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Manager of Government Business
Minister for Planning and Land Management
Minister for Police and Emergency Services
Minister for Corrections
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Member for Brindabella

23/211

Mr Peter Cain MLA
Chair
Standing Committee on Justice and Community Safety

scrutiny@parliament.act.gov.au

Dear Mr Cain 

I write in response to comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) in its *Scrutiny Report 29* in relation to the Government Amendments to the *Planning Bill 2022* (the Bill).

I thank the Committee for its comments relating to the Government Amendments. The Committee's comment requesting a response is addressed below.

Design Guides

The Committee expressed concern that design guides may substantially affect the requirements for development approvals and potentially act as a legislative requirement for which insufficient scrutiny is provided and requested further information as to why design guides cannot be subject to disallowance by the Legislative Assembly.

Design guides provide design guidance for development proposals to encourage better planning and built form outcomes. The design guides will help applicants and decision makers to interpret and apply the assessment outcomes contained in the Territory Plan. The Territory Plan, which sets the requirements, is subject to scrutiny by the Legislative Assembly.

Design guides are intended to improve the planning and design of streetscape, public space and residential development in the ACT and to protect and enhance biodiversity, which will result in better designed building for Canberrans across the Territory. Design guides will need to be considered by applicants and considered by the Territory Planning Authority (the Authority) pursuant to section 183 (aa) of the Bill, as part of the development application and assessment process.

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Under section 49 (2) of the Bill, design guides were proposed to be a form of supporting material to the Territory Plan to assist readers in understanding and applying the Territory Plan. Section 49 of the Bill currently before the Legislative Assembly for consideration does not require the notification of supporting material other than their publication on the Authority website.

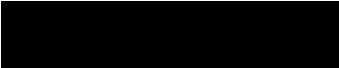
The Government amendments propose to separately establish design guides within the planning legislation under section 49A of the Bill through a notifiable instrument made by the Minister. This change is proposed to afford greater prominence to the guides and encourage their use where appropriate.

Design guides are not established to provide minimum legislative requirements that an applicant must meet in order to obtain development approval. Rather, they are intended to guide applicants to deliver better planning and built form outcomes (consistent with the Territory Plan) by providing benchmarks and best practice principles for design and assessing how a development responds to the design guide's key themes. Where an applicant can satisfy the relevant assessment outcome in the Territory Plan and deliver a better planning or built form outcome through an alternate approach to the design guidance, this would be considered by the Authority on its merits. As the Committee would be aware, the Bill seeks to deliver an outcomes focused planning system for the Territory which would not be supported through the application of a mandatory metric-based design framework.

Consideration was given to establishing design guides through a disallowable instrument. However, given the technical nature of the guides and their content and that they are to be consistent with the Territory Plan, it was not considered necessary for Legislative Assembly input or oversight. The design guides have been drafted following consideration of national and international best practice, with input from planners with expertise in a wide range of design principles.

I trust that this response addresses the Committee's comment in relation to the Bill.

Yours sincerely


Mick Gentleman MLA
Minister for Planning and Land Management

30/5/2028