

ACT Planning System Governance Review: Terms of Reference

Purpose

The ACT has a new planning system, which will commence on 27 November 2023. The system is comprised of three key reforms, the [Planning Act 2023](#) (the Act), the introduction of district strategies (strategic planning), and the new Territory Plan (statutory planning).

The new Act is the legal foundation for the new planning system. The new (interim) Territory Plan outlines what development can take place, where and how. There are nine spatially based district strategies that: reflect the special character of corresponding districts; identify areas for change to accommodate future projected growth and how that growth might respond to community and Government expectations; and outline requirements for implementation of the district strategies, including further expert technical work and analysis.

The purpose of this Review is to examine the governance framework of the new ACT planning system. The Review will examine the key statutory positions and decision-making roles within the planning system to consider if it reflects good governance and is fit for purpose.

The Standing Committee on Planning, Transport and City Services (the Committee) Inquiry into the Planning Bill 2022 recommended that the ACT Government review governance and administrative arrangements. A motion was passed by the Legislative Assembly (the Assembly) on 31 May 2023 that, consistent with the recommendations of the Committee, the ACT Government complete a governance review on the new ACT planning system within 12 months of passage of the Planning Bill 2022, and that the review be tabled in the Assembly. The motion states that the review is to be conducted by an independent expert who does not report to the ACT's Environment, Planning and Sustainable Development Directorate (EPSDD) and that the terms of reference are to include issues raised in the Committee Report, specifically recommendations 11, 12, 16 and 47.

Scope of the Review

1. The Review will consider the effectiveness of the governance framework of the ACT's new planning system and whether it supports the delivery of an efficient and transparent planning system within the ACT context.
2. The Review will consider the principles and practices of good public sector governance in relation to planning and specifically the governance arrangements of persons, positions and decision-making functions that have a direct, advisory, regulatory or statutory role, specifically:
 - a. The ACT's Chief Planner;
 - b. The National Capital Design Review Panel;
 - c. The ACT Government Architect; and
 - d. The Conservator of Flora and Fauna.

The Review may also consider the role of any additional offices which have a governance or integrity role relevant to the planning system.

This will include an assessment of the ability of planning system officeholders to perform the intended functions of their roles in accordance with statutory requirements, with respect to:

- i. the degree of independence and separation afforded to each role;
- ii. the ability to provide and receive advice; and
- iii. accountability and responsibility in the decision-making process.

3. The Review will consider the Standing Committee on Planning, Transport and City Services Report 12 - Inquiry into Planning Bill 2022 recommendations that relate to the governance and decision-making framework, including recommendations 11, 12, 16 and 47.
4. In considering the above terms, the review shall give due consideration to the fact the ACT is a small jurisdiction which may necessitate particular governance arrangements for reasons of both capacity and efficiency.

Deliverables

The Review will produce an independent report, including recommendations, to the ACT Chief Minister on the findings relating to the governance framework of the new planning system.

Stakeholder Engagement

The review will engage with those positions that have an advisory, regulatory or statutory role in planning decisions in the ACT, and will specifically include:

- The ACT's Chief Planner;
- The National Capital Design Panel;
- The ACT Government Architect;
- The Conservator of Flora and Fauna; and
- Any other statutory roles that interact with the planning system that the Reviewers identify should be in scope, including those stakeholders listed at Appendix 1.

The Review will also engage with any other stakeholders the Reviewer determines would be of assistance in assessing the effectiveness of the new governance framework.

The Review may take account of relevant public feedback provided to the ACT Planning System Review and Reform project and the Standing Committee Inquiry into the Planning Bill. Public consultation and a call for public submissions are out of scope for the Review.

Timeframe

The report is required to be delivered to the ACT Chief Minister no later than 25 March 2024.

Appendix 1: Key Stakeholders

- The ACT's Chief Planner
- Conservator of Flora and Fauna
- ACT Government Architect
- National Capital Design Review Panel
- Environment Protection Authority
- City Renewal Authority
- Heritage Council
- Emergency Services Commissioner
- Director General Health
- Director General TCCS
- ICON Water
- The Chief Minister
- The Minister for Planning and Land Management
- The Commissioner for Sustainability and the Environment
- Access Canberra, including the Construction Occupations Registrar
- Office of Industrial Relations and Workplace Safety
- Members of the Legislative Assembly on the Standing Committee on Planning, Transport and City Services, which inquired into the Planning Bill 2022.