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Mr Ben Ponton
Director General and Chief Planner
Environment, Planning and Sustainable Development Directorate
GPO Box 158
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***Property Council of Australia (ACT Division) Submission:
ACT Planning System Review and Reform Project***

Dear Mr Ponton,

The Property Council of Australia welcomes the opportunity to comment on the Planning System Review and Reform project including the consultation draft Planning Bill 2022 released in March 2022. We also have appreciated the opportunity to participate in briefing sessions with your staff and contribute to the development of the reform package through other forums and engagement opportunities.

We have consulted widely with our membership and Property Council members are supportive of reforms to the Territory's planning system to provide for greater certainty, opportunities for flexibility, reduced timeframes and an elevated role for strategic planning. It is acknowledged that the existing legislation currently does not allow for these goals to be achieved and is not fit-for-purpose.

The Planning Bill 2022 provides the framework for the first step towards a shift to an outcomes-focused system. The Bill, which does not make any radical changes to the existing system, will enable the transition from one that is rules-based to one focused on delivering better planning outcomes. Central to the new outcomes-focused approach will be the development of a new Territory Plan. The new plan will provide the more substantial elements of the reform package to manage the shift away from traditional planning rules.

We are pleased to provide the following comments regarding the public consultation of the Planning Bill 2022 and other elements of the package for your consideration.

PROSPERITY | JOBS | STRONG COMMUNITIES

The submission has addressed the main reform areas that have potential to impact Property Council members and includes specific recommendations where we think improvements can be made to the proposed reforms. Please note – as referenced – we would appreciate the opportunity to review our comments and our recommendations in line with further engagement on the District Plans and the proposed Territory Plan amendments. As such this submission in its current form is very much conditional on seeing how these elements all work together in the overarching reform program to achieve the stated objectives and goals of the reform process.

We would welcome the opportunity to discuss the content of this submission with you and your team coordinating the planning reforms.

Kind regards,

A handwritten signature in blue ink, appearing to read 'Adina Cirson'.

Adina Cirson
ACT Executive Director

Attachment 1 – Summary of Property Council Recommendations

Attachment 2 - Property Council Feedback

	Issue	Summary of Recommendations
1	Objects of the Bill	<ul style="list-style-type: none"> The Property Council recommends that there should be a clear indication provided how these objects of the Planning Bill will be implemented.
2	Principles of Good Planning	<ul style="list-style-type: none"> The Property Council recommends that the principles should be regularly reviewed to ensure they are relevant and align with the community's expectations.
3	Principles of good consultation	<ul style="list-style-type: none"> The Property Council recommends that the proposed guidelines should indicate: <ul style="list-style-type: none"> The purpose of the consultation with communities should be made clear and provide a clear description of the subject matter the consultation is about. Consultation activity should be targeted so that the right people are being informed about proposals The timeframes for undertaking a consultation exercise should be made clear. Consultation material that is distributed to members of the community should be provided in plain-English where possible and avoid the use of technical jargon.
4	Functions of the Territory Planning Authority	<ul style="list-style-type: none"> The Property Council recommends that the Authority must do more to engage and inform the community the planning system before it is at the DA stage. In particular it should provide greater public awareness of planning controls and the role of the Territory Plan to manage expectation around development.
5	Strategic planning	<ul style="list-style-type: none"> The Property Council recommends that there will need to be greater clarity in the preparation of strategic plans to provide greater consistency for communities and industry participants.
6	Planning strategy	<ul style="list-style-type: none"> The Property Council recommends that planning strategy is updated to reflect available housing supply evidence and population data.
7	District strategies	<ul style="list-style-type: none"> The Property Council recommends that district strategies should be used as a hybrid between a strategic plan and a precinct code (under the Territory Plan). The Property Council recommends that a district strategy be aligned with wider policies, including the territory's infrastructure plans and provide a direct connection between land use, transport planning and social and physical infrastructure. The supply of housing (land release and urban renewal) should be coordinated with investment in new and upgraded infrastructure physical (roads, utility services) and social (schools and hospitals). District plans need to be clear on key outcomes around housing and key density outcomes. The Property Council recommends that the consultation process for each district strategy should provide clear guidance to members of the public on the purpose of the strategy and its function

		as a strategic planning document and an explanation regarding how it fits within the broader suite of planning documents.
8	Territory Plan	<ul style="list-style-type: none"> • The Property Council recommends the Territory Plan and its supporting documents provide adequate guidance to stakeholders on the desired planning outcomes and how they will be achieved. • Endorsed strategic plans must be given effect and implemented through the Territory Plan. • The Territory Plan must be consistent with the planning strategy particularly in respect of the future development of town centres and other local centres.
9	Proponent-initiated amendments to territory plan	<ul style="list-style-type: none"> • The Property Council recommends a period of between 30 and 60 days for the initial review of any non government-initiated territory plan amendment. The ability for these proposals are in line with other jurisdictions.
10	Development assessment	<ul style="list-style-type: none"> • The Property Council recommends that the Government identify how it will commit significant resources to the project to ensure that the intended outcomes are achieved. • The Property Council recommends the skills and technical knowledge of assessment planners in the Directorate (Planning Authority) will need to be increased to undertake the assessments of development against the new planning controls to be delivered by the new legislation and territory plan.
11	Design review	<ul style="list-style-type: none"> • The Property Council is supportive of Design Review Panel and maintaining current arrangements but is required to be enhanced with appropriate resourcing to enable the running of the DRP process. • We recommend that the scope of the DRP be reviewed in line with other jurisdictions to provide strategic design advice at different phases of policy development and also to identify potential approval pathways and protections around advice. There is need for regular review to ensure that it is operating properly and whether there is a need for it to be enhanced.
12	Entity referral	<ul style="list-style-type: none"> • The Property Council recommends that Section 185 of the Planning Bill be made without amendment. This provision provides for development approval that is contrary to the advice of an entity. This is an important power that can be exercised by the Chief Planner and the Authority and is important to ensure a holistic and balanced assessment is considered.. •

		<ul style="list-style-type: none"> The Property Council is strongly of the view that the process around entity referral and ensuring clear timeframes, conditions and recommendations are able to be incorporated in a timely manner.
13	Pre-decision advice	<ul style="list-style-type: none"> The Property Council recommends that the pre-decision advice proposal be reconsidered due to its negative impacts unless there is ability to be able to rely on outcomes and advice provided...
14	Decision making considerations	<ul style="list-style-type: none"> The Property Council recommends that the proposal to include considerations (c), (d) and (f) in section 181 not proceed.
15	Territory priority projects	<ul style="list-style-type: none"> The Property Council recommends that the threshold for satisfying the eligibility for declaration as a territory priority project be amended to only require satisfaction one of the listed criteria. The Property Council recommends that private or community developments be eligible for consideration as a territory priority project. We recommend that the types of projects eligible for consideration should include those that provide economic benefits as well as those providing social benefits.
16	Third Party Review	<ul style="list-style-type: none"> The Property Council recommends that any reduction or rationalisation of the existing exemptions from third-party review are not amended until there is further review of the ACAT process. The proposed Planning and Development Bill and outcome focus will not be realised and may be impacted by wider Territory processes that interact with planning and development outcomes. We do not support any changes until there is a holistic review of the ACAT. The ACAT process must be considered in the context of the introduction of territory priority projects.

Subject matter	Property Council of Australia Comments	Property Council of Australia Recommendations
1 Objects of the Bill	<p>The stated object of the Bill is to support and enhance the Territory's liveability and prosperity, and promote the well-being of residents by creating an effective, efficient, accessible and enabling planning system that-</p> <ul style="list-style-type: none"> (a) Is outcomes-focused (b) Promotes and facilitates ecologically sustainable development that is consistent with planning strategies and policies, and (c) Provides a scheme for community participation. <p>The Property Council is generally supportive of the objects of the Planning Bill that are provided in section 7(1). We note the move towards an outcomes focused planning system involves considerable change from the current assessment process and it is critical that the planning authority is adequately resourced to undertake the work required.</p> <p>A concern raised by our members is the need to provide sufficient safeguards to protect reasonable planning decisions made under the outcomes based system from third party merit appeals within the ACAT.</p> <p>The Planning Bill also needs to provide for a planning system that supports the facilitation and determination of development applications within statutory timeframes and does not unduly impact on key economic outcomes.</p> <p>The expansion of the object of the new Bill to include principles of liveability and prosperity, resident wellbeing and community participation is welcomed. These principles will guide planning outcomes to ensure the planning system caters for the needs of its residents and strengthen the social fabric that makes our city thrive.</p> <p>The broadening of the definition of ecologically sustainable development to include 'maintenance and enhancement of cultural, physical and social wellbeing of people and communities' will further embed important social sustainability considerations into planning processes. We note however that there is still the need to reinforce other outcomes that need to be captured in the objectives, including consideration of economic development, housing and supporting employment base.</p> <p>The objects of the Planning Bill are sensible and will be supported by further detail provided in section 7(2) and 7(3). There must be clear indication regarding how these outcomes will be achieved and implemented.</p>	<ul style="list-style-type: none"> • The Property Council recommends that there should be a clear indication provided how these objects of the Planning Bill will be implemented.

	Further clarification is required on exactly how the planning strategy, district strategies, territory plan and other instruments to give effect to these outcomes and we look forward to further engagement in coming months on these matters.	
2 Principles of Good Planning	<p>The Planning Bill requires that the principles are considered in the development of planning strategies, plans and policies. The principles address a wide range of important policy areas including liveability, the economic prosperity of the territory, promotion of equity between present and future generations, responding to emerging challenges and outcomes regarding urban regeneration.</p> <p>The Policy Overview Paper released with the Planning Bill indicates that the principles will be a helpful tool to direct policymakers to the relevant frameworks and when preparing supporting and resultant policy..</p> <p>The Property Council generally supports the introduction of the Principles of Good Planning that are set out in Section 9 of the Planning Bill.</p> <p>The principles appear to reflect the Government's desire for the planning system to focus on liveability, prosperity and the wellbeing of the community as such, it is recommended that the principles be reviewed regularly to ensure they stay relevant and continue to align with the community's expectations.</p> <p>The principles should also include a reference to economic provisions as well as housing supply and affordability that appear to have been overlooked in the development of the Planning Bill. We also recommend that a core focus of the planning system must be to enable appropriate development in suitable locations. Also the "Activation and liveability principles" should include reference to housing diversity and housing suitable for all diversity of community, including ageing in the community.</p> <p>We encourage the inclusion of activation and liveability principles as one of the principles of good planning and seek to understand how the new legislation will encourage this outcome.</p> <p>Some ideas we have around achieving this principle include:</p> <ul style="list-style-type: none"> • Planning controls that promote housing to ensure diverse housing opportunities, infill development and housing choice is delivered to meet diverse needs of the community. • Encouraging increased density of development in appropriate areas of existing services and amenities and around our Local and Group Centres to generate activity and provide accommodation in proximity to transport and services • Unlocking further opportunities for development within residential RZ1 and RZ2 zones to assist in achieving the ACT government target of 70% urban infill development • Ensuring infrastructure investment in the right locations across the city to support the needs of a growing population. • . 	<ul style="list-style-type: none"> • The Property Council recommends that the principles should be regularly reviewed to ensure they are relevant and align with the community's expectations and pressing needs (for example housing affordability). • The Property Council recommends that the Activation and liveability principles we amended to include housing diversity and housing suitable for ageing in the community. • It is important to ensure the Planning Bill is aligned with the policy position of the ACT Government around sustainability.

	<p>The Bill identifies sustainability and resilience principles as another pillar of good planning. It is important to ensure the planning system is aligned with the policy position of the ACT government around sustainability and infill targets.</p> <p>.</p>	
3 Principles of Good Consultation	<p>Section 10 of the Planning Bill states the Minister may make guidelines about principles of good consultation.</p> <p>The Property Council supports the introduction of principles of good consultation where they will improve the operation of the planning system. The principles and the supporting guidelines should provide clear guidance on the matters for which consultation will be required and the procedures for undertaking a consultation exercise.</p> <p>It is recommended that the guidelines include the following matters:</p> <ul style="list-style-type: none"> - The purpose of the consultation with communities should be made clear and provide a clear description of the subject matter the consultation is about. - Consultation activity should be targeted so that the right people are being informed about proposals - The timeframes for undertaking a consultation exercise should be made clear. <p>Planning Reform should communicate the benefits of planning process for the benefit of community, and provide strategic direction around planning that encourages a productive dialogue around development that has a focus on community outcomes.</p> <p>It is important that the consultation process on a development proposal should not become the mechanism to inform and educate the community about how the planning system and the Territory Plan operate to regulate development activity. We note that is one of the statutory functions of the future Territory Planning Authority and it must undertake that function.</p>	<ul style="list-style-type: none"> • The Property Council recommends that the proposed guidelines should indicate: <ul style="list-style-type: none"> - The purpose of the consultation with communities should be made clear and provide a clear description of the subject matter the consultation is about. - Consultation activity should be targeted so that the right people are being informed about proposals - The timeframes for undertaking a consultation exercise should be made clear. - Consultation material that is distributed to members of the community should be provided in plain-English where possible and avoid the use of technical jargon.
4 Territory Planning Authority & Chief Planner	<p>The functions of the territory planning authority are outlined in section 15 of the Planning Bill.</p> <p>The Property Council supports the establishment of the Territory Planning Authority under the Planning Bill and its proposed functions.</p> <p>We support the strengthened roles of the territory planning authority and chief planner that the Planning Bill will provides as they will improve public confidence in the planning system and the planning decisions they make. It is important that Chief Planner's independence is maintained following the transition to the new planning system.</p>	<ul style="list-style-type: none"> • The Property Council recommends that the Authority must do more to educate the community the planning system. In particular it should provide greater public awareness of planning controls and the role of the Territory Plan to manage developments

	<p>One of the important functions of the territory planning authority that is stated in section 15(1)(p) is to promote public education about, and understanding of, the planning system, including by providing easily accessible public information and documentation on planning and land use.</p> <p>The Property Council would encourage the Authority doing more to implement this function, particularly to provide greater public awareness of planning controls and the role of the Territory Plan to manage developments. With the shift towards a new outcomes-focused planning system and a move away from a rules-based system, Chief Planner and the Authority will need to be more proactive to inform the public on how certain planning decisions have been made and explaining the operation of the new planning system.</p> <p>The Planning Bill provides the Chief Planner with a range of statutory powers under the new planning system. The Property Council supports the granting of additional power to the Chief Planner to make vital decisions regarding certain development applications, in particular Territory Priority Projects and other development.</p> <p>We encourage the Chief Planner exercising discretion to achieve a good planning outcome and avoid being restricted by any advice that does not lead to a good planning outcome, including the ability to depart from advice received from other entities if it is in the best interests of the Territory and true adherence to an outcomesbased system.</p>	
5 Strategic Planning	<p>The growth and development of the Territory must occur in an orderly manner and should be aligned with the Government's strategic plans.</p> <p>The Property Council supports a planning system that places the greater emphasis on strategic planning to guide future land use decisions, locations for new housing and employment centres. In our view the Planning Bill 2022 has the potential to do that.</p> <p>Our support is based on the understanding that there will be further opportunities to be engaged with the development of strategic plans and provide comments at appropriate stages.</p> <p>Linking other planning-related Government policies and strategies into the planning system through the strategic planning process is appropriate. Strategic plans must consider interrelationships with transport infrastructure, green infrastructure and recreational facilities.</p> <p>The intent of the Planning Bill to foster greater connection between strategic planning and development control aspects of the ACT's planning system is supported. The ACT needs a genuine long-term strategic plan that looks at what Canberra might look like as its population increases beyond more than half a million people.</p> <p>The development of strategic planning documents must provide more clarity and greater consistency for communities and industry participants.</p>	<ul style="list-style-type: none"> The Property Council recommends that there will need to be greater clarity in the preparation of strategic plans to provide greater consistency for communities and industry participants.

	<p>It should be remembered that the ACT is the economic heart of the region and a destination for people travelling to the ACT for work, study, health and tourism. The ACT Planning Reform is not only for the benefit of ACT residents but it also will contribute to servicing the needs of the surrounding region.</p> <p>The development of strategic planning documents must provide more clarity and greater consistency for communities and industry participants.</p>	
6 Planning Strategy	<p>We note that the Planning Bill requires consideration be given to the need for a review of the planning strategy every 5 years. Although a review is not required every 5 years, it is important that there is consideration given to whether a review is required. We recommend that a 10-year timeframe for reviewing the Planning Strategy is appropriate.</p> <p>The Bill requires consideration be given to whether the planning strategy continues to reflect the long-term planning policy and goals for the ACT which is appropriate. This is an appropriate measure to determine if the planning strategy requires a review.</p> <p>The Policy Overview Paper indicates that the 2018 Planning Strategy will be transitioned across to the new legislation once it is enacted. This is appropriate to ensure that the existing strategy for Canberra can continue to be considered until such time that a new strategy has been developed.</p> <p>The Property Council supports the Planning Bill's intention of retaining, strengthening and clarifying the role of the planning strategy.</p> <p>The requirement for the planning strategy to be considered as part of any amendment (minor or major) or review of the territory plan is supported. Consistency between the planning strategy and the territory plan is important.</p> <p>We support the concept of a stronger link between strategic planning, the territory plan and development controls.</p> <p>The Planning Strategy must provide long-term planning land use and policy direction for the Territory. Inputs to the development of the ACT Planning Strategy must be evidence-based and based on sound technical advice (population projections, housing data including supply factors and the community's housing needs).</p> <p>.</p>	<ul style="list-style-type: none"> The Property Council recommends that planning strategy is updated to reflect available housing supply evidence and population data.
7 District Strategies	<p>The Policy Overview Paper indicates that a district strategy will be a continuation of strategic and spatial planning (as expressed through the Planning Strategy) at the district level but looking at the same long-term timeframe. This is appropriate and is consistent with other jurisdictions such as NSW with the development of Sydney's District Plans that were released in 2018.</p> <p>.</p>	<ul style="list-style-type: none"> The Property Council recommends that district strategies should be used as a hybrid between a strategic plan and a precinct code (under the Territory Plan).

	<p>The Property Council generally supports the introduction of District Strategies as provided in the Planning Bill 2022. We would like to see detailed engagement with industry on the purpose and content of district strategies, particularly regarding the outcomes they are intended to achieve. District plans must contribute towards a better planning outcome that currently exists</p> <p>We understand that district strategies are intended to provide a connection between the city-wide strategic planning and the more detailed, site specific, Territory Plan. This role for district strategies is supported.</p> <p>It is understood that the eight existing district boundaries, comprising centres such as Belconnen, Gungahlin, Tuggeranong and Woden Valley, will be retained for the purpose of the district strategies. We look forward to understanding more about how these district strategies will be prepared and what consultation with industry will be proposed during their development. It is critical that there is a high level of community and industry engagement in the making of these plans to ensure that they reflect the Territory's future planning needs</p> <p>It is important that the district strategies are consistent with planning strategy and identify locations for new housing supply and employment growth as well as areas under investigation for future growth potential.</p> <p>The Property Council of Australia recommends that district strategies should be used as a hybrid between a strategic plan and a precinct code (under the Territory Plan). The district strategy could comprise 2 parts – a strategic planning document and a more detailed masterplan/development control plan providing setbacks, active frontages and design controls.</p> <p>A district strategy must be aligned with the territory's infrastructure plans so that it provides a direct connection between land use and transport planning. The future supply of new housing (land release and urban renewal) must be coordinated with investment in new and upgraded infrastructure physical (roads, utility services) and social (schools and hospitals). It is crucial that the implementation of district strategies by the territory plan does not get out of alignment with the capital works budget of the Government.</p> <p>The plans of other Government agencies, particularly those with responsibility for delivery of vital enabling infrastructure that is required to support housing supply, must be aligned with the Territory's planning strategies (including the new district strategies).</p> <p>We support Section 37(3) of the Planning Bill which mandates public consultation before making a district strategy. We recommend that the consultation process for each district strategy should provide clear guidance to members of the public on the purpose of the strategy and its function as a strategic planning document and an explanation regarding how it fits within the broader suite of planning documents.</p>	<ul style="list-style-type: none"> • The Property Council recommends that a district strategy be aligned with the territory's infrastructure plans and provide a direct connection between land use and transport planning. The supply of housing (land release and urban renewal) should be coordinated with investment in new and upgraded infrastructure physical (roads, utility services) and social (schools and hospitals). • The Property Council recommends that the consultation process for each district strategy should provide clear guidance to members of the public on the purpose of the strategy and its function as a strategic planning document and an explanation regarding how it fits within the broader suite of planning documents.
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8 Territory Plan	<p>A core component of the Government's planning reforms will be the preparation of a new Territory Plan as this is required to give effect to the new outcomes focused planning system. The Property Council welcomes the announcement that there will be a new Territory Plan after the Planning Bill 2022 comes into effect. The existing territory plan is not fit for delivering the the objects of the new Planning Bill.</p> <p>Although we welcome the announcement that a new Territory Plan will be prepared, we look forward to further engagement with the territory planning authority during the initial stages of preparing the new plan. We encourage the authority to consider the key purpose of the planning reforms as it undertakes this task, which are to provide a simpler and easier to use planning system.</p> <p>Section 42 of the Planning Bill provides the object of the territory plan which is to ensure that the development of the ACT provides the people of the ACT with an attractive, safe and efficient environment in which to live, work and have their recreation. It is essential that the plan's content contributes towards the attainment of the plan's objectives.</p> <p>The Property Council supports the new territory plan giving effect to strategic and spatial planning outcomes within the reformed planning system. It is imperative that endorsed strategic plans are given effect and implemented through the territory plan to ensure that there is an adequate supply of zoned land for new housing and employment. The territory plan must be consistent with planning strategy regarding the future development of town centres and provides appropriate criteria that will encourage our centres can become economically and socially thriving places.</p> <p>Part 5.2 of the Planning Bill provides the mechanics of preparing and making a new territory plan under the new legislation. It is understood the process will be essentially similar to the process for making the current territory plan. An important consideration during the process of preparing the new territory plan will be the drafting of its contents and clarity of its definitions. We look forward to working closely with the Authority and the Chief Planner on the next stage of this reform process to ensure that the plan provide a robust basis for managing land use conflicts in Canberra into the future.</p>	<ul style="list-style-type: none"> • The Property Council recommends the territory plan and its supporting documents provide adequate guidance to stakeholders on the desired planning outcomes and how they will be achieved. • Endorsed strategic plans must be given effect and implemented through the Territory Plan. • The territory plan must be consistent with the planning strategy particularly in respect of the future development of town centres and other local centres.
9 Content and format of Territory Plan	<p>At this stage of the reform process, the Planning Bill establishes the statutory requirements regarding the content and format of the new territory plan. In this regard, section 44 requires that the territory plan contains certain information including planning principles and policies for giving effect to the object of the plan and section 45 provides the required format the territory plan.</p> <p>In the absence of further detail on the structure and content of the territory plan, the Property Council can only provide conditional support to the way the Bill provides for the identification of important matters of content and the format of the territory plan. We expect that in the near future, the Authority will provide more detailed information regarding the structure and content of the</p>	<ul style="list-style-type: none"> • The Property Council recommends a period of between 30 and 60 days for the initial review of a proponent-initiated territory plan amendment.

	<p>new territory plan. We look forward to providing constructive input to the Authority on key aspect of the new plan's content.</p> <p>We understand the new plan will look very different to the current plan. That will be necessary given the significant move from a rules-based planning system to an outcomes-focused system. Accordingly, it is vital that the territory plan provide adequate guidance to stakeholders on the desired planning outcomes and how they will be achieved.</p>	
10 Amendments to Territory Plan	<p>It is appropriate that the ACT allow for community members to initiate amendments to the territory plan. This is consistent with what currently occurs in other jurisdictions (such as NSW and Victoria) where a landowner or an individual can request a change to the planning controls applying to their land. In NSW, planning proposal applications can be submitted to a local council to initiate a change to the local environmental plan applying to particularly piece of land. In Victoria anyone can request a change to the planning scheme from their local council.</p> <p>The proposed processes for making amendments to the Territory Plan set out in Parts 5.3 and 5.4 are generally supported.</p> <p><u>Proponent-initiated Amendments</u></p> <p><u>The Planning Bill refers to proponent-initiated amendments however we note that these amendments are non-government initiated requests that can be made by any member of the community and do not necessarily need to be connected with the proponent of a development.</u></p> <p>We support the Planning Bill providing a mechanism for community -initiated amendments set out in Section 54. It is appropriate that persons other than the Authority suggest an amendment to the territory plan. The process for a person seeking an amendment begins with an application being made under section 54(1) and including the required information identified in section 54(2).</p> <p>The Planning Bill provides the Authority with up to 90 days to make the initial decision to accept or reject an amendment to the territory plan. During the 90 day period the Authority is required to look at the planning strategy, any relevant district strategy, the content of the territory plan, the statement of planning principles and anything the authority considers relevant to the amendment.</p> <p>This is an excessive amount of time for the Authority to carry out an initial review of a proposed amendment. We recommend this timeframe should be somewhere between 30 and 60 days to provide improved service to proponents.</p> <p>If an application submitted by a proponent to amend the territory plan is accepted by the Authority, Section 56 of the Planning Bill requires the Authority to prepare the document to amend the territory plan. The amendment would then follow the same process as an authority or Minister initiated amendment. This is illustrated by Figure 7 of the Policy Overview Paper. The process for major amendments to the territory plan is appropriate.</p>	<ul style="list-style-type: none"> • The Property Council recommends that the Government identify how it will commit significant resources to the project to ensure that the intended outcomes are achieved. • The Property Council recommends the skills and technical knowledge of assessment planners in the Directorate (Planning Authority) will need to be increased to undertake the assessments of development against the new planning controls to be delivered by the new legislation and territory plan.

	<p><u>Minor Amendments</u> Part 5.4 of the Planning Bill details the steps that must occur for a minor amendment to the territory plan.</p> <p>The Property Council of Australia supports the establishment of a mechanism for seeking and assessing minor amendments to the territory plan.</p> <p><u>Review of territory plan</u> Part 5.5 of the Planning Bill establishes the requirement for the review of the territory plan. Every 5 years the Minister is required to decide whether the territory plan should be reviewed. If the Minister decision is that the territory plan should be reviewed, the Bill provides the Minister with the authority to direct the territory planning authority to review the plan.</p> <p>The Property Council supports the regular review of the territory plan and we are satisfied that the Bill provides adequate mechanisms to enable adequate review of the territory plan's ability to achieve its objectives.</p>	
11 Changes to development assessment pathways	<p>The Planning Bill proposes a transition from a code-based planning system using rules and other development controls to an outcomes-focused model. The Property Council supports the establishment of new pathways for the assessment of development proposals.</p> <p>The introduction of a single, efficient and transparent pathway to replace the current three assessment processes (code, merit and impact tracks) is conditionally supported but it must continue to allow for the undertaking of relatively low impact and complexity development to be considered within a short timeframe and with minimal documentation requirements.</p> <p>We note the desire to provide for a more streamlined and efficient assessment path and that the current pathways (code, merit and impact) have proven to be inflexible. We expect the change to a single assessment pathway to provide for improved assessment times, less complex documentation requirements for minor and low impact proposals and there is adequate information available for a proponent to understand the assessment process before an application is submitted.</p> <p>Implementation of this change will require significant resources being allocated to the project to ensure that the intended outcomes are achieved. Also there will need to be considerable upskilling of the assessment planners in the Directorate (Planning Authority) to undertake the assessments of development against the new territory plan.</p> <p>It is not clear how the Government will ensure its planners will be supported with appropriate resources and training to operate within the new planning system. We look forward to further engagement and consultation on the details of these changes and how the new assessment</p>	<ul style="list-style-type: none"> • We recommend that the consolidation of the existing three assessment tracks must allow for relatively low impact and complexity development to be considered within a short timeframe and with minimal documentation requirements.

	pathway will operate and what information will be prepared to assist applicant as they prepare development applications.	
12 Significant development	<p>Chapter 6 of the Draft Bill sets out the arrangements for the consideration of development proposals that fall into the category of Significant Development. We note that this is a sub-category of assessable development which are subject to additional documentation requirements, process and assessment requirements.</p> <p>Section 91 of the Planning Bill provides the following three categories as Significant Development:</p> <ul style="list-style-type: none"> (a) An estate development plan, (b) Consultation with the design review panel (c) An environmental impact statement <p>We do not support these three types of development being grouped together into a single sub-category of development which would appear to be an oversimplification. Based on the characteristics of these development types of development, there are varying levels of complexity between development that needs an EIS and a development requiring design review. We recommend a more appropriate categorisation of these sub-groups is developed or further clarification around the intent of these categories,.</p>	<ul style="list-style-type: none"> We recommend a more appropriate categorisation of these sub-groups is development reflective of their complexity.
13 Environmental Impact Assessment	<p>The reforms proposes several changes to the existing Environmental Impact Assessment pathway. The Policy Overview Paper indicates the key changes proposed will be:</p> <ol style="list-style-type: none"> 1. Environmental Significance Opinion (ESO) - Section 135 of the Planning Bill involves the retention of the existing ESO process where a proponent can request a statement that the relevant agency is of the opinion that a development proposal does not have a significant impact. If an ESO is provided, no further environmental impact assessment is required of the environmental impact to which the opinion relates. We support the retention of this provision of the legislation where is contributes towards faster assessment timeframes and greater certainty within the assessment process. 2. Environmental Impact Statement (EIS) - The Planning Bill maintains the existing EIS process provided in Part 6.3 of the Planning Bill. 3. Environmental Impact Statement exemption - The Planning Bill proposes to remove the current EIS exemption process that is provided for in Section 211 of the Planning and Development Act 2007. This has been on the basis that the EIS or assessment process may now rely on recent studies. <p>The Property Council conditionally supports the changes being proposed to the Environmental Impact Assessment processes provided in Part 6.3 of the Planning Bill where they provide ability</p>	<ul style="list-style-type: none"> We recommend the proposed changes to the Environmental Impact Assessment process proceed where it can be demonstrated they will contribute to faster assessment times and greater certainty regarding the outcomes of the assessment process.

	to rely on recent studies and contribute towards faster assessment times and greater certainty regarding the outcomes of the assessment process.	
14 Design Review process	<p>The existing arrangements for the identification of development proposals for referral under the Regulations require that certain prescribed development must be provided to the National Capital Development Review Panel (NCDRP) for design advice. These arrangements should be maintained and provided with appropriate resourcing to enable the running of the DRP process.</p> <p>The Property Council generally supports the role of the NCDRP in the development assessment process. We acknowledge the positive contribution that design review provides to the development application process but the review process must be effective and material in the development process. Decisions by the design review panel should allow for decisions that can be relied on and consideration of wider policy reviews, such as Territory Plan amendments. For this reason we would recommend the design review process be reviewed to ensure that it is operating properly And that the DRP process is continued to be improved as per functionality.</p> <p>Consideration of resourcing, timeframes and ensuring the DRP can fit within the DA Assessment timeframes is critical.</p>	<ul style="list-style-type: none"> • The Property Council recommends that the existing design review arrangements be retained and provided with appropriate resourcing to enable the running of the DRP process. • We recommend that the DRP be reviewed to ensure that it is operating properly and whether there is a need for it to be enhanced.
15 Estate Planning	<p>The Policy Overview Paper indicates that the Planning Bill will reflect the continued need for planning to address the estate level and provide for an expanded role for further planning also to apply to urban infill areas. Part 4.2 of the Planning Bill applies to estate planning.</p> <p>The paper states that the role of estate planning will be clarified in the reformed planning system making sure that estates are appropriately planned and supported by infrastructure. Given the complexity of estate planning and the significance of translating strategic directions into the subdivision of an estate, additional documentation and extra processing time may be required to consider these developments.</p> <p>The Property Council of Australia supports the continuation of these provisions.</p>	
16 Pre-DA community consultation	<p>Pre-DA community consultation requirement have been excluded from the Planning Bill 2022. The Policy Overview Paper indicates that the current requirement does not deliver the outcomes that it was intended to achieve.</p> <p>The Property Council of Australia supports the removal of this requirement.</p>	
17 Entity referral	<p>The current requirement for referral of developments to entities is included in Section 148 of the <i>Planning and Development Act 2007</i> and Clause 26 of <i>Planning and Development Regulation 2008</i>. Clause 28 of the draft Planning (General) Regulation 2022 identifies specific entities that a development application requiring an EIS must be referred.</p>	<ul style="list-style-type: none"> • The Property Council recommends that Section 185 of the Planning Bill be made without amendment. This provision provides for development approval that is contrary to the advice of an entity. This is an important power that can be

	<p>The Property Council supports the proposed drafting of Section 185 of the Planning Bill as it enables development approval that is contrary to the advice of an entity. This is an important power that can be exercised by the Chief Planner and the Authority. This provision allows a decision-maker, having considered the proposal's desired outcomes having regard to the territory plan and any reasonable alternatives for a project involving an EIS, to act contrary to the advice of an entity. We endorse the proposed requirement that the decision-maker must be satisfied that acting contrary to the advice will significantly improve the planning outcome.</p>	<p>exercised by the Chief Planner and the Authority.</p>
18 Pre-Decision advice	<p>Section 177 of the Planning Bill permits the territory planning authority to give the applicant for a development (at any time before determining a development application) advice that in the opinion of the authority, the application does not meet the requirements of the territory plan.</p> <p>The Property Council does not support the use of Pre-Decision advice unless it can be demonstrated that it will improve the planning process. We acknowledge the value of communication between the applicant and the decision maker regarding issues with a development, particularly issues involve inconsistency with an aspect of the territory plan. The Policy Overview Paper indicates that with the shift to an outcomes-focused planning system, the authority's role will be expanded to consider whether development proposals are achieving good planning outcomes.</p> <p>There are both positive and negative impacts associated with the introduction of Pre-Decision Advice. The concerns include the scope of the issues that can be raised in the pre-decision advice and what guidance will be provided regarding the use of the provision. The requirement that the advice is notifiable is also a concern as it is our view that this type of correspondence between the authority and applicant should remain confidential.</p> <p>The operation of the pre-decision advice provision has potential to create an assessment process that is more complex instead of simpler.</p>	<ul style="list-style-type: none"> The Property Council recommends the use of Pre-Decision advice is reconsidered due to its potential negative impacts.
19 Decision-making considerations	<p>Section 120 of the <i>Planning and Development Act 2007</i> provides the matters that are to be taken into consideration in the assessment of a proposal under the merit track assessment pathway.</p> <p>The Property Council notes the Planning Bill 2022 involves changes to the matters that are currently required to be considered in a development application (compared to the current section 120 of the <i>Planning and Development Act 2007</i>).</p> <p>Section 181 of the Planning Bill proposes that the following matters be considered:</p> <p><i>(c) if the site of the proposed development adjoins another zone- whether the development proposal achieves an appropriate transition between the zones.</i></p> <p><i>(d) the suitability of the proposed development in the context of the site and site surrounds, including the permissible uses for those areas:</i></p>	<ul style="list-style-type: none"> The Property Council recommends that the proposal to include considerations (c), (d) and (f) in section 181 not proceed.

	<p><i>(f) the interaction of the proposed development with any other adjoining or adjacent development proposals for which a development application has been submitted or development approval given.</i></p> <p>These are not currently matters that must be considered in the assessment of a development application.</p> <p>The Property Council does not support the inclusion of these matters as heads of consideration within the Act. These are highly subjective matters that are not appropriate to be considered in the assessment of individual developments.</p> <p>It is our view that these types of matters are more appropriate to be considered in strategic plans or the territory plan. Requiring consideration of issues such as a proposal achieves an appropriate transition from one zone to another zone is better addressed through appropriate planning controls and performance criteria rather than at the development application stage of development.</p> <p>It is not clear how these matters will be addressed in areas undergoing transition either as greenfield development or urban infill development and there will be often be a period of marked difference between a proposal and development on neighbouring land. The requirement to consider the impact of a development on a form of development that is likely to be replaced in the short to medium term is not a good planning outcome.</p> <p>To better understand the impact of these heads of consideration, it would be necessary for the Government to provide examples of developments that have necessitated this policy response. Where a development is consistent with the territory plan and meets the planning outcomes for the location it is bizarre to require the decision maker to also consider the proposed development in the context of the site and site surrounds – separate to any consideration of the proposal's impacts or the suitability of the site or the zone objectives. We encourage the Government to undertake further consultation with stakeholders on these aspects of the Bill, particularly with the development industry and planning profession.</p>	
20 Power for Minister to call in development	<p>The Planning Bill proposes to remove the current powers of the Minister to call in development under Section 158 of the <i>Planning and Development Act 2007</i>.</p> <p>The Property Council does not oppose the abolition of the existing powers of the Minister to call in development where there is the opportunity for non-government projects to be considered as a Territory Priority Project.</p> <p>We acknowledge that there are wider benefits gained from the establishment of a more transparent and less politicised process using Territory Priority Projects. Our comments on the planning process for Territory Priority Projects is provided below.</p>	<ul style="list-style-type: none"> • We do not oppose the abolition of the existing powers of the Minister to call in development where there is the opportunity for non-government projects to be considered as territory priority projects.

<p>21 Territory Priority Projects</p>	<p>The Property Council supports the establishment of a new category of development identified in the Planning Bill 2022 as Territory Planning Projects.</p> <p>We welcome the opportunity to comment on the mechanisms used to identify development projects as Territory Priority Projects. It is important that the types of Territory Priority Projects are not limited to only government-initiated infrastructure. The categories of development should have a broader focus on private sector investment in other development types that have potential to create new employment in the territory and grow the Territory's economy and improve its social well-being.</p> <p>The Policy Overview Paper indicates that the pathway will be open to major private proposals where they will deliver significant public benefit. We recommend that the types of projects eligible for consideration should include those that provide economic benefits as well as those that provide social benefits and deliver on stated policy objectives of the government.</p> <p>The paper provides several examples of these including critical public housing, private hospitals and schools. We would also suggest this should also be open to warehouse and logistics centres, private educational facilities, affordable rental housing and student accommodation.</p> <p>Section 212 of the Planning Bill provides the proposed criteria for a project to be eligible for consideration as a territory priority project. A project must meet all 4 criteria. These are listed below:</p> <ul style="list-style-type: none"> - the proposal is of significant benefit to the people of the ACT, and - the proposal is for critical public infrastructure or facilities, and - the proposal is for development that is time critical, and - there has been sufficient community consultation about the proposal. <p>The Property Council does not support the current drafting of the criteria that applies to consideration of a project. A project worthy of being declared a territory priority project may only meet two or three of the criteria. Limiting the projects that may be declared as a territory priority project to only those that satisfy all 4 of the criteria should be reconsidered.</p> <p>The Policy Overview Paper provides a description of the process for a project to be declared as a territory priority project. The Minister will issue a consultation notice that sets out the proposal to declare a project as a territory priority project. The consultation notice can also include a proposed amendment to the territory plan if that is required for the project to proceed. We support the Minister's consultation notice also providing for the required public consultation on the proposed territory plan amendment.</p> <p>The assessment of applications for Territory Priority Projects must be streamlined to accelerate the development assessment process reflecting the time critical status of the proposal. The</p>	<ul style="list-style-type: none"> • The Property Council recommends that the threshold for satisfying the eligibility for declaration as a territory priority project be amended to only require satisfaction one of the listed criteria. • The Property Council recommends that private and community developments be eligible for consideration as a territory priority project. • We recommend that the types of projects eligible for consideration should include those that provide economic benefits as well as those providing social benefits.
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	<p>Policy Overview Paper indicates that the relevant decision-maker for all territory priority projects must be personally be the Chief Planner. We fully support this aspect of the proposal.</p> <p>The Property Council of Australia supports the Government's intention indicated within the Policy Overview Paper that territory priority projects will not be subject to third party merit appeals (and limited judicial appeals). The significance of the priority projects to the community and the public benefits should be prioritised over the opportunity for third party merit appeals.</p>	
22 Exempt development	<p>Part 7.2 of the Planning Bill provides provisions enable a continuation of an exempt development category within the new planning system. We support the continued operation of exempt development and review of other types of development that can be carried out as exempt development.</p> <p>A new standalone regulation (<i>Planning (Exempt Development) Regulation 2022</i>) to identify and regulate exempt development has been prepared and released for consultation with the Planning Bill. We support the preparation of a standalone regulation as it will provide the benefits cited in the Policy Overview Paper, namely these provisions will be easier to locate and navigate the provisions for exempt development within a separate instrument to the other regulations.</p> <p>The Policy Overview Paper indicates that new exemptions will be created and a number of the current exemptions will be simplified. The proposed new categories of exempt development include: murals (street art) and minor utility works. These changes are supported and we encourage further policy development to explore opportunities to expand the exempt development categories for other low-impact minor development.</p>	<ul style="list-style-type: none"> We recommend that there is a review of other types of development that potentially can be undertaken as exempt development.
23 Third Party Review	<p>Chapter 15 of the Planning Bill provides rules for judicial review of planning decisions. It is understood that the Planning Bill will retain the general approach to providing for review and identifying reviewable decisions and which persons may seek review. The statutory framework will be simplified. This approach is generally supported if it provides for less complexity and improved understanding of the legislative provisions regarding review.</p> <p>Currently exemptions from review are provided listed in schedule 3 of the <i>Planning and Development Regulation 2008</i>. Schedule 7 of the Planning Bill provides the list of matters that are exempt from third party ACT Civil and Administrative Tribunal (ACAT) review and includes territory priority projects, development located in the city centre, a town centre, an industrial zone, the Kingston Foreshore or the University of Canberra site and other specified development.</p> <p>The Policy Overview Paper indicates that there were 17 items exempt from review under the <i>Planning and Development Regulation 2008</i> and there will be 8 items identified in schedule 7 of the Planning Bill. The paper has emphasised the simplification of the items to make it easier to identify whether a decision is reviewable or not. It indicates that a modest change (fails to indicate whether it will be an increase or a reduction) in the number of decisions that are reviewable by ACAT is expected.</p>	<ul style="list-style-type: none"> The Property Council recommends that any reduction or rationalisation of the existing exemptions from third-party review must be considered in the context of the introduction of territory priority projects. We do not support any changes until there is a holistic review of the ACAT.

	<p>Any reduction or rationalisation of the existing exemptions from third-party review must be considered in the context of the introduction of territory priority projects which are not open to third party appeals. We do not support any change to the existing exemptions until there is a holistic review of the ACAT.</p> <p>The Planning Bill proposes the removal of the current limitation under section 121(2) of the <i>Planning and Development Act 2008</i> for the review of merit track applications. Instead the new legislation will give ACAT the same powers to review development as the original decision maker. This is not supported. The Policy Overview Paper indicates that section 121(2) of the 2007 Act would not provide a workable or productive process under the reformed planning system.</p> <p>The Bill proposes to vastly widen the scope of the decision-maker's obligation to take into consideration qualitative matters. Those qualitative matters will by their very nature compete with each other, and it can be foreseen that different decision-makers will very frequently reach different views about the ' decision. Therefore, allowing third party review rights to remain in their current indiscriminate form will be a significant impediment to certainty of decisions and the reduction of assessment timeframes. We reiterate our view stated above that there must be a holistic review of the ACAT.</p>	
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