recognised through the EIS process, and all environmental assessment must start with a ‘scoping document’.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Significant development – general comments	Classification as a significant development should be determined by panel of experts.	Not agreed/outside of scope
	Development assessment process should streamline and expedite non-contentious projects and allow proponents to rely on the advice received from the Design Review Panel and any referral agencies (even if this advice is contrary to the Territory Plan) during the assessment of projects.	Not agreed/outside of scope
	Local planning panels should be introduced for significant developments.	Not agreed/outside of scope
	Chief Planner should be able to provide development approval contrary to entity advice where satisfied that acting contrary to the advice would significantly improve the design outcome achieved in	Agreed in principle – no change required

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	accordance with Design Review Panel advice.	
	Planning Bill should include requirement for applications for significant development.	Agreed in principle – no change required
	Strategic Environmental Assessments should be retained from 2007 Act.	Agreed in principle – no change required
	Direct Sale process for non-government schools should continue, whereby non-government schools can access free land grants and only pay for improvements.	Noted – referred to relevant team/agency
Design Review Panel	Strengthen the role of the Design Review Panel. Panel should / should not provide advice on Territory Plan variations, Estate Development Plans, District Plans and precinct level developments.	Noted
	Design Review Panel function should include providing good design advice to the Chief Planner.	Noted
	Chief Planner should be required to consider the design advice of the Design Review Panel for all Significant Projects and Territory Priority Projects.	Not agreed/outside of scope
	Evidence of effectiveness of Design Review Panel.	Noted
	Design Review Panel should include community, sustainability, architect, landscape architect, planning institutes, Suburban Land Agency and traditional custodian representation. Membership should be regularly refreshed.	Agreed in principle – no change required

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	Minister should not have power to specify what the Design Review Panel investigates or design rules. These should be decided by public consultation.	Not agreed/outside of scope
	Design Review Panel should be able to initiate an enquiry into an environmental impact statement.	Not agreed/outside of scope
	Design Review Panel should be protected from liability.	Agreed in principle – no change required
Consultation and Engagement	Significant developments should be subject to broad consultation.	Agreed in principle – no change required
	Maintain / remove pre-development application consultation.	Noted
	Maintain pre-development application consultation guideline and increase consultation timeframes to 15 days.	Not agreed/outside of scope
	Community should have access to environmental impact statement scoping documents and draft environmental impact statement indefinitely. A minimum 20 day consultation period should occur at each stage.	Agreed in principle – no change required
	Amend Planning Bill to provide the Territory Planning Authority must consult on draft environmental impact statement with an entity, where it relates to a heritage place (registered, provisionally registered or nominated).	Agreed in principle – no change required
	Revised environmental impact statements should be available to the public.	Agreed in principle – no change required
	Public access should be provided to development site during environmental impact statement consultation period.	Not agreed/outside of scope

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Environmental impact assessment	Environmental impact statements should apply to a greater range of development applications.	Not agreed/outside of scope
	Environmental impact statement documents should be prepared by or in consultation with the Conservator of Flora and Fauna.	Not agreed/outside of scope
	Definition of 'significant adverse environmental impacts' should be further refined.	Not agreed/outside of scope
	Should be no limit on the number of times an environmental impact statement can be revised or the period for revision extended.	Not agreed/outside of scope
	Authority should not rely solely on environmental impact statements provided by or commissioned by the developer.	Not agreed/outside of scope
	Environmental impact statements should be prepared by a qualified person.	Agreed in principle – no change required
	Should be capacity for community challenge of an environmental significance opinion, or capacity to seek independent opinion.	Not agreed/outside of scope
	Remove the cost recovery provisions for environmental impact statements.	Not agreed/outside of scope
	Environmental impact statement exemption process should be retained from 2007 Act.	Not agreed/outside of scope
Public health environmental impact statement provisions should be contained within general environmental impact statement provisions.	Agreed in principle – no change required	

	Environmental impact statement should include climate impact statement.	Not agreed/outside of scope
	Conservator of Flora and Fauna should determine whether information in a study more than 18 months old is current, rather than the Minister.	Not agreed/outside of scope

Development assessment and approvals (Chapter 7)

Draft Planning Bill Position

Development assessment under the 2007 Act is largely focussed on compliance with planning rules and strict rules and criteria set out codes. The shift to an outcomes-focussed planning system changes the development assessment process with the new features being:

- Sufficient documentation—to show how a proposal meets all planning requirements
- Public consultation on DAs and a presumption that any amendment requires additional consultation.
- Pre-DA consultation has been omitted with the new ‘principles of good consultation’ included to guide how consultation should occur in the new system.
- Simplified timeframes, with time to decide the DA starting again where a DA is amended
- Expert ‘entity’ advice from all relevant utilities and government agencies
- Increased transparency, with documents available on our website
- Expanded decision-making considerations
- Pre-decision advice from the Planning Authority.

With the introduction of an outcomes focused DA process, additional decision-making criteria have been incorporated to reinforce that the Territory Planning Authority should consider how a development performs when deciding whether it should be approved. For example, the Authority must consider:

- the suitability of the proposed development in the context of the site and site surrounds;
- where the site adjoins another land use zone, whether the proposal achieves an appropriate transition between zones; and
- the interaction of any proposed development with any other adjoining or adjacent development proposals for which a development application has been lodged, or development approval has been given.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Development assessment and approvals – general comments	Support outcomes focused model to facilitate the determination of development applications in a timely manner.	Noted
	Provide further clarity on how outcomes focused planning will be exercised by the Authority in the assessment and determination of individual development applications.	Noted
	Planning Bill should specify that development assessment and approval must be undertaken by registered or accredited professionals.	Not agreed/outside of scope
	Do not support the definition of significant development.	Noted
	Need to upskill assessment planners to support an outcomes focused approach.	Agreed in principle – no change required
	Need to clarify ‘use’ as a form of development that requires development approval.	Noted
Pre-development application consultation	Need to define / remove ‘Essential Design Element’ and define ‘substantially consistent’ and ‘public benefit’ in the Planning Bill.	Noted
	Pre-development application consultation should be retained and be led by Territory Planning Authority.	Not agreed/outside of scope
Development Assessment and Approvals	Development should be approved by the community through community council.	Not agreed/outside of scope
	Do / do not support the use of pre-decision advice.	Noted
	Clarify criteria for pre-decision advice.	Agreed in principle – no change required
	ACT development decisions should be delayed until Commonwealth processes are complete.	Not agreed/outside of scope

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Limit the number of times the Planning Authority can request further information.	Not agreed/outside of scope
Relevant codes, strategies and policies should be considered when deciding development applications.	Agreed in principle – no change required
Decision-makers should be required to consider the cumulative impacts of a proposed development.	Agreed in principle – no change required
Development approvals should require advice from the Design Review Panel and the Chief Planner and reasons for deviation from entity advice and other government policy.	Not agreed/outside of scope
Clearly articulate decision-maker roles for development assessments.	Agreed in principle – change made to Bill
Planning Bill should provide statutory criteria or stated decision guidelines to assess 'significantly improve the planning outcome to be achieved'.	Not agreed/outside of scope
Allow decision-maker to approve contrary to advice, including where it will significantly improve the design outcome to be achieved and is in accordance with advice from the Design Review Panel.	Agreed in principle – no change required
Planning Bill should include thresholds that trigger different processes and design requirements depending on the scale and degree of urban change to ensure that new development responds to either an existing or designed future character.	Not agreed/outside of scope
Review decision-making provisions for development applications to ensure they are fit for purpose in the new planning system.	Agreed in principle – no change required
Decisions about encroachments should be made by the qualified planners at the Authority and be based on their professional experience.	Agreed in principle – no change required
Clarify development approvals for works.	Noted

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	Clarify the system for development approval for uses and leases and retain integration of use and building use.	Noted
	A checklist should accompany each development application to include goals, principles and specific rules and reasons for proposing flexible solutions or prioritising particular planning principles over others.	Noted – referred to relevant team/agency
Timeframes and deemed approvals	Do not support amendment applications being treated as a new development application.	Noted
	Allow Territory Planning Authority to reduce the decision time for an approval where it is consistent with the advice of the design review panel and where the territory would benefit from a reduced approval time.	Not agreed/outside of scope
	Development approvals should be given within statutory timeframes or deemed approved without conditions. Compensation should be given for failure to meet statutory timeframes.	Not agreed/outside of scope
	Referral agencies should adhere to timeframes.	Agreed in principle – no change required
Exempt Developments	Support exempt development categories for low-impact minor development.	Noted
	Support additional exemptions for minor utility work. Additional examples of exempt work should be provided.	Noted
	Support creating a standalone Exempt Development Regulation.	Noted
	Clarify in Planning Bill that approval for exempt developments may still be required from referral entities, such as utilities.	Agreed in principle – no change required
Territory Plan	Need to determine process for dealing with an inconsistency between the provisions of the draft Territory Plan variation and current Territory Plan provision.	Noted – referred to relevant team/agency

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Consultation and engagement	More weight should be given to community feedback when determining a development application.	Not agreed/outside of scope
	Consider requiring tenants to be consulted on proposals, not just lessees.	Not agreed/outside of scope
	Public consultation on environmental impact statement should be replaced by an environment significance opinion.	Not agreed/outside of scope
	Should be mandatory consultation on concessional grant processes.	Not agreed/outside of scope
	Decision-maker should not waive the requirement to publicly notify an application to amend a development approval.	Not agreed/outside of scope
	Remove the extension of the public notification period within the development application process.	Not agreed/outside of scope
	Approved development approvals should be made publicly available for at least 6 months after certificate of occupation has been issued.	Agreed in principle – no change required
	Improve access for development application consultation through Drop-in sessions at shopping centres and access hard copy applications, including Major infill development applications.	Noted – referred to relevant team/agency
	Strengthen the importance of public consultation in relation to public interest in the Planning Bill.	Agreed in principle – no change required
	Review neighbor consultation requirements for exempt development.	Noted
	Exemption regulation should not bypass territory plan amendment consultation process.	Not agreed/outside of scope
	An executive summary provided with each DA that is written by a planner and not the proponent, stating their preliminary assessment of the proposal to give guidance to the public.	Not agreed/outside of scope

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Role of Chief Planner	Chief Planner should not have approval power where the development has the potential to significantly impact a declared protected matter.	Not agreed/outside of scope
	A development application for a territory priority project should be decided by the chief planner with consideration of advice from the Design Review Panel.	Not agreed/outside of scope
	Replace decision-making by the Chief Planner with an expert independent panel.	Not agreed/outside of scope
Appeal Process	Remove third party appeal for exempt development proposal.	Agreed in principle – no change required
	Planning Bill needs to have clear criteria that is publicly available to enable clarity during an appeal process in relation to codified assessment criteria.	Agreed in principle – no change required
	Procedural matters should be in regulations or guidelines.	Noted
Development approval minimum standards	The Planning Bill should introduce minimum standards for Development Approvals.	Not agreed/outside of scope
	Minimum standards developed by professional planners should be introduced in critical areas such as solar access.	Noted – referred to relevant team/agency
Environment and Sustainability	The extent and significance of probable impacts on the environment, fauna, flora and humankind should be as a consideration when deciding development applications.	Agreed in principle – no change required
	Planning Bill should require entity referral to the Conservator and Flora and Fauna for all matters relating to protection not just those under the Tree Protection Act.	Not agreed/outside of scope
	Planning Bill should have clear limits on the Chief Planner's power to override the Conservator of Flora and Fauna's advice on development applications.	Agreed in principle – no change required
	Development approval should not be granted contrary to entity advice from the Conservator.	Not agreed/outside of scope

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	Collect Scope 3 emissions data from development applications. Planning decisions need to be informed with emissions data based on the National Greenhouse Accounting Standards. The necessary accounting tool or reporting methodology can be specified in the regulations.	Noted
	Development approval decisions need to ensure no increase in greenhouse emissions.	Not agreed/outside of scope
	Include measures to protect mature native trees in the planning processes. No mature trees should be approved for removal in greenfield sites.	Noted – referred to relevant team/agency
	The ACT Government should not take on environmental approvals which are, and should remain, the responsibility of the Commonwealth.	Not agreed/outside of scope
Heritage	Need for statutory guidance in exercising discretion when the Territory Planning Authority is evaluating and making decisions on DAs that involve cultural heritage places. Should be transparent mechanisms to explain these decisions.	Noted
	Do not support approval of DAs contrary to Heritage Council advice including / other than for Territory Priority Projects.	Noted
	Do not support prioritising natural heritage (ecosystems, habitat and biodiversity) over cultural heritage in decision making.	Agreed in principle – no change required
	Development application should include information about a place or object that is registered or provisionally registered under the Heritage Act, or an Aboriginal place or objects, on the site represented.	Agreed in principle – no change required
	All DAs relating to Aboriginal places and objects should be referred, without qualification.	Agreed in principle – no change required
	Development applications should include a standard condition requiring unexpected heritage finds must be managed in accordance with the Heritage Act.	Agreed in principle – no change required

Road safety	Planning Bill inadequately deals with the approval of Temporary Traffic Management Plans.	Noted – referred to relevant team/agency
	Planning Bill inadequately addresses construction parking for large construction projects near residential areas that restrict resident’s use of street.	Noted – referred to relevant team/agency

Territory priority projects (Chapter 8)

Draft Planning Bill Position

The Planning Bill proposes the Minister be given a new power to declare a proposal to be a ‘Territory Priority Project’. This removes the ‘call-in’ power for the Minister provided under the 2007 Act. This power is available only where all the following criteria are met:

1. The proposal will provide critical infrastructure or facilities.
2. The proposal is likely to provide a significant benefit to the people of the Territory.
3. The project is time critical.
4. There has been sufficient public consultation on the proposal.

If the Minister declares a project to be a Territory Priority Project:

- a development application for the proposal must be decided personally by the Chief Planner;
- the Chief Planner can depart from the Conservator of Flora and Fauna’s advice in relation to registered trees, declared sites and protected matters in limited circumstances (however, advice from the Australian Government under the Commonwealth’s Environment Protection and Biodiversity Conservation Act must always be followed);
- merits review, through the ACT Civil and Administrative Tribunal, is not available; and
- judicial review is subject to a time limit.

Where a project is declared a Territory priority projects, The Minister must undertake public consultation on a proposed declaration before making it. Any future development application must still comply with all requirements of the Territory Plan and the new Planning Act.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
	Do / do not support a separate category for Territory Priority Projects.	Noted

NEW PLANNING ACT – CONSULTATION PAPER

Territory Priority projects – general comments	Extend Ministerial responsibility for Territory Priority Projects to development applications.	Not agreed/outside of scope
	Clarify definition of Territory Priority Projects in section 211 of the Planning Bill, in relation to requests to the Minister and definition of ‘public’.	Agreed in principle – no change required
	Clarify role of EIA - Environmental Significance Opinion in section 99 of the Planning Bill.	Noted
	Broader protections for biodiversity in Territory Priority Projects should be included under the Planning Bill.	Not agreed/outside of scope
Definition of Territory Priority Projects	Social and community housing, warehouse and logistics centres, private educational facilities, affordable rental housing, student accommodation, significant social, environmental and economic benefit proposals should be considered Territory Priority Projects.	Noted
	Territory Priority Project declarations should include private sector opportunities.	Agreed – change made to Bill
	Retain Ministerial call-in powers and these should apply to a broader set of projects, including those undertaken by the private sector.	Not agreed/outside of scope
	Should not specify light rail as opposed to other projects.	Not agreed/outside of scope
	Territory priority project should only require satisfaction of one criteria: private or community developments providing economic or social benefits.	Agreed – change made to Bill
	Review criteria for ‘time critical’ projects.	Agreed in principle – change made to Bill

NEW PLANNING ACT – CONSULTATION PAPER

Declaration of Territory Priority projects	Minister’s declaration of a priority project to be accompanied by criteria and consultation.	Agreed in principle – no change required
	Period for comment should be extended to 30 business days.	Noted
	Territory priority projects should be made in agreement with the Chief Minister.	Not agreed/outside of scope
	Declaration should be through a disallowable instrument.	Not agreed/outside of scope
	Minister should justify each declaration by demonstrating best practice community participation.	Agreed in principle – no change required
	Consider distinction in NSW legislation between State Significant Developments and State Significant Infrastructure.	Noted
	Chief Planner should consider the matters under Section 181 of the Planning Bill for Territory Priority Project development applications.	Noted
Territory Priority Projects – Advice	Minister should consider the Planning Strategy in making a declaration.	Agreed in principle – no change required
	A Planning and Development Advisory Representative Board should be established to consider all proposals for priority projects.	Not agreed/outside of scope
	Territory Priority projects should be referred to the Design Review Panel, Environmental Impact Statement Panel and Planning Review Panel for advice.	Agreed in principle – no change required
	Enable Chief Planner to set up an internal panel for Territory Priority Projects.	Noted

Territory Priority Projects Approval Pathway	Territory priority projects should not be exempt from normal Act requirements.	Noted
Review/Appeal of Territory Priority projects	Territory priority projects should not be exempt from ACAT consideration.	Not agreed/outside of scope
	Community and public benefits projects should be prioritised over third-party appeals.	Noted
	Include an independent review process.	Noted
Offsets	Offsets should be used as a last resort and public consultation of draft offset management plan should occur.	Noted

Offsets (Chapter 9)

Draft Planning Bill Position

The Australian Government is reviewing the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act), with the final report released in January 2021. The ACT Government is currently considering its response to the review and any legislative changes which may result. This includes reviewing potential legislative changes to environmental approvals and offsets because of this work.

The offset provisions from the 2007 Act are retained in the Planning Bill. These provisions will be reviewed in accordance with any changes made to the EPBC Act which impact these provisions, any ACT specific issues with the administration of offsets, and the processes for managing offset areas.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Offsets – general comments	Reference Urban Forest Bill and remnant trees be protected.	Agreed in principle – no change required
	Include recommendations from the independent review of the EPBC Act relating to biodiversity offsets, offset plans, offset sites and landscape connections.	Noted

	Planning Bill should prevent cumulative impacts from multiple projects.	Agreed in principle – no change required
Offset approval	Offsets should be approved through a disallowable rather than notifiable instrument.	Not agreed/outside of scope
	Offsetting should only be allowed in limited circumstances and in line with the best practice science-based principles.	Agreed in principle – no change required
	A declaration for a development encroaching on adjoining territory land should only be provided where the proposal does not impact on the biodiversity of the surrounding land, including adjoining land.	Noted
	No retrospective approvals should be given for areas defined as protected from development.	Noted
	Planning Bill should be clear on how communities and threatened species under the Nature Conservation Act will be dealt with where they differ from the SPBC Act.	Not agreed/outside of scope
Reporting	Offset management plan reporting should be part of the EPSDD Annual Report.	Noted

Leases and licences (Chapter 10)

Draft Planning Bill Position

Few changes are proposed in the leasing chapter in the draft Planning Bill compared to the provisions of the *Planning and Development Act 2007*. Under the 2007 Act, the lessee of a concessional lease can apply to the planning authority to vary the lease and remove its concessional status. The current legislative provisions are difficult to understand, and the distinct roles of the Minister and the planning authority are unclear. The Planning Bill revises the process.

The use of lease purpose clauses to regulate land use in the Territory means that the use of land is regulated with a degree of inflexibility. The Planning Bill will allow the Territory Planning Authority to authorise, for a short-term period, the use of land for additional purposes where there is a significant

public benefit and time criticality. The Territory Planning Authority may only authorise an extended use where it is satisfied that giving the authorisation is necessary, considering the urgent nature of the proposed use of the land.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Lease variation	Simplify provisions in respect of lease variation charges.	Noted
	Planning Bill should provide principles for approval decisions on lease variations.	Noted
	Planning Bill should provide a working example of the formula for removing a concessional lease.	Noted
	LVC calculation should form part of the Development Application for the approval of the variation.	Noted – referred to relevant team/agency
Crown leases	There is a disconnect between the lodgement and determination of the development application for a Crown lease variation, when compared to the corresponding Lease Variation Charge assessment which occurs post development application. Concurrent determination would be preferable.	Noted – referred to relevant team/agency
	Provide for Ministerial consent to transfers that occur following entry into a contract for sale of a first grant Crown lease, but before the Crown lease is issued, noting there is justification for purchasers who get into financial difficulties.	Agreed in principle – no change required
	The requirement for Ministerial consent for the removal of the concessional status of a Crown lease is an unnecessary restriction on this process.	Agreed in principle – change made to Bill

NEW PLANNING ACT – CONSULTATION PAPER

Land leases	Review land lease arrangements due to current urban development and population expansion.	Noted
Consultation and engagement	Public consultation should be required for changes to concessional lease status.	Agreed in principle – no change required
	Pre-development application consultation should occur for any lease variation or amendment.	Not agreed/outside of scope
	A proposal for an estate on existing rural land should require extensive community consultation.	Noted
Lease and development conditions	Planning Bill should provide for the continued operation of lease and development conditions.	Noted
Concessional lease guidelines	Concessional lease guideline should be a disallowable instrument.	Not agreed/outside of scope

Public land (Chapter 11)

Draft Planning Bill Position

The provisions of the 2007 Act are considered fit for purpose in enabling appropriate oversight and reviews. The Planning Bill retains the provisions of the management of public land chapter.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Public land – general comments	Clarify how Land Management Plans will be prepared and adhered to.	Noted
	The Planning Bill should complement other ACT government policies e.g. <i>Urban Forest Bill 2022</i> , 30% tree canopy target, Variation 369 and Climate Change Strategy.	Agreed in principle – no change required
	Public land provisions should be mandated in EDPs.	Noted

Use of public land	Variations of public land should be subject to extensive community consultation / should not be permitted.	Noted
Reserved areas	Need for additional category of reserved area in section 38 of the Planning Bill.	Noted
	Review the nature reserve categories to meet the requirements for protection and land management for biodiversity outcomes	Noted – referred to relevant team/agency

Development offences and controlled activities (Chapter 12)

Draft Planning Bill Position

The Planning Bill retains much of the controlled activity order process but will omit the concept of applications for a controlled activity order. Presently, a person may apply to the Authority for a controlled activity order to be made, where the person thinks another person is conducting a ‘controlled activity’. Unlike with the complaints process, the Authority has no discretion to dismiss the application if it is frivolous or vexatious, and cannot consider whether, having regard to Access Canberra’s risk-based regulatory model, compliance action is appropriate. The Planning Bill will introduce discretion into the controlled activity order process, where the Authority will then have discretion whether to consider making a controlled activity order.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Development offences and controlled activities – general comments	Include a definition of ‘controlled activity’ in Part 12.2 of the Planning Bill.	Agreed in principle – no change required
Offences	Include offence provision for where a person does not apply for or comply with occupancy certificate and the person is negligent about whether the development is completed.	Noted – referred to relevant team/agency
Complaint Review Body	Independent complaint review body should be established.	Not agreed/outside of scope

Include process for making a complaint, including timeline of complaint review in Planning Bill.	Not agreed/outside of scope
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Enforcement (Chapter 13)

Draft Planning Bill Position

The compliance powers available under the 2007 Act are considered generally fit for purpose and comprehensive. The Planning Bill will largely retain these provisions and processes. The Planning Bill seeks to simplify processes and make them easier to understand.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Enforcement	The Planning Bill should include strong compliance and enforcement mechanisms available for development proposals which are likely to have a significant adverse environmental impact.	Agreed in principle – no change required
	Government needs to employ additional resources in the development assessment and enforcement areas to ensure these parts of the Planning Bill are successfully implemented.	Noted
	Enhanced enforcement of planning legislation is needed. Demonstrate how the principles set out in the Planning Bill will be enforced.	Noted
	Need to clearly define outcomes of enforcement, in particular in relation to sustainability, energy efficiency, affordability, supportive/social housing, common goods, green spaces and design.	Noted
	Ensure education and training for certifiers on heritage criteria and guidelines.	Noted

Access to information (Chapter 14)

Draft Planning Bill Position

To further the transparency principle guiding the processes of the Planning Bill, the Planning Bill creates a chapter which consolidates all provisions relating to accessing information on the planning system. The website is proposed to become a central source of information on planning matters. This means that community and industry members can go to a single website to access all the information they need about planning in the Territory and current and past applications

The Planning Bill introduces several new requirements for advice, decisions and information to be published on the Territory Planning Authority’s website. This includes details of development applications and the key documents and plans submitted for approval through the development assessment process.

Exemption declaration documentation will be added to the public register as an increased transparency measure. Plans submitted to the Authority, and the Authority’s decisions, will be publicly available. These documents will be able to be provided to the public without the need for a request for documents under the *Freedom of Information Act 2016*.

Wherever a development approval is given as a result of a Tribunal mediation process, the approval may be published on the Authority’s website (as distinct from any other outcome of mediation).

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Access to information – general comments	Historical and current versions of documents, instruments or materials should be made publicly available.	Noted
	Access to information should be accessible and available to people offline at no additional cost.	Noted
	Territory Planning Authority should be required to continuously disclose environmental risks of development to the public.	Agreed in principle – no change required

Consultation should occur through digital platforms.	Noted
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Consultation material should be in plain-English where possible and avoid the use of technical jargon. Noted

Notification and review of decisions (Chapter 15)

Draft Planning Bill Position

The Planning Bill provides opportunities to seek review of decisions made under the proposed Act. Under the merits review process, certain people or organisations can seek a review of decisions made under the Act.

Merits review under the Planning Bill is available by reconsideration by another member of the Territory Planning Authority (applicants only), or external review by the ACT Civil and Administrative Tribunal (ACAT) (applicants and third parties). A third party (e.g. a person who has made a representation on a development application) can seek ACAT merits review in certain circumstances.

If an application is made to the ACAT for review of a decision made under the Planning Act, the ACAT would have the same powers to assess the merits of the matter and make a decision as the original decision maker (i.e. the Territory Planning Authority). The Planning Bill departs from the approach of the 2007 Act, which limits the ability of the ACAT to review all parts of the original decision.

The categories of reviewable decision that are exempt from review have also been simplified and realigned to meet the new outcomes-focus of the planning system. Developments in the city centre, a town centre, industrial zone or Kingston Foreshore continue to be exempt from third-party merits review, except where an environmental impact statement is required. Developments in other non-residential zones will be exempt where a set of criteria is met.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Notification and review of decisions – general comments	Planning Bill should cover impact of development on third parties and body corporates.	Agreed in principle – no change required
	Costs associated with ACAT appeals are prohibitive. Funding should be provided similar to legal aid.	Noted

	An analysis of the appeal/review process is required, including a review of the standing requirements for appeals.	Noted
	Do not support any changes to review provisions until there is a holistic review of the ACAT.	Noted
Review of decisions	Establish internal review / dispute complaint resolution process prior to ACAT consideration.	Not agreed/outside of scope
	Planning Bill should allow any / limit the Government decisions that can be reviewed through ACAT.	Noted
	Establish mechanism to independently review Ministerial decisions.	Not agreed/outside of scope
	Planning Bill should allow for appeals from a decision of another body to reject an application.	Noted
	Should be no limitation on issues that can be appealed.	Not agreed/outside of scope
	Any reduction or rationalisation of the existing exemptions from third-party review must be considered in the context of the introduction of territory priority projects.	Agreed in principle – no change required
	Rights of appeal should be balanced to ensure they do not create additional compliance, time or cost for businesses.	Agreed in principle – no change required
	Vexatious appeals should not undermine the objective's intent for an outcomes focused planning system.	Agreed in principle – no change required
Third party appeals	Support the list of matters that are exempt from third party ACAT review.	Noted

Third parties should be able to seek a review of decision and an extension of time to seek a review.	Agreed in principle – no change required
Only interested parties should be able to make an appeal.	Agreed in principle – no change required
Neighbours should have third party appeal rights.	Agreed in principle – no change required
Third party appeals are effective for small, but not larger developments.	Noted
Third parties should be precluded from appealing otherwise approved social and community housing DAs that have undergone consultation and met the requirements of the approval process.	Not agreed/outside of scope
Additional development types, including significant developments should be exempt from third party ACAT review.	Not agreed/outside of scope
ACT Heritage Council should have direct representation as an eligible entity to ACAT.	Not agreed/outside of scope

Miscellaneous (Chapter 16)

Draft Planning Bill Position

This chapter contains provisions that are important to the effective functioning of the planning system: providing for the making of regulations, the setting of fees, and evidentiary provisions. No policy changes have been made however, some provisions have been relocated to new chapters, such as the Access to Information chapter.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Miscellaneous – general comments	Planning Bill should be consistent with section 27(2) of the ACT Human Rights Act.	Agreed in principle – no change required

	Planning Bill has an over-reliance on Notifiable Instruments.	Noted
	Planning Bill not supported in current form. Requires more decision-making and assessment criteria.	Noted
	Ministerial Guidelines should be a disallowable instrument in section 521 of the Planning Bill. Minister ‘must’ consider advice from the Territory Planning Authority before approving these guidelines.	Not agreed/outside of scope
	Clarify how Planning Bill will be integrated and implemented with new tree protection measures and legislation.	Noted – referred to relevant team/agency
Consultation and engagement	Further consultation with traditional custodians is required before the Planning Bill becomes law.	Agreed in principle – no change required

Repeals (Chapter 17)

Draft Planning Bill Position

The Planning Bill provides that the *Planning and Development Act 2007* (A2007-24), *Planning and Development Regulation 2008* (SL2008-2) and all other legislative instruments under the *Planning and Development Act 2007* are repealed on commencement of the Planning Act.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Sunset Clause	Clarify whether the repealed provisions will address the sunset clause sought under DV369.	Noted

Transitional (Chapter 18)

Planning legislation in the Territory must deal with many legacy issues, such as the granting of leases and development approvals under previous legislation. It must also enable a transition from one statutory scheme to the next.

Transitional provisions are being drafted to support the effective transition from the current system to the reformed planning system however were not available to form part of the Planning Bill that was provided during the three month public consultation period.

Schedules 1-7

Draft Planning Bill Position

The Planning Bill's schedules cover a range of matters to support the provisions in the Planning Bill. Schedule 1 defines preserved leases and preserved lease use. Schedule 2 sets out the information or documents to be provided with a development application. Schedule 3 sets out the types of leases that are considered a market lease and those that may be concessional. Schedule 4 sets out the management objectives for different areas of public land. Schedule 5 lists controlled activities. Schedule 6 sets out the decisions that are reviewable by ACAT under the Planning Act, and the eligible and interested entities for each review. Schedule 7 sets out the matters that are exempt from third party review by the ACAT.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Controlled activities	Do not support removal of application for controlled activity for home business.	Noted
Exemption from Third Party Review	Do not support the removal of the current limitation under section 121(2) of the Planning and Development Act 2008 for the review of merit track applications.	Noted
	Community should be able to appeal Territory Priority Projects and proposals in the city centre, a town centre, an industrial zone, the Kingston Foreshore and the University of Canberra.	Not agreed/outside of scope
	Area of exemption for Kingston Foreshore should include the East Lake urban renewal area, including the Dairy Road site.	Not agreed/outside of scope
	ACAT review should apply to contested approvals in industrial and transport zones and approved development in IZ2 mixed use industrial zoning.	Agreed in principle – no change required

Reviewable decisions, eligible entities and interested entities

Entities providing advice under S149 of the PDA be defined as interested entities in Schedule 6.

Agreed in principle – no change required

Regulations

Draft Planning Bill Position

The Planning Bill proposes to have two regulations: a general regulation and an exempt development regulation. The general regulation will contain detailed provisions and thresholds for the application of processes under the Planning Bill, process requirements and administrative detail to support the provisions of the Planning Act. The exempt development regulation will provide a standalone regulation providing for exempt development. This approach has been taken to make it easier to locate and navigate the provisions for exempt development, as these are provisions which are regularly accessed by the building and development industry.

Consultation Feedback and Response

ISSUE	COMMENTS	RESPONSE
Exempt Development	Businesses that breach the Planning (Exempt Development) Regulation 2022 on three occasions should no longer be exempt and would require a development application.	Noted – referred to relevant team/agency
	Support the exemption declaration for single housing.	Noted – referred to relevant team/agency
	Should expand the categories of exempt development.	Noted – referred to relevant team/agency
	Threshold for exemption based on the definition is too high.	Noted – referred to relevant team/agency
	Increase threshold trigger from 50m to 100m to allow for customer connections to occur within the bounds of its existing network operations.	Noted – referred to relevant team/agency
	Introduce threshold trigger of not more than 500m to support the maintenance of existing network capacity to allow minor routine network works to occur within the	Noted – referred to relevant team/agency

	bounds of its existing network operations	
Regulations - EIS	Proposals likely to cause significant decline in biodiversity of the site or area, decline in a number of species regardless of EPBC assessment, clearing of native vegetation or a decline in mature native trees should undertake an EIS.	Noted – referred to relevant team/agency
	New roads or duplications should be subject to full EIS prior to being approved by government.	Noted – referred to relevant team/agency
	Entities should be consulted regardless of who is proposing the development	Noted – referred to relevant team/agency
	ESOs should be given by the Conservator of Flora and Fauna, or the EPA or other relevant expert on environmental matters, not the Territory Planning Authority.	Noted – referred to relevant team/agency
Entity referral and response	Should be no time limit for referrals to ensure proper assessment of risks.	Noted – referred to relevant team/agency
Exempt Development - Overshadowing and Solar Envelope	Shadow diagrams should be required for exempt declarations. Neighbours should be able to view these diagrams.	Noted – referred to relevant team/agency
	Southern neighbour should have access to ACAT review.	Noted – referred to relevant team/agency
	Solar Diagrams have several issues and their use should not be elevated above Solar Envelope.	Noted – referred to relevant team/agency

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	Assessment of shadow diagrams should be consistent and transparent across different zones and situations so assessment of requirements is clear, including what is considered a 'reasonable' amount of shade.	Noted – referred to relevant team/agency
	Clarify whether tree shadows are included.	Noted – referred to relevant team/agency
	Improvements should be made to the existing Solar Envelope.	Noted – referred to relevant team/agency
	Construction tolerances provisions should be simplified.	Noted – referred to relevant team/agency
	General Regulation should require "No external shades to project beyond any relevant solar building envelope".	Noted – referred to relevant team/agency
Renewable energy	Clarify expected greenhouse gas emissions assumptions under section 26 of the General Regulations.	Noted – referred to relevant team/agency
Lease Variation Charge exemption	University of Canberra should be explicitly provided an LVC exemption in the Regulation.	Noted – referred to relevant team/agency
	Change definition of a Club in the Territory Plan to allow additional land uses in line with existing zone objectives and permitted uses without paying LVC.	Noted – referred to relevant team/agency
Consultation and engagement	Support directly adjoining neighbours being made aware of the existence of an exemption declaration application, however this should not extend to consultation rights, opportunities to object or any obligation on the proponent to demonstrate that notification has been completed.	Noted – referred to relevant team/agency
	DAs relating to nominated places or objects should be referred to the ACT Heritage Council.	Noted – referred to relevant team/agency

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Regulations - Fencing	Standardise fencing regulations.	Noted – referred to relevant team/agency
Regulations - Signage	Consider rewording and using existing exemption for 'existing minor utility or telecommunications service infrastructure'	Noted – referred to relevant team/agency

What’s Next?

Following our engagement on the draft Planning Bill, we have reviewed all feedback and made changes to the proposed legislation where necessary and appropriate. The draft Planning Bill has now been presented to the ACT Legislative Assembly.

If passed, the Planning Bill will become the *Planning Act 2022* and will replace the [Planning and Development Act 2007](#). We anticipate the new *Planning Act* will commence in 2023. The Planning Act is the first of the key reform initiatives. The community will also be invited to engage with two more key reform initiatives—the new Territory Plan and the new district strategies that are currently being prepared.

Follow the planning reform webpage on [YourSay Conversations](#).

To find out more about other initiatives, policies and projects in Canberra visit www.yoursay.act.gov.au.

Key Timings	Status
Review phase of the planning system review and reform project – 2019-2021	Complete
Reform phase of the planning system review and reform project – 2021 - ongoing	Ongoing
Engagement on new Planning Bill – March–June 2022	Complete
Presentation of Planning Bill to the Legislative Assembly – End 2022	We are here
Engagement on new district strategies and Territory Plan – Nov 2022–February 2023	Upcoming