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Ms Joy Burch MLA

Speaker

ACT Legislative Assembly

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Dear Madam Speaker

Joy

On 13 March 2024, the Standing Committee on Planning, Transport and City Services (the Committee) tabled Report No. 16: *Inquiry into the Territory Plan and other associated documents* (the report).

In accordance with the Standing Order 254B, within four months of the presentation of the report, a response must be tabled in the Legislative Assembly, or provided to the Speaker for out of session circulation to members. In this case the Government response is due by Monday, 8 July 2024.

The Government Response addresses the 30 recommendations from the Committee which largely relate to the policy goals of the new planning system. It does not respond to the additional recommendations presented in Appendix E or Appendix F of the report. Of the 30 recommendations provided, the Government Response agrees in principle to thirteen, agrees to nine, notes five and disagrees with three.

Please note, the final Territory Plan and other associated documents will be tabled during the 27-29 August 2024 sitting week, alongside the Government response. It is noted that the proposed final Territory Plan includes minor clarification and editorial changes to the Territory Plan in response to internal and external feedback received. The changes made are consistent with the overall policy intent of the Territory Plan and other associated documents.

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Once tabled, the Legislative Assembly may, by resolution, approve an amended version of the Territory Plan or agree to confirm the interim Territory Plan as the Territory Plan. Once approved by the Legislative Assembly, I, as Minister for Planning, will set a commencement date for the final plan. It is anticipated that the final Territory Plan will commence prior to the 2024 ACT General Election.

I thank the Committee for their recommendations regarding the Territory Plan and other associated documents. I trust that the Committee will be satisfied with the Government response to the report, as well as the actions taken to further strengthen the new planning system. Please see attached the Government response for out of session circulation to members.

Thank you for your assistance with this matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Steel', is positioned above the typed name.

Chris Steel MLA
8 July 2024

2024

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

TENTH ASSEMBLY

**Standing Committee on Planning, Transport and City Services - Report No 16 -
Inquiry into the Territory Plan and other associated documents**

Government Response

**Presented by
Mr Chris Steel MLA
Minister for Planning
July 2024**

Introduction

The ACT Government thanks the Standing Committee on Planning, Transport and City Services of the Tenth Assembly (the Committee) for the recommendations put forward in Report No. 16 regarding the inquiry into the Territory Plan and other associated documents.

The Territory Plan sets out a statutory framework (informed by strategic planning) for the future development of the ACT and is primarily used to decide development applications and to make other planning related decisions (such as decisions about the zoning and the use of land). The final Territory Plan is a key element of the new planning system, along with the *Planning Act 2023* (Planning Act) and nine district strategies. The 30 recommendations provided by the Committee relate to the policy goals of the new planning system.

The parts of the Territory Plan subject to this inquiry include:

- Part A – Administration and Governance
- Part B – Territory Plan Maps
- Part C – Planning Principles and Strategic Links
- Part D – District Policies
- Part E – Zone Policies
- Part F – Other Policies
- Part G – Dictionary

The other associated documents to the Territory Plan subject to this inquiry include:

- Design Guides
 - Housing Design Guide
 - Urban Design Guide
 - City Centre Urban Design Guide
 - Biodiversity Sensitive Urban Design Guide
- Planning Technical Specifications
 - District specifications
 - Zone specifications
 - Other specifications

In addition to the documents listed above, the Committee's inquiry also examined Variation 369 to the Territory Plan, which was approved by the Minister for Planning and Land Management in May 2022 and relates to living infrastructure on development sites in the ACT. This includes investigation of how Variation 369 and the ACT Government's commitments to Living Infrastructure targets are embedded in the Territory Plan, as per the Committee's earlier commitment to inquire into its implementation within 12-18 months of its commencement.

ACT Government Response to the Standing Committee on Planning, Transport and City Services - Report No 16 - Inquiry into the Territory Plan and other associated documents

Recommendation 1

The Committee recommends that the ACT Government look to simplify and clarify searching and navigation as soon as possible.

Government Response: AGREED IN PRINCIPLE

The Environment, Planning and Sustainable Development Directorate (EPSDD) is continually improving the website to simplify and clarify searching and navigation based on government, industry and community feedback. EPSDD will monitor and review the appropriateness, useability and accessibility of education and support resources on the ACT planning system, including frequently asked questions, factsheets, guides and case studies.

EPSDD is continuing to prioritise document accessibility in-line with the principles of good consultation as outlined in the Planning Act. As the Territory Plan is hosted on the Legislation Register, limited changes to the searching and navigation functions of the Legislation Register are possible.

Recommendation 2

The Committee recommends that the Planning Authority ensure that Development Application templates be made available online.

Government Response: AGREED IN PRINCIPLE

EPSDD is currently investigating ways to improve online access to, and availability of, Development Application (DA) templates. EPSDD acknowledges the benefits of making DA templates available online and will continue to work through limitations to achieving this. Access to DA templates will also be considered as part of navigation improvements to the website (see Recommendation 1).

EPSDD have commenced a project to replace the online system used to lodge and administer DAs (eDevelopment). The aim of the project is to streamline and improve the lodgement and assessment process for many planning applications – this will include the digitisation of these templates when an applicant makes a DA.

It is noted that EPSDD published the Minimum DA Documentation Guideline, which outlines all documentation required to be submitted to support a DA, prior to the new planning system commencing. Among the updated documentation requirements was the need for a Development Outcomes Report and Design Response (if applicable), to replace a Statement Against Relevant Criteria required under the old planning system.

Recommendation 3

The Committee recommends that the Territory Planning Authority clarify how the Territory Plan works and how it relates to the Design Guides and technical Specifications.

Government Response: AGREE

From September 2023 to May 2024, EPSDD delivered a training and education program to support Canberrans transition from the previous planning system to the new outcomes-focused planning system. This included developing resources to support implementation of the new planning system and improve system user clarity. Live training sessions were offered online and in-person, and all sessions are now available to stream on the planning website. Training sessions include 'Design guides and planning technical specifications', 'Achieving better design outcomes' and 'Submitting a DA'.

Educational resources including frequently asked questions, factsheets, guides and case studies are available on the planning website and are updated to support the implementation of the planning system. These resources include advisory notes on planning technical specifications and design guides in the planning system, case studies on the Biodiversity Sensitive Urban Design Guide and factsheets for different development types, which outline when to consider the planning technical specifications and design guides and which design guides apply to different development types.

An interim evaluation of the training and education program was conducted midway through the program to shape training content delivered in 2024. Following completion of live training in May 2024 a final evaluation of the program was conducted and will be used to inform any future training and education.

EPSDD is committed to improving public availability of information, including where mandatory and non-mandatory requirements apply. The existing governance structure, including how the Territory Plan works and how it relates to the design guides and planning technical specifications is contained within the Territory Plan 2023 (Territory Plan).

Recommendation 4

The Committee recommends that the ACT Government continue the new planning system hotline for at least 12 months to assist community and the industry to access assistance and information about the planning system.

Government Response: AGREE

EPSDD will continue to provide support and clarification on the new planning system. The new planning system hotline will continue to operate for at least 12 months. This will include the dedicated hotline phone number and email address.

As of March 2024, the hotline has received 955 enquiries since the public release of the Territory Plan and associated documents on 11 September 2023. Of the 955 enquiries received, 43% of enquiries were

received over the dedicated hotline phone number, 56% of enquiries were received to the dedicated hotline email address and 1% were received through the online Salesforce portal. Since the start of 2024, an average of 25 enquiries have been received weekly.

Recommendation 5

The Committee recommends that the Environment, Planning and Sustainable Development Directorate set accountability indicators and report in the Directorate's Annual Reports against whether the new planning system is delivering better outcomes, including:

- *how many DAs are approved;*
- *how many deviate from technical specifications;*
- *how long DA approval takes;*
- *how many inspections were conducted after construction;*
- *how many inspections found breaches;*
- *what enforcement action was taken; and*
- *which issues caused the highest amount of complaints, appeals and non-compliance.*

Government Response: AGREED IN PRINCIPLE

EPSDD has developed an ACT Planning System Evaluation Framework for the new outcomes-focused planning system, which is available on the planning website and will be implemented over the next five years. Performance indicators that appropriately reflect the outcomes-focused nature of the new planning system will be considered over the life of the framework. For example, it is considered that reporting on the number of DAs that deviate from technical specifications based on data provided by Access Canberra is not a relevant measure of the effectiveness of the new planning system.

Initially, existing EPSDD Strategic and Accountability Indicators will be used as the Framework's headline indicators, which include measures such as the proportion of new residential dwellings within Canberra's existing urban footprint and proportion of significant DAs approved by the delegate. Further performance indicators will be developed and tested over the life of the Framework, including audits of approved DAs for design quality and a survey of proponents to test perceptions of planning system useability and effectiveness. Public reporting on the Framework is proposed on an annual basis to collate relevant information about the planning system's implementation and build on existing reporting, such as EPSDD Annual Reports.

It is acknowledged that some of the indicators referenced as part of this recommendation are contained in Annual Reports prepared by EPSDD and the Chief Minister, Treasury and Economic Development Directorate (CMTEDD). DA statistics, including number of submissions and determinations, are reported by EPSDD as part of Annual Reporting. Additionally, more detailed statistics, including average time to DA decision, the proportion of DAs decided within the statutory timeframe and development typologies, are

available on the planning website. Access Canberra can report on complaints and enforcement, however complaint-based data does not necessarily represent the performance of the Territory Plan.

Recommendation 6

The Committee recommends that the Environment, Planning and Sustainable Development Directorate include in its Annual Report the number of Environment and Planning Forum meetings held, and what feedback and outcomes arose from those meetings.

Government Response: AGREE

EPSDD intends to publish the number of Environment and Planning Forum meetings held, and information about matters discussed at the forum meetings. It should be noted that the Environment and Planning Forum is not a decision-making forum.

The EPSDD Annual Report includes the number of Environment and Planning Forum (EPF) meetings held under output 6.1 Planning Policy. The Secretariat of the Environment and Planning Forum will include a summary paragraph on the EPF webpage of the Planning Website following each meeting.

Recommendation 7

The Committee recommends that the ACT Government provide additional resources to the National Capital Design Review Panel and appropriate levels of support staff such that bookings for prescribed developments receive an effective and efficient response.

Government Response: NOTED

In the 2023-24 Budget, the ACT Government (the Government) provided additional funding towards the National Capital Design Review Panel (NCDRP) and supporting staff. The Government will monitor the effectiveness of the NCDRP and consider whether additional resources are required beyond what has already been provided.

It is noted that the additional funding supports an increased number of sessions being held thereby reducing timeframes for proponents. This can lead to a more efficient DA process, allowing construction to proceed in a more timely and responsive fashion.

Recommendation 8

The Committee recommends that the ACT Government appoint a government landscape architect.

Government Response: NOTED

The Government has considered the independent ACT Planning System Governance Review, and note it found that appointing a Government Landscape Architect was not a priority governance matter as landscape architects are already involved in the planning system (including the DA process). The review also found that the Objects of the Planning Act, the ACT Planning Strategy and other plans and strategies

are the appropriate mechanisms to ensure landscape architecture considerations are given weight in the planning system.

EPSDD and the City Renewal Authority (CRA) employs a range of expertise to support the delivery of its business activities, including suitably qualified landscape architects. The input and direction that is provided by landscape architects for the conservation and protection of the natural environment, and the establishment of sustainable green infrastructure within the urban environment is highly valued across EPSDD and the ACT Government more broadly.

An internal landscape-related advisory committee is in place to provide (non-statutory) expert landscape-related advice on more complex development applications to assist decision-makers. There are also delegates of the Territory Planning Authority who hold landscape architecture qualifications. Additionally, the NCDRP composition includes qualified eminent landscape architects. Design review panel membership is selected from a pool of experts identified for their skills, expertise and track record of achievement in one or more fields relevant to planning, design and development, including landscape architecture.

Recommendation 9

The Committee recommends that 18 months after the commencement of the Territory Plan, the two-pass consultation process for development applications be reviewed to establish whether further consultation reform is necessary.

Government Response: AGREED IN PRINCIPLE

EPSDD has developed an Evaluation Framework for the new outcomes-focused planning system, which is available on the planning website and will be implemented over the next five years. Outcomes identified in the Evaluation Framework and relevant to this recommendation include, but are not limited to:

- Planning system is efficient, accessible, transparent and provides certainty for industry, community and government (short-term outcome)
- Guidance and resources are available to support the development process and improve community awareness (short-term outcome)
- Trust in the Territory Planning Authority and ACT planning system (medium-term outcome)
- Community wellbeing supported (long-term outcome).

Early planning for evaluations under the Framework includes a process evaluation in Year 1 (2024-25) or Year 2 (2025-26) of its implementation, which will consider the extent to which initial implementation and operation of the planning system is effective. This is expected to include a focus on elements of system operation such as accessibility, timeliness, transparency and participation and engagement.

EPSDD will consider the two-pass consultation process for DAs during the Year 1 or Year 2 evaluation. Any short-term (i.e. less than five years) and long-term changes will be considered as part of this evaluation.

Recommendation 10

The Committee recommends that the ACT Government consider how amendments to the Design Guides and Technical Specifications could be subject to a community engagement process.

Government Response: AGREE

The Government agrees to consider how amendments to the Design Guides and Technical Specifications could be subject to a community engagement process. This is particularly relevant to amendments that are considered to have substantial impacts (i.e. changes to provisions), as opposed to minor amendments to improve clarification, address errors or to implement the outcomes of a subdivision design approval. While the Planning Act does not require consultation of changes to these documents, this does not prevent community engagement from occurring.

For example, to deliver urban intensification and regeneration of The Causeway Area, changes to assessment outcomes proposed by Draft Major Plan Amendment A – East Lake – The Causeway Area (DPA-A) were complemented by proposed additions to the Inner South District Technical Specifications. The proposed changes to the Inner South District Technical Specifications were released for comment with DPA-A as part of the public consultation process.

Recommendation 11

The Committee recommends that the ACT Government consider amending the Planning Act 2023 so that major amendments to the Design Guides and Technical Specifications are subject to review and comment by the relevant Assembly Committee.

Government Response: AGREE

The Government agrees to consider whether the Planning Act should be amended to subject major amendments to the Design Guides and Technical Specifications to review and comment by the relevant Assembly Committee.

Amendments to Design Guides and Technical Specifications initiated by Major Plan Amendments may be referred with a Draft Major Plan Amendment to the Standing Committee for consideration of conducting an inquiry, noting it is not currently required by the Planning Act. It is noted that the Committee have the ability to initiate inquiries off their own volition and are not limited to only review and comment on items referred to them for inquiry.

Recommendation 12

The Committee recommends that the Territory Plan be amended (including whether appropriate in the District Policies) to allow more zoning changes in RZ1 than is currently permitted under the Territory Plan.

Government Response: AGREED IN PRINCIPLE

Under the initiatives of the District Strategies, EPSDD is undertaking further research with regards to potential urban regeneration areas which includes areas within the RZ1 zone. The further research will involve analysis to further understand the factors influencing residential development in RZ1 including dual occupancy development.

The new Statement of Planning Priorities commits to consulting with the community and industry on the development of a new 'missing middle' design guide. The development of the draft new guide will inform and support potential changes to the Territory Plan and other policies and regulations, that would enable the development of well-designed, sustainable and affordable missing middle housing in existing residential zones, including townhouses and row houses on RZ1 blocks.

Recommendation 13

The Committee recommends that the Planning and Land Authority report against the outcomes of the dual occupancy reforms including:

- *how many Development Applications for dual occupancies are lodged;*
- *how many are approved;*
- *how many result in new dwellings;*
- *what the net gain of new dwellings is (subtracting knockdown rebuilds); and*
- *the suburbs and areas in which dual occupancies are built.*

Government Response: AGREED IN PRINCIPLE

EPSDD has developed an Evaluation Framework for the new outcomes-focused planning system, which is available on the planning website and will be implemented over the next five years. Initially, existing EPSDD Strategic and Accountability Indicators will be used as the Framework's headline indicators, which include measures such as the proportion of new residential dwellings within Canberra's existing urban footprint and proportion of significant DAs approved by the delegate. Further performance indicators will be developed and tested over the life of the Framework. It is acknowledged that some of the indicators referenced as part of this recommendation are contained in Annual Reports prepared by EPSDD and CMTEDD (Access Canberra).

Key evaluation questions in the Evaluation Framework provide a focus and scope for monitoring, evaluation and reporting over its 5-year life. The Evaluation Framework includes the key evaluation question, 'How well are key government planning policies and priorities being addressed through the planning system?'. This question supports the interrogation of specific policy objectives based on select areas of interest at the time of evaluations, such as how well new dual occupancy development provisions are working. Early planning for evaluations under the Framework indicates the need for a process evaluation in Year 1 (2024-25) or Year 2 (2025-26) of its implementation and a planning outcomes evaluation in Year 5 (2028-29).

EPSDD is currently preparing a DA decision register to assist DA assessing officers to maintain consistency across determinations. While the DA decision register is proposed for internal use only, EPSDD will explore ways to make this information publicly accessible. The data captured will include information regarding dual occupancy development including the number of DAs lodged and approved, as well as the impact to dwelling numbers and location information.

Recommendation 14

The Committee recommends that the Territory Plan be amended to allow higher densities in specific locations, such as RZ2, RZ3 and RZ4 zones, which are close to local shops, adjacent to public transport and community facilities providing opportunities for greater block consolidations that would:

- *permit planning on a 'precinct' basis; and*
- *provide opportunities for greater densities and heights.*

Government Response: AGREED IN PRINCIPLE

Under the initiatives of the District Strategies, EPSDD is undertaking further research and analysis with regard to the residential zonings including RZ2, RZ3 and RZ4. This will involve analysis to further understand the factors influencing residential development and zoning. As described above in recommendation 12, this work will also be informed through the missing-middle design guide. The ACT Government is committed to exploring opportunities for greater densities and heights in well located areas (i.e. Potential Urban Regeneration Areas).

Recommendation 15

The Committee recommends that the ACT Government implement further policy changes to the Territory Plan to encourage community housing or public housing on underutilised community-facility zoned land, like church land, whilst ensuring that we protect recreational and community spaces.

Government Response: AGREED IN PRINCIPLE

There are a range of provisions in the new Territory Plan to encourage community housing or public housing, including on underutilised community-facility zoned land. The new Territory Plan establishes statutory settings which encourage and incentivise new housing supply, particularly in low-density residential suburbs, through relaxing planning restrictions which previously limited or hindered new supply in existing suburbs.

Action 4.A.4 of the ACT Housing Strategy is to: Under the ACT Government Affordable Housing Innovation Fund, facilitate a project to develop community rental housing on underutilised leased community facility land. This action has been achieved. Two successful applicants were selected through Round 2 of the Innovation Fund in the category of Supportive Housing Project on Underutilised Community Facility Land. YWCA Canberra (Yhomes) aims to establish supportive accommodation for older women on a site in

Ainslie and CatholicCare Canberra and Goulburn has developed a model to deliver supportive housing on underutilised community facility land.

EPSDD is currently working with researchers from the University of Canberra on a joint project investigating the potential to maximise the community benefit from underutilised community-facility zoned land. This may lead to future changes to the Territory Plan, however, evidence and data to support community and recreation needs are required prior to any further changes being considered. EPSDD is currently progressing work to undertake a Territory wide community and recreation needs assessment. This information will be used to support ongoing strategic planning work, that may involve further recommendations to government on a variety of land use opportunities, beyond what has been provided for in the Territory Plan and identified in District Strategies.

Recommendation 16

The Committee recommends that the evaluation of initiatives in the Demonstration Housing Project should include an early assessment soon after the occupation/completion of the building so that any learnings can be understood and used to guide any amendments to the Territory Plan.

Government Response: AGREED IN PRINCIPLE

The Government will undertake evaluations of the Demonstration Housing Project initiatives. The Demonstration Housing Project Stage 2 Request For Proposal included a requirement for all successful proponents to partake in evaluation activities. Required evaluation activities include a range of public events, including open houses for selected constructed projects and post occupancy surveys.

The lessons learnt from the Demonstration Housing Project will inform the development of future government policy aimed at improving housing choice and quality across Canberra, including the development of the 'missing middle' design guide.

The development of the draft new guide will inform and support potential changes to the Territory Plan and other policies and regulations, that would enable the development of well-designed, sustainable and affordable missing middle housing in existing residential zones, including townhouses, row houses and duplexes on RZ1 blocks.

Recommendation 17

The Committee recommends that the ACT Government provide an explanation of the barriers that prevent land being sold below market value to Housing ACT for public housing and community organisations for community housing, and explain the effect this situation has on the ability for Housing ACT and community housing organisations to provide public and community housing.

Government Response: AGREE

With respect to barriers that prevent land being sold below market value to Housing ACT, AAPP 112 - ACT Accounting Policy Paper on Accounting For Land Transactions – Transfers Between Act Government Agencies prepared by CMTEDD dated July 2021, Treasury policy requires the Suburban Land Agency (SLA) to sell sites to Housing ACT at market value. While this prevents Housing ACT from acquiring land at below market value, this does not preclude Housing ACT from purchasing land sites for redevelopment as long as funding is available via own-source revenue or through the annual budget process.

Additionally, SLA is bound by section 274 of the Planning Act 2023 which requires leases to be granted at an amount that is not less than the market value of the lease. In the sale of land for public and community housing, leases are issued to the purchaser. SLA is a Public Non-Financial Corporation and is bound by the ACT Government's competitive neutrality policy. The policy requires government business activities or functions to be subject to private sector costing and pricing principles, taxation and dividend requirements and regulations. SLA is therefore required by legislation to sell land to Housing ACT and community housing providers at market value.

As such, the most significant impact to Housing ACT is the time it takes to purchase land, due to delays in the availability of revenue to enable the purchase of land, such as undertaking a budget process before land can be acquired. This has flow-on effects to redevelopments and the provision of public and community housing. Notwithstanding these challenges, Housing ACT will continue to build properties on the land that is made available for purchase.

With respect to land within the CRA precinct, the CRA releases mixed-use development sites that include a variety of land uses and housing typologies on single blocks. These sites would not generally be suitable for dedicated Housing ACT sites as they are typically offered on the open market for a mix of uses. The feasibility of the development would be marginal if this requirement is imposed.

It is noted that there are currently a number of funding programs available for Community Housing Providers to apply for assistance to help develop land for affordable and social housing. These include the Commonwealth's Housing Australia Future Fund, and the ACT Government's Affordable Housing Project Fund.

Recommendation 18

The Committee recommends that the Territory Planning Authority work with the Education Directorate to determine the need for a school in the Belconnen Town Centre.

Government Response: AGREE

Consistent with the Belconnen District Strategy, EPSDD will work with the Education Directorate to determine the need for a school in the Belconnen Town Centre. The Belconnen District Strategy

recognises that further investigation into the demand and potential for new or expanded school facilities is required.

There are existing cross-government processes to determine the need for school facilities. The Education Directorate in collaboration with EPSDD will continue to monitor residential development, population growth and enrolment projections in all ACT districts, including Belconnen. The Government will continue to plan for future demand and capacity across the Territory through early childhood education and care facilities, primary and high schools, and colleges. The Government will include investment in new public schools and upgrades to existing education facilities.

Recommendation 19

The Committee recommends that the Territory Plan should be amended to more firmly embed living infrastructure requirements.

Government Response: NOTED

The Territory Plan includes sustainability and environment related assessment outcomes that require the provision of planting areas, tree canopy cover, deep soil zones and minimising hard surfaces. Additionally, provisions included in the Biodiversity Sensitive Urban Design Guide and the relevant zone technical specifications further strengthen provision of living infrastructure.

The living infrastructure provisions applicable to development in residential zones that were included in the previous Territory Plan have been incorporated into the new Territory Plan and relevant planning technical specifications. In fact, the provisions associated with, and supporting living infrastructure go further in the new Territory Plan compared to the previous Territory Plan. Living infrastructure requirements are further embedded and strengthened in the Territory Plan and associated documents with the inclusion of provisions that apply to commercial and community facility zones. These include new provisions for tree canopy cover, reducing urban heat (cool roof, cool façade, cool paving) and protection from heat (early childhood education and care, educational establishment, residential care accommodation and retirement village). In addition, new living infrastructure provisions have also been included in the Subdivision planning technical specifications related to tree canopy cover, reducing urban heat (cool paving) and protection from heat (playgrounds and public seating).

The current approach to including mandatory and non-mandatory living infrastructure requirements firmly embeds them into the planning system to deliver sustainable development outcomes, while also providing flexibility in how to achieve this based on the specific site context. Development assessment considers living infrastructure requirements, in addition to a range of other matters.

EPSDD has developed an Evaluation Framework for the new outcomes-focused planning system, which is available on the planning website and will be implemented over the next five years. A focus of the

Framework is to work collaboratively across government to gain a better understanding of how well the planning system supports progress towards achieving government planning priorities and objectives, such as targets in *Canberra's Living Infrastructure Plan: Cooling the city*. This can include a review of how the living infrastructure requirements are performing and whether changes are needed to improve sustainability outcomes.

Recommendation 20

The Committee recommends that the ACT Government, where practicable, ensure the protection of biodiversity and conservation areas in the Territory Plan using the framework outlined in the discussion paper Building a Biodiversity Network Across the ACT.

Government Response: AGREED IN PRINCIPLE

The ACT planning system makes provision for the protection of biodiversity and conservation areas in the following ways:

- The assessment outcomes of the Territory Plan zone policies include provisions relating to biodiversity values and conservation for development applications;
- The Biodiversity Sensitive Urban Design Guide (BSUD) will also be considered for relevant development applications; and
- The District Strategies identify a network of green spaces and waterways (blue-green network) to protect environmental and cultural values and enhance sustainability and resilience to climate change in relation to Territory Plan amendments.

The government remains closely engaged with community groups to identify and enhance the ACT's biodiversity network in accordance with the discussion paper. Initial workshops have included members from Community Environmental Groups, ACT Rural Landholders Association and government. The workshops were focussed on identifying protection and management options, as well as identifying potential criteria for inclusion of sites in the network. This work is ongoing, and consideration of these protections will form part of the Nature Conservation Act and Nature Conservation Strategy review processes.

In the ACT Budget 2022-23, the government invested in the Connecting Nature Connecting People (CNCP) initiative that has developed a series of maps that show areas of potential wildlife habitat and the corridors which connect them (i.e. Urban ACT ecological network map). Under the CNCP initiative the Urban Habitat Connectivity Project (UHCP) has delivered fragmentation and potential habitat mapping for seven groups in the urban parts of the ACT.

In addition to and in support of the above, the government is progressing a range of projects to enable improved management of areas of high conservation value including:

- Discussions of how to best improve management of areas of high conservation value on public open space land managed by the Transport Canberra and City Services Directorate;
- Plant Community Type mapping of Urban Open Space, in order to identify and validate areas of high conservation value;
- The Canberra Urban Biodiversity Surveys project, which seeks to identify the biodiversity values of different areas of urban Canberra and validate connectivity mapping, which can be used to inform protected area planning;
- Prioritisation mapping under the Conserving Canberra Initiative, which will seek to use a combination of threats and values, including connectivity mapping, to define high priority sites for restoration; Transport Canberra and City Services Directorate (TCCS), through the Urban Open Space Land Management Plan, is committed to actively seeking opportunities to enhance connectivity with Green and Blue Spaces and Canberra Nature Park; and
- Identifying and formalising suitable blocks of TCCS-managed urban open space to include as future conservation-themed Territory Plan Overlay Zones, can be a discrete project in the early Implementation of the Urban Open Space Land Management Plan and is compatible with existing work mapping and prioritising conservation values outside of the formal reserve system led by EPSDD.

Recommendation 21

The Committee recommends that the ACT Government consider reviewing the Biodiversity Sensitive Urban Design Guide to examine whether it should apply to areas smaller than one hectare in line with the Nature Conservation Act 2014 and the Environment Protection and Biodiversity Conservation Act 1999.

Government Response: NOTED

The Biodiversity Sensitive Urban Design Guide (BSUD) does not override provisions of other laws/requirements including the *Nature Conservation Act 2014* and the *Environment Protection and Biodiversity Conservation Act 1999*. This is particularly relevant to areas smaller than one hectare. For development that triggers consideration of the BSUD, the Territory Plan is also required to be considered.

The government notes that there are resource implications on both applicants and internal technical experts should the triggers for application of the BSUD be expanded. This is particularly relevant to redevelopment sites that may have little to no existing vegetation, where application of the BSUD may place unnecessary administrative burden on the applicant and the officers assessing the development application, without resulting in noticeable benefits to biodiversity.

As part of the evaluation of the new outcomes-focused planning system, consideration can be given to the appropriate triggers for applying the BSUD (for example triggers not related to block size). This would balance the need to improve biodiversity outcomes in the ACT, while not making the development

assessment process unnecessarily onerous for applicants (noting that other laws/requirements applicable to environmental protection continue to apply).

Recommendation 22

The Committee recommends that the ACT Government review the solar fence requirements to ensure that solar efficiency is maximised so as to reduce energy consumption.

Government Response: AGREED IN PRINCIPLE

The new Territory Plan includes an assessment outcome in the Subdivision Policy requiring a subdivision design to achieve reasonable solar access and microclimate conditions for individual blocks to enable the design of sustainable buildings, and to public areas and streets to support their use by the community. This provides a stronger consideration of solar access at subdivision stage than existed in the previous Territory Plan and is intended to improve the solar access outcomes for blocks. It is also intended that this assessment outcome will assist individual houses to comply with solar fence requirements.

As part of the evaluation of the new outcomes-focused planning system, as well as the ongoing review of policies within the Territory Plan, consideration can be given to the effectiveness of the current solar fence requirements. The impacts of solar fence requirements in reducing energy consumption, in conjunction with sustainable building requirements under building legislation, will also be considered.

Recommendation 23

The Committee recommends that the ACT Government provide sufficient resources to relevant directorates and authorities to enforce planning standards and environmental protection to ensure developments are built in line with development application approvals and that tree protection, sediment, construction and other development standards are being met.

Government Response: NOTED

Access Canberra has received funding for additional capability to undertake proactive audits of approved plans and exempt development. Consistent with Access Canberra's Accountability Commitment and Compliance Frameworks, audits will be conducted of a proportion of approved development to ensure that development is being undertaken in a way that is consistent with the DA approved plans, notice of decision and conditions of approval. The audits will identify and address issues, including through compliance and enforcement mechanisms established under the Planning Act.

The *Property Developers Act 2024* was passed by the Legislative Assembly on 27 June 2024. This Act establishes a regulatory scheme that brings property developers into the regulatory chain of accountability for building work they have responsibility for and imposes obligations on them for residential development activity involving a regulated residential building that they undertake.

The scheme, which includes a fit and proper person test and the ability to place conditions on a property developer, provides the Property Developer Registrar (who is also the Construction Licensing Registrar) with the ability to issue stop-work and rectification orders on a property developer including any or all of the following: the person who contracts or arranges for, or facilitates or otherwise causes (whether directly or indirectly) the building work, the owner of the land, and the principal builder (the builder in the commencement notice for the building work). This is done to help make sure developments are built in line with National Construction Code (building code), the relevant Australian Standards or the relevant approved plans for the building work including the development application.

The *Property Developers Act 2024* allows the Registrar to keep and publish the following details about a licensed property developer:

- (a) their registered business name;
- (b) if the licensee operates the business under another name—their business’s trading name;
- (c) details of current and former associated entities of the licensee;
- (d) names of current and former directors for the licensee and associated entities of the licensee including the director identification numbers on the register of licensed property developers;
- (e) their ABN or ACN;
- (f) their licence number;
- (g) the term of their licence;
- (h) any conditions on their licence;
- (i) the status of their licence;
- (j) their address for service;
- (k) any rating information prescribed by regulation;
- (l) the details and status of any—
 - (i) regulatory action taken under part 5 (Licensed property developers—regulatory action) against them or an associated entity; and
 - (ii) action taken under part 6 (Rectification orders, stop work orders and undertakings) against them or an associated entity; and
 - (iii) any regulatory action (however described) taken against them or an associated entity under a relevant law;

(m) past and current residential development activities undertaken by the licensee and their associated entities;

Recommendation 24

The Committee recommends that the ACT Government take steps to ensure there are opportunities for ample green space in areas subject to densification.

Government Response: AGREE

EPSDD will continue to implement current policies and explore opportunities for ample green space in areas subject to densification.

The Territory Plan contains a range of policy and assessment outcomes that seek to deliver development that is resilient to climate change. The Residential Zones Policy includes a range of assessment outcomes related to public space and amenity. For example, private open space and communal open space are required to provide sufficient space and facilities for residents and visitors to recreate and relax, as well as providing area for service functions. Sufficient planting area and canopy trees are also required to be provided, as well as limiting roofed areas and hard surfaces, to reduce urban heat island effects, minimise stormwater run-off and maintain ecosystem services.

Additionally, in relation to major plan amendments the District Strategies identify a network of green spaces and waterways (blue-green network) to protect environmental and cultural values and enhance sustainability and resilience to climate change.

Recommendation 25

The Committee recommends that with respect to rural leases, the ACT Government:

- *Work with the Commonwealth to provide improved tenure outcomes for leases in the Majura Valley;*
- *Finalise the Eastern Broadacre Planning Study and Eastern Broadacre Strategic Assessment; and*
- *Consider incorporating once finalised the Canberra Region Local Food Strategy into the Territory Plan.*

Government Response: AGREED IN PRINCIPLE

The ACT Government is committed to resolving the matter of unresolved leases in the Majura Valley to provide clarity to leaseholders. The ACT Government is progressing negotiations as it relates to leases in the Majura Valley, as well as investigations into establishing new industrial and employment opportunities in parts of the Eastern Broadacre area.

Negotiations between the ACT Government and the Commonwealth Department of Defence are underway on resolving tenure outcomes for leases in the Majura Valley. Recommendations regarding finalisation of negotiations and next steps will be subject to future Government consideration.

The Eastern Broadacre area is identified in the ACT Planning Strategy 2018 and East Canberra District Strategy as a study area for investigations into establishing new industrial and employment opportunities in parts of the area, while considering existing uses of the land and environmental values.

The draft Eastern Broadacre Strategic Assessment (EBSA) has been finalised and is being considered by the Commonwealth Department of Climate Change, Energy, the Environment and Water.

The incorporation of the Canberra Region Local Food Strategy into the Territory Plan is not being considered at this time.

Recommendation 26

The Committee recommends that the ACT Government consider how amendments to DAs submitted under the former planning system can be best handled going forward.

Government Response: AGREE

The Government will consider how amendments to DAs submitted under the former planning system can be best handled going forward. DAs decided under the former planning system (including the transitional arrangements) can satisfy conditions of approval, be reconsidered and appealed under that system.

Pursuant to the Planning Act, DAs made or decided under the repealed Act may be amended under the repealed Act if the applicant asks for the amendment within 6 months of the commencement of the new Act (i.e., by 27 May 2024). After the 6 month period, DAs submitted under the old system will be amended under the new outcomes-based planning system. There must be a cut off of the former planning system.

These arrangements have been regularly communicated to industry during regular meetings (including with Master Builders Association and Housing Industry Association) and have been outlined on the Planning Website since the new planning system commenced. The transitional arrangements also formed part of training on the new planning system that can still be accessed via the Planning Website.

In April 2024, all applicants with an active DA under the old planning system, as well as applicants of recently decided DAs (since 1 November 2022), were contacted by EPSDD to remind them of the transitional arrangements included in the Planning Act.

Recommendation 27

The Committee recommends that the ACT Government consult directly with the traders and owners in the Phillip Service Trades area, with a view to reversing the zoning change that removed residential use from the Phillip Service Trades Area.

Government Response: AGREED IN PRINCIPLE

Consistent with the initiatives of the Woden District Strategy, EPSDD agree to consult with the traders and owners in the Phillip Service Trades Area regarding zoning changes. The Woden District Strategy identifies the Phillip Service Trades Area as a critical component of a diverse economy, providing a wide range of light industrial, service and related activities to serve the surrounding district.

Recommendation 28

The Committee recommends that the Planning Authority amend the Inner South District Strategy to reinstate the Forrest laneway and incorporate it into the District Strategy or the Territory Plan.

Government Response: DISAGREE

The Inner South District Strategy includes a guiding principle to provide a publicly accessible pedestrian path between Dominion Circuit and National Circuit at Section 19 Forrest. Further illustration of the Forrest laneway in the Inner South District Strategy is not considered necessary because it is stated in the guiding principle for this area.

Pursuant to the Inner South District Strategy, Section 19 Forrest is identified as a key site and Category 2 change area, suitable for a range of residential and non-residential uses, with change anticipated to occur over the next 0-10 years (subject to detailed planning and consultation). The Inner South District Strategy states that a full investigation of planning, environmental, infrastructure and traffic issues should be undertaken for Section 19 Forrest, including consideration of the publicly accessible pedestrian path.

Recommendation 29

The Committee recommends that the Inter-Town Public Transport Routes should be included in the Territory Plan 2023.

Government Response: DISAGREE

It is noted that the previous Territory Plan represented Inter-Town Public Transport (IPT) routes to demonstrate key spines of Canberra's public transport system that directly link the city to the town centres of Belconnen, Woden, Tuggeranong and Gungahlin. The IPT routes terminology however is no longer referred to in the ACT Transport Strategy 2020 which instead provides consistent direction for prioritising central links for public transport corridors and includes a map of current and future Rapid Bus and Light Rail connections.

The IPT routes in the Territory Plan have been effectively superseded by the inclusion of current and future Rapid and Light Rail connections into District Strategies. The District Strategies provide a more

nanced and localised approach to transport planning, reflecting the specific needs and characteristics of each district within Canberra.

By embedding public transport routes within District Strategies, development can respond and tailor solutions to address the unique requirements of different areas, taking into account factors such as population density, land use patterns, and existing infrastructure. This approach allows for greater flexibility in adapting to evolving transport needs and changing development scenarios.

Given the broader scope and strategic focus of District Strategies, there is little justification for maintaining a separate layer for IPT routes in the Territory Plan. Consolidating transport planning within District Strategies streamlines decision-making processes, avoids duplication of efforts, and promotes synergies between different planning initiatives.

In a situation where a proposed development may jeopardise the future provision of a separated right-of-way within the road reserve, TCCS would anticipate that TCCS as a referral entity, would make this assessment and provide comments as part of the strategic planning and development assessment review process.

Recommendation 30

The Committee recommends that the Planning Act 2023 be amended to include referral of the Territory Plan to the relevant Legislative Assembly Committee at least three years, and no more than five years, into its operation for consideration of the conduct of an inquiry.

Government Response: DISAGREE

The Territory Plan is subject to ongoing review as part of iterative changes, including Major Plan Amendments. Pursuant to the Planning Act, changes to the Territory Plan initiated by Major Plan Amendments are required to be referred to the Standing Committee for consideration of conducting an inquiry.

As a commitment to continuous improvement, Major Plan Amendments to the Territory Plan are required to align with District Strategies that are required to be considered by the Executive for review every five years. Additionally, the Act requires the Minister to decide whether the Territory Plan should be reviewed by the Territory Planning Authority every five years. The Act also requires the Minister to review the operation and effectiveness of the Act and present a report of the review to the Legislative Assembly 3 years after commencement.

EPSDD is currently developing an Evaluation Framework for the new outcomes-based planning system, which will be implemented over the next five years. Accountability indicators that appropriately reflect the outcomes-based nature of the new planning system will be considered.