

2026

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

ELEVENTH ASSEMBLY

PLANNING LEGISLATION AMENDMENT BILL 2026

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

**Presented by
Chris Steel MLA
Minister for Planning and Sustainable Development
March 2026**

PLANNING LEGISLATION AMENDMENT BILL 2026

This explanatory statement relates to the Planning Legislation Amendment Bill 2026 (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.

The 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*.

OVERVIEW OF THE BILL

This bill is an omnibus bill making minor policy and technical amendments to legislation within the Planning and Sustainable Development portfolio.

Technical omnibus bills enable the government to keep the statute book up to date and clear.

This bill makes amendments to the:

- *Planning Act 2023*;
- *Planning (Exempt Development) Regulation 2023*;
- *Planning (General) Regulation 2023*;
- *Recovery of Lands Act 1929*; and
- *Surveyors Act 2007*.

The amendments in the bill:

- Amend the *Planning Act 2023* to assign the function of making technical specifications to support design guides and the territory plan from the chief planner to the territory planning authority, to allow this function to be delegated.
- Require adjoining lessees to be notified when consultation for a draft major plan amendment commences, not just when the consultation period is extended under the *Planning Act 2023*.
- Add a definition of the term **swimming pool** to schedule 1, section 1.51 of the *Planning (Exempt Development) Regulation 2023* to replace the obsolete signpost definition of the term in the *Building (General) Regulation 2008* after it was removed by the *Building (Swimming Pool Safety) Legislation Amendment Act 2023*.
- Specify a time period that encroachments from a single dwelling must not cause shadowing to relevant areas of another block under the *Planning (Exempt Development) Regulation 2023*, to ensure the provision operates as intended.

- Establish a new development exemption criterion for accessible entry to single dwelling houses to align with recent amendments to the National Construction Code.
- Contemporise drafting of the *Recovery of Lands Act 1929* to remove gendered language.
- Correct a minor drafting error in the *Surveyors Act 2007*.

CONSULTATION ON THE PROPOSED APPROACH

Consultation on the bill was conducted internally within the City and Environment Directorate, including with the chief planner and Access Canberra, and with other ACT Government directorates including Digital Canberra, and the Human Rights Unit and the Criminal Law Branch in the Justice and Community Safety Directorate.

CLIMATE IMPACT

This legislation has been assessed as having no material impact on climate change. None of the amendments in the bill contribute to emissions production or abatement within the ACT community nor are there any adaptation impacts against key climate risks to the ACT.

CONSISTENCY WITH HUMAN RIGHTS

During the development of the bill, due regard was given to its compatibility with the rights set out in the *Human Rights Act 2004* (the **HR Act**). The 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 HR Act.

Rights engaged

The bill does not engage human rights to a significant extent.

The bill engages and promotes the following human rights under the HR Act:

- The right to recognition and equality before the law (HR Act, section 8); and
- The right to a fair trial and the right to take part in public life by expanding the rights and obligations recognised by law through increased consultation requirements prior to decision-making (HR Act, sections 21 and 17).

Rights Promoted

Right to recognition and equality before the law:

1. Amendment to the *Planning (Exempt Development) Regulation 2023*, schedule 1, new section 1.38

The bill establishes a new exempt development criterion for construction of a step-free access path to a single-dwelling and associated structures that facilitate accessibility. This promotes the right to recognition and equality before the law as this improves accessibility to buildings for people with disabilities.

2. Amendment to the *Recovery of Lands Act 1929*

Amendments that remove gendered language to align with current drafting practices promote the right to recognition and equality before the law, by using gender neutral language, removing gender-based discriminatory language.

Right to a fair trial and right to take part in public life

1. Amendments to the *Planning Act 2023* and *Planning (General) Regulation 2023*

Amendments to require adjoining lessees to be consulted at the commencement of a draft major plan amendment promotes the right to a fair trial as well as the right to take part in public life. Expanding the consultation and information-sharing requirements allows greater engagement with the proposal prior to government decision-making, strengthening access to justice.

PLANNING LEGISLATION AMENDMENT BILL 2026

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **PLANNING LEGISLATION AMENDMENT BILL 2026**. In my opinion, having regard to the Bill and 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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Tara Cheyne MLA
Attorney-General

CLAUSE NOTES

Clause 1 Name of Act

This clause provides that the name of the Act is the *Planning Legislation Amendment Act 2026*.

Clause 2 Commencement

This clause provides that the Act will commence on the 7th day after its notification day.

Clause 3 Legislation amended

This clause lists the legislation amended by the Act. The Act will amend the:

- *Planning Act 2023*;
- *Planning (Exempt Development) Regulation 2023*;
- *Planning (General) Regulation 2023*;
- *Recovery of Lands Act 1929*; and
- *Surveyors Act 2007*.

Part 1 Planning Act 2023

Clause 4 Technical specifications Section 51 (1)

This clause omits the term **chief planner** from section 51 (1) of the *Planning Act 2023* and substitutes it with the term **territory planning authority**. This will allow the territory planning authority to delegate the function of approving technical specifications under section 25 of the Planning Act.

Clause 5 Supporting report for draft major plan amendment Section 61

This clause corrects a minor drafting error in section 61 of the Planning Act by omitting the term **draft major planning amendment** and substituting it with the term **draft major plan amendment**.

Clause 6 Public consultation—notification and availability of draft major plan amendments etc New section 63 (1A)

This clause inserts new section 63 (1A) into the Planning Act to require the territory planning authority to notify adjoining lessees at the commencement of the consultation period for draft major plan amendments, not solely when the consultation period is extended.

Clause 7 Section 63 (2)

This clause is a consequential amendment to new section 63 (1A), ensuring that the safeguards in section 63 (2) apply to both sections 63 (1) and (1A) for draft major plan amendments, their supporting reports and consultation notices.

Part 2 Planning (Exempt Development) Regulation 2023

Clause 8 Schedule 1, new section 1.38

This clause inserts new section 1.38 into schedule 1 of the *Planning (Exempt Development) Regulation 2023* to exempt step-free access paths for single dwellings from the requirement for a development application. This is to align with amendments to the National Construction Code that require continuous step-free access to all single dwellings. This exemption will reduce the regulatory barriers for building structures that provide greater access for people with disabilities to single dwellings.

Section 1.17 is disapplied to facilitate this exemption.

Clause 9 Swimming pools Schedule 1, section 1.51, definition of *swimming pool*

This clause adds a definition of the term ***swimming pool*** to schedule 1, section 1.51 of the Planning (Exempt Development) Regulation. The term was previously defined in the *Building (General) Regulation 2008* but was removed by the *Building (Swimming Pool Safety) Legislation Amendment Act 2023*. This amendment corrects the obsolete reference to the Building (General) Regulation.

Clause 10 Single dwellings where declaration authorises minor noncompliance Schedule 1, section 1.131 (1) (b)

This clause amends schedule 1, section 1.131 (1) (b) of the Planning (Exempt Development) Regulation to clarify the threshold for shadowing caused by an encroachment of a single dwelling beyond its relevant solar envelope, to be exempt from a development application. The provision operates to ensure that an encroachment should not cause shadowing for more than three hours between 9 am and 3 pm on the winter solstice to more than 50% of any habitable room or principal private open space of another block.

Part 3 Planning (General) Regulation 2023

Clause 11 Section 10, heading

This clause substitutes the heading of section 10 of the *Planning (General) Regulation 2023* as a consequence of the amendment in clause 6 of the bill.

Part 4 Recovery of Lands Act 1929

Clause 12 Warrant of ejectment Section 4

This clause omits the gendered term ***his*** from section 4 of the *Recovery of Lands Act 1929* and substitutes it with the term ***the magistrate's***, to align with current drafting practices.

Clause 13 Service of notice
Section 8 (d)

This clause omits the gendered term *his* from section 8 (d) of the Recovery of Lands Act and substitutes it with the term *the lessee's*, to align with current drafting practices.

Part 5 Surveyors Act 2007

Clause 14 Only surveyors to carry out surveys
Section 49, note

This clause corrects a minor drafting error in the note to section 49 of the *Surveyors Act 2007* by omitting the term *register-general* and substituting it with the term *surveyor-general*.