

2023

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

PLANNING AND ENVIRONMENT LEGISLATION AMENDMENT BILL 2023

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004*, s 37)**

**Presented by
Mick Gentleman MLA
Minister for Planning and Land Management**

PLANNING AND ENVIRONMENT LEGISLATION AMENDMENT BILL 2023

INTRODUCTION

This explanatory statement relates to the Planning and Environment Legislation Amendment Bill 2023 (the **bill**) as presented to the Legislative Assembly. It has been prepared to assist the reader of the bill and to help inform debate. It does not form part of the bill and has not been endorsed by the Legislative Assembly.

The statement must be read in conjunction with the bill. It is not, and is not meant to be, a comprehensive description of the bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

This bill is not a Significant Bill. Significant bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004* (the HRA).

OVERVIEW OF THE BILL

This bill is an omnibus bill to enable minor legislative amendments related to the portfolio responsibilities of the Environment, Planning and Sustainable Development Directorate (EPSDD) to be dealt with expediently and to consolidate amendments into one place, making the amendment process more accessible. The omnibus bill process helps the government to be agile and responsive to changing circumstances and to make sure that the statute book remains clear, concise and up-to-date.

The purpose of the bill is to make a range of amendments to the:

- *City Renewal Authority and Suburban Land Agency Act 2017*;
- *Dangerous Substances Act 2004*; and
- *Government Agencies (Land Acquisition Reporting) Act 2018*.

The amendments in the bill:

- enable the City Renewal Authority to undertake repairs and upgrades to the Sydney and Melbourne Buildings in agreement with owners;

- clarify requirements for advice about the likely location of asbestos in buildings built or started before 1985, to instead provide advice for buildings before 1990; and
- exempt the reporting of land acquisitions from registered community housing providers.

CONSULTATION ON THE PROPOSED APPROACH

As the bill is an omnibus bill designed to make minor and technical changes to various pieces of legislation, consultation on the bill was conducted internally with ACT Government directorates, including the City Renewal Authority, Treasury and the Human Rights Unit in the Justice and Community Safety Directorate.

CONSISTENCY WITH HUMAN RIGHTS

Right promoted

The amendments in the bill pertaining to the *Government Agencies (Land Acquisition Reporting) Act 2018* positively engage with the right to privacy and reputation under section 12 of the *Human Rights Act 2004*, as they ensure that the location of properties acquired from community housing providers, and consequently the privacy and reputation of any occupants of those properties, are not disclosed or made publicly available.

Section 10 of the Land Acquisition Reporting Act currently provides for certain information to not be included in reports for the protection of certain individuals' privacy and reputation. This includes restricting the disclosure of details of individuals from whom land is acquired, or who surrender a land rent lease, as well as land acquired for the purpose of building housing assistance properties (i.e. public housing), and the future residents of those properties.

This measure of privacy protection is required as disclosure could impact on privacy or reputations of relevant individuals.

The bill amends the Land Acquisition Reporting Act to include land acquired from a community housing provider under the privacy protections in section 10, correcting an unintended oversight of the exemptions from reporting within the Land Acquisition Reporting Act.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause provides that the name of the Act is the *Planning and Environment Legislation Amendment Act 2023*.

Clause 2 Commencement

This clause provides that the Act (other than part 3) commences on the day after it is notified. Part 3 of the Act commences on 1 July 2023.

Clause 3 Legislation amended

This clause lists the legislation amended by the Act. The Act amends the:

- *City Renewal Authority and Suburban Land Agency Act 2017*;
- *Dangerous Substances Act 2004*; and
- *Government Agencies (Land Acquisition Reporting) Act 2018*.

The Act also makes consequential amendments to other legislation as a result of the amendments to the *Dangerous Substances Act 2004*, as provided in schedule 1.

Part 2 City Renewal Authority and Suburban Land Agency Act 2017

Clause 4 Definitions—pt 2

Section 6, definition of *urban renewal precinct*

This provision omits the definition of urban renewal precinct from section 6 to remove duplication within the *City Renewal Authority and Suburban Land Agency Act 2017* (the CRASLA Act).

Clause 5 Division 2.9 heading

This clause renames the heading for Division 2.9, to reframe the division more broadly to allow provisions about other work on the Melbourne and Sydney Buildings in addition to revitalisation work. The clause also inserts a new subdivision heading.

Clause 6 Definitions—div 2.9

Section 36A, definitions of *authorised person*, *draft revitalisation plan* and *revitalisation work*

This clause omits definitions from section 36A to remove duplication.

Clause 7 New subdivision 2.9.2 heading

This clause inserts a new subdivision heading to clarify the next section of the CRASLA Act is confined to matters about the revitalisation of the Melbourne and Sydney Buildings.

Clause 8 New subdivision 2.9.3

This clause inserts a new provision into the CRASLA Act to provide authority for the City Renewal Authority to undertake works on private land. The intention of this clause is to allow the City Renewal Authority to facilitate repairs and upgrades to the Sydney and Melbourne Buildings, with the consent of the owners of the buildings.

Clause 9 Dictionary, definitions

This clause makes amendments to existing definitions in the dictionary of the CRASLA Act as a consequence of the renaming of division 2.9 and the insertion of new subdivisions, made by clauses 6 to 8.

Clause 10 Dictionary, definition of *urban renewal*, new paragraph (b) (ia)

This clause amends the definition of *urban renewal* in the dictionary of the CRASLA Act to ensure it includes carrying out work on private land when that work is undertaken on the Melbourne Building or Sydney Building.

Clause 11 Dictionary, definition of *urban renewal*, paragraph (c)

This clause is an additional amendment to the definition of *urban renewal* to ensure the definition only includes carrying out work on private land when that work is on the Melbourne Building or Sydney Building, not other buildings within Canberra.

Clause 12 Dictionary definition of *urban renewal precinct*

This clause amends the definition of *urban renewal precinct* to bring it into line with current drafting practices.

Part 3 Dangerous Substances Act 2004

Clause 13 Asbestos advice

Section 47M (1)

Currently section 47M (1) of the *Dangerous Substances Act 2004* provides that the Minister must prepare an advice about the likely location of asbestos in buildings built, or the building of which started, before 1985. This clause amends section 47M (1) to replace the reference to **1985** with **1990** to bring it in line with nationally-agreed asbestos awareness messaging.

Part 4 Government Agencies (Land Acquisition Reporting) Act 2018

Clause 14 Certain information must not be included in reports

New section 10 (3) (ba)

Section 10 of the *Government Agencies (Land Acquisition Reporting) Act 2018* prohibits reporting on government agencies' acquisition of certain properties. This clause inserts new section 10 (3) (ba) to include land acquired from a registered community housing provider and ensure that such acquisition is exempt from reporting requirements.

Clause 15 Section 10 (6), new definition of *registered community housing provider*

This clause inserts a signpost definition of the term ***registered community housing provider*** into section 10 (6) to provide clarity to new section 10 (3) (ba).

Schedule 1 Technical amendments

Schedule 1 makes technical amendments to the *Dangerous Substances (General) Regulation 2004* and *Government Agencies (Land Acquisition Reporting) Regulation 2019* to correct cross references to section 47I of the *Dangerous Substances Act 2004*.

APPENDIX A

PLANNING AND ENVIRONMENT LEGISLATION AMENDMENT BILL 2023

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Planning and Environment Legislation Amendment Bill 2023**. In my opinion, having regard to the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA
Attorney-General