



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Peter Cain MLA (Chair), Dr Marisa Paterson (Deputy Chair), Mr Andrew Braddock MLA

Submission Cover Sheet

Inquiry into Human Rights (Healthy Environment) Amendment Bill 2023

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Standing Committee on Justice and Community Safety
ACT Legislative Assembly
CANBERRA ACT 2601
By email: LACommitteeJCS@parliament.act.gov.au

1 December 2023

Dear Standing Committee,

RE: Submission to the Inquiry into the *Human Rights (Healthy Environment) Amendment Bill 2023 (ACT)*

The Australian Land Conservation Alliance (ALCA) welcomes the opportunity to provide a submission to the Standing Committee on Justice and Community Safety's Inquiry into the *Human Rights (Healthy Environment) Amendment Bill 2023*.

ALCA is Australia's peak national body for private land conservation. We represent organisations that conserve, manage, and restore nature on land, either as direct stewards or in partnership with other landholders.

ALCA welcomes the Bill and strongly supports the legislation of the right to a healthy environment. However, we note with disappointment that the public authority actions have been exempted from the operation of the right, and, whilst recognising that the ACT Government may require some additional time to adjust their policies and process to accommodate this new right, are also disappointed that no sunset provision has been included to end this exemption.

Please note that ALCA is happy for this submission to be published in full.

Recommendations

That the Standing Committee:

1. Support the passage of the *Human Rights (Healthy Environment) Amendment Bill 2023*.
2. Noting that new legislation would currently be required to remove the exemption of public authorities from the right to a healthy environment, explicitly sunset the exemption provision (i.e., new subsection 40C (5A)) 6 years (or sooner) after it commences.

6 years should provide sufficient time for the ACT Government to amend the *Human Rights Act 2004* – should it need to – following the review of right to healthy environment (new section 43), but reverses the presumption, requirement, and potential inertia for new legislation to remove the exemption.

ALCA therefore suggests the following amendment (additions in **bold**):

(5A) This section does not apply to a claim that a public authority has acted in contravention of section 40B if the contravention claimed is—

- (a) that the public authority acted in a way that is incompatible with the human right set out in section 27C (Right to a healthy environment); or
- (b) in making a decision, the public authority failed to give proper consideration to the human right set out in section 27C.

This subsection expires 6 years after the day it commences.

3. Whilst ALCA would prefer an explicit reference to the right to healthy biodiversity and ecosystems (as noted in our original submission to the ACT Government consultation)¹, the following amendment would be highly valuable in directing attention to the work of the Special Rapporteur on Human Rights and the Environment² on the six substantive elements of the right as outlined – and intended – within the Explanatory Statement to the proposed Bill:

[Under Schedule 2, new note]

The primary source of the right in s 27C is the United Nations General Assembly, *The human right to a clean, healthy and sustainable environment*, A/RES/76/300 (28 July 2022).

A secondary source of the right in s 27C is the Human Rights Council, Special Rapporteur on Human Rights and the Environment, *Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, A/74/161 (15 July 2019).

4. ALCA encourages the ACT Government to make publicly explicit its intent that the ACT Government, despite the exemption for public authorities, will seek to proactively deliver the right to a healthy environment, including an explicit reference to the six substantive elements listed by the UN's Special Rapporteur on Human Rights and the Environment (including to healthy biodiversity and ecosystems).

Thank you again for the opportunity to contribute to the Standing Committee's Inquiry into the *Human Rights (Healthy Environment) Amendment Bill 2023*.

If you have questions regarding the submission, please do not hesitate to contact ALCA (Mr Michael Cornish, Policy Lead).

Yours sincerely,

Dr Jody Gunn
Chief Executive Officer
Australian Land Conservation Alliance

¹ See: <https://alca.org.au/alca-submission-to-the-act-government-on-the-right-to-a-healthy-environment/>, August 2022

² See: <https://digitallibrary.un.org/record/3814570?ln=en>

About the Australian Land Conservation Alliance

The Australian Land Conservation Alliance is the peak national body representing organisations that work to conserve, manage, and restore nature on privately managed land. We represent our members and supporters to grow the impact, capacity, and influence of private land conservation to achieve a healthy and resilient Australia.

Our seventeen members are:

- Arid Recovery
- Australian Wildlife Conservancy
- Biodiversity Conservation Trust NSW
- Bush Heritage Australia
- EcoGipps
- GreenCollar
- Greening Australia
- Landcare Australia
- Nature Foundation
- NRM Regions Australia
- Odonata
- Queensland Trust for Nature
- South Endeavour Trust
- Tasmanian Land Conservancy
- The Nature Conservancy Australia
- Trust for Nature (Victoria)
- World Wildlife Fund - Australia

ALCA member land conservation efforts have influenced over 3 million square kilometres with more than 4,000 landholders. We have over 70,000 supporters and our combined annual turnover exceeds \$325 million. Together ALCA and its members address some of the most pressing conservation issues across the country, including restoring endangered ecosystems, building the protected area estate, tackling invasive species, expanding private conservation finance, and funding and using nature-based solutions to tackle climate change.

Through their active land management, ALCA member organisations are deeply embedded in rural communities and economies, providing jobs, securing significant regional investment, and safeguarding remaining native habitat, with its many positive spill-over effects for community, wellbeing, and food security. We seek to demonstrate the role and value of private land conservation as a cornerstone of the Australian economy.

Some ALCA members are statutory entities; the views expressed in this submission do not necessarily represent the views of the Government administering those statutory entities.