

19 April 2014

The Committee Secretary
Standing Committee on Planning, Environment and Territory and Municipal
Services,
Legislative Assembly for the ACT

By email: committees@parliament.act.gov.au

Planning and Development (Project Facilitation) Amendment Bill 2014.

Dear Ms Morrison

I have not had time to read the full Bill in detail. Based on the information I have seen, the Bill would qualify a proposal to move all of the Territory's asbestos waste to the Heritage-listed Northbourne Oval as a project of major significance because:

- it would achieve the substantial public benefit of removing asbestos from many sites around the ACT;
- it would be of major economic significance, and also of major environmental significance.

While I genuinely doubt that the Bill would be used to allow such a project, it highlights some of possibly many issues that arise from the rushed preparation of this Bill, including:

- the importance of requiring a project to have a substantial overall public benefit;
- the distinction between on the one hand a project that is of major economic, social, cultural or environmental significance, and on the other hand a project that is of major benefit.

I support Mr Coe's call for a proper review of the Act, and I attach on the following page some more detailed comments

With my best regards



Leon Arundell

Attachment 1: Specific comments on the Planning and Development (Project Facilitation) Amendment Bill 2014.

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The larger and more important a development, the more likely it is to have significant economic, social, cultural, environment and heritage impacts. Given that, I have difficulty with the idea that the environment and heritage impacts of large and important developments should be subject to less scrutiny than those of smaller and less important developments.

I hope that others, who are more familiar than I with that aspect of the Bill, will review this issue in more depth.

I have analysed the aspects of the Bill that relate to an issue with which I am more familiar – Technical Amendments to the Territory Plan. I have concluded that, in relation to Technical Amendments to the Territory Plan, the Bill:

- creates a new category of Special Amendments, which comprise those (former) [Technical Amendments](#) for which a 20 working day Limited Consultation period was (and will continue to be) required.
- reduces the Technical Amendments category to [Technical Amendments](#) for which [no consultation](#) was formerly required.
- will now require Full Consultation (under Division 5.3.2 of the Act) for the remaining Technical Amendments (which formerly required no consultation), because Section [88](#)(2) has been deleted. I suspect that this deletion was unintended.
- I have been advised that the content of S. 88(2) has in effect been relocated to s.89. However, I find nothing in s.89 that over-rides the consultation requirements of Division 5.3.2 of the Act, other than for Special Amendments.

My analysis also identifies some systemic issues:

- the lack of a summary in the [explanatory statement](#). There is no mention until page 7 of changes to Technical Amendment provisions.
 - The absence of a comparative table that would allow readers to compare the proposed legislation with the existing legislation;
 - Increasing reliance on the Environment and Sustainable Development Directorate to ensure that planning laws are complied with.
- the Directorate currently places high reliance on the public (including Community Councils) to identify – and in some cases to address – non-compliance with planning laws. Based on advice from the Directorate's audit team, I estimate that between 20% and 100% of Development Applications and Building Applications are non-compliant. Any reduction in the scope for public input is likely to increase the rate of non-compliance.