

2022

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

PAPER FOR TABLING

YOUR SAY REPORT – RIGHT TO A HEALTHY ENVIRONMENT – REPORT ON WHAT WE HEARD

**Presented by
Tara Cheyne MLA
Minister for Human Rights
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Right to a Healthy Environment

REPORT ON WHAT WE HEARD

Recognising a right to a healthy environment in the Human Rights Act 2004

In the Parliamentary and Governing Agreement for the 10th Legislative Assembly, the ACT Government committed to considering the inclusion of a 'right to a healthy environment' in the *Human Rights Act 2004* (Human Rights Act).

We sought community views on how the right to a healthy environment could be included in the Human Rights Act and what the content of the right could be.

Discussions on introducing a new right to a healthy environment in the ACT are taking place in the context of the Territory's long-term commitment to protecting human rights, the importance of the environment in determining outcomes for human health and wellbeing and the increasing urgency to act on climate change.

In July 2022 the UN General Assembly recognised the right to a clean, healthy and sustainable environment as a human right in a resolution which was endorsed by a majority of member States, including Australia. The resolution reinforces the ACT approach to focusing on this right.

THE CONVERSATION

We held a conversation online, face-to-face and directly with stakeholders from 30 June 2022 to 31 August 2022.

We opened the conversation online on YourSay with a Discussion Paper and survey to hear directly from the Canberra community and stakeholders. We sought views on the implications, benefits and challenges of protecting the right to a healthy environment and other wider considerations for implementation.

We also held a Panel Discussion 'Right to a Healthy Environment' on 30 June 2022 with invited speakers representing different perspectives and experiences across First Nations, business, property and development, human rights and environmental justice.

In addition to our online and public conversations, we have met with and consulted key stakeholders engaged in environment protection and environmental law advocacy.

WHO WE ENGAGED

During the conversation we heard from organisations engaged in advocacy for human rights and the environment within the ACT and nationally. We also heard from organisations involved in community initiatives regarding the environment and organisations that represent the interests of people with chronic health conditions impacted by the environment.



Specifically, we heard from organisations and individuals representing the interests of the environmental movement; the community sector; healthcare providers; human rights law advocates; the business and property sectors; ACT community councils, Aboriginal and Torres Strait Islander health research; and community health research.

Key insights from the consultation

Recognising a right to a healthy environment in the Human Rights Act

- There was strong support from participants for recognising a right to a healthy environment in the Human Rights Act.
- It is important to put people and community at the centre of decisions relating to the environment and to recognise the interdependent relationship between human wellbeing and the environment.
- Participants considered that a range of benefits would flow from recognising the right to a healthy environment as a stand-alone right: this would address gaps and build on existing environmental laws; encourage more ambitious climate actions; greater awareness and dialogue about environmental impacts and promote awareness of the cultural rights of Aboriginal and Torres Strait Islander peoples.

Scope and content of the right to a healthy environment

- Some participants suggested a specific definition to avoid ambiguity, as well as including protection of the environment for present and future generations.
- Other participants said that it was important for the definition to be broad enough so as not to limit the interpretation of the right.
- Participants emphasised that there is as yet no binding international law instrument that contains a right to a healthy environment and some consider the scope of the right not yet settled. As such, the evolving landscape of international law is a primary consideration in defining the right broadly.
- Some participants said that there should be consultation with First Nations people and consideration of collectivist world views, the cultural significance of 'country' and traditional land management practices.

Duties on government

- In implementing the right, participants considered that government should ensure that human rights and environmental impacts are considered first in decisions, in particular those relating to planning and development.
- Submissions emphasised the responsibilities of government to protect present and future generations from environmental harms.
- Some participants considered that the right should not be defined as an Economic, Cultural and Social (ESC) right that is subject to progressive realisation as there were concerns that this may create ambiguity in implementation.
- There was some support for strengthening mechanisms in the Human Rights Act and other legislation regarding access to information and public participation in decisions about the environment as part of implementing the right to a healthy environment.



Additional duties regarding specific groups

- Participants told us that the law should: recognise impacts of environmental harms are more severe for vulnerable groups; provide for equitable participation and address barriers to exercising human rights; improve accessibility to nature; support community groups to enable vulnerable populations to engage with nature.
- Participants said that we should include Aboriginal and Torres Strait Islander people in decision-making processes regarding lands, waterways and resources; employ a decolonising approach to environmental decision making; prioritise cultural land management practices; and invest in Aboriginal and Torres Strait Islander led projects and initiatives.

Fulfilling the right to a healthy environment

- A number of participants noted that we should ensure access to effective remedies for environmental harms by introducing accessible human rights complaints mechanism or enabling third parties to seek merits review of environmental decisions.
- Submissions also suggested that we should establish baseline standards, such as air quality and green space, and monitor and enforce compliance; audit existing laws and policies against the obligations of the right as part of implementation.
- Some participants considered that we should extend the Human Rights Act to cover other ESC rights including right to health and right to housing.

WHAT'S NEXT?

The Government intends to introduce a right to a healthy environment to our Human Rights Act in this term of Parliament. The next step is for the Government to closely and carefully consider the policy issues and options that this consultation has brought forward. This work will commence in the first half of 2023.

You can register to receive Right to a Healthy Environment Project updates at:

<https://yoursayconversations.act.gov.au/right-healthy-environment>

To find out more about the Right to a Healthy Environment Project and other initiatives, policies, and projects in Canberra visit <www.yoursay.act.gov.au>

Key Timings

Step 1 – February-June 2022

Government stakeholders convene Inter-Directorate Committee to scope the project.

Step 2 – 30 June-31 August 2022

YourSay Consultation opens and public consultation commences

Step 3 – November 2022

Public release of consultation report.

Step 4 – November 2022

Government reports to the ACT Legislative Assembly, with a commitment to introduce a right to a healthy environment in this term of parliament.

**THANK YOU FOR YOUR FEEDBACK****566**

We reached 566 people via YourSay

3

We delivered 3 presentations to 46 people

22

We received 22 written submissions

40+

We sent emails to over 40 organisations and community groups

340+

Downloads of the Discussion Paper from YourSay

40

We received 40 items of written feedback

Right to a Healthy environment consultation summary

Key themes



What participants said about what a healthy environment means to them

1. External environments must be healthy enough to sustain a diversity of life. Internal environments must be of a sufficient quality to protect the inhabitants from external environmental factors like extreme temperatures, weather events and air quality.
2. Knowing that our homes, workplaces and outside spaces that we live our lives in are safe for our bodies, minds and spirits; free from toxic chemicals and pollutants. Additionally, knowing that our lands and waters are well-looked after using First Nation practices.
3. The right for an individual or group to freely partake in the environment for work or recreation. The right for an individual or group to enjoy a natural landscape free from minimal human impact.
4. Right to clean air, water, soil, and sanitation facilities.
5. Clean air, water and land; strong flora fauna.
6. To have a self-sustaining natural environment that can reasonably be expected to still be there several human generations later.
7. Having a reasonable expectation that the areas in which we live and work are clean, safe and not dangerous.
8. Opportunity to live in a place that is not affected by polluted air, water and soil, unliveable temperatures and the degradation of the place's natural habitats.
9. The need for places and spaces that nourish peoples lives.
10. We are directly impacted by our surroundings, so a right to a healthy environment is connected to our rights to personal health and safety. We are entitled to thrive and develop in a sustainable fashion. To facilitate this, we require a healthy, sustainable and diverse environment.
11. The right to rely on the environment being free from adverse human impacts, be they over development, pollution and contamination, climate change, restricted access, or other environmental degradation.

18 Responses
17 individual
1 on behalf of children

Respondents

