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

ELEVENTH ASSEMBLY

Planning (Molonglo Town Centre) Amendment Bill 2025

**Explanatory Statement
and
Human Rights Compatibility Statement
(*Human Rights Act 2004, s 37*)**

**Presented by
Chris Steel MLA
Minister for Planning and Sustainable Development
June 2025**

PLANNING (MOLONGLO TOWN CENTRE) AMENDMENT BILL 2025

This explanatory statement relates to the Planning (Molonglo Town Centre) Amendment Bill 2025 (the **bill**). 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.

This 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 introduces new clauses to reclassify the Molonglo group centre as a *town centre* under the *Planning Act 2023* (the **Planning Act**).

This amendment to the Planning Act follows the approval by the National Capital Authority of amendment 99 to the National Capital Plan (**NCP**) in late 2024, which identified a town centre at Molonglo. This was in recognition that the projected population in the Molonglo Valley would generate additional demand for services and amenities, warranting a town centre to serve as the district's main commercial hub.

The territory plan is one of the key elements required under the Planning Act to guide planning and development in the ACT. The object of the territory plan is to ensure, in a manner not inconsistent with the NCP, that the planning and 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.

Under the Planning Act, the territory plan has no effect to the extent that it is inconsistent with the NCP. Following approval of amendment 99 to the NCP, the territory plan was amended to reflect the change in classification of Molonglo to a town centre.

The amendment to the Planning Act to reclassify Molonglo as a *town centre* follows the NCP and territory plan amendments and is considered minor and technical, because the legislature has already made the policy decision that review rights be limited in town centres (as is the case with other defined areas like the Kingston Foreshore and University of Canberra site under schedule 6 of the Planning Act). As such, the Government is merely modernising schedule 6, section 6.1 of the Planning

Act to reflect the reality that planning is underway for the new town centre in the Molonglo Valley.

The formalisation of Molonglo as a town centre in the Planning Act reflects how it is considered under both the NCP and the territory plan. This formalisation will also assist in limiting anti-competitive appeals against development in the town centre, consistent with the outputs of the revitalised National Competition Policy, which was signed by all states and territories in late 2024.

It is anticipated that, as the Molonglo town centre continues to grow and develop in the years to come, there will be a need to amend the Planning Act to update the map which defines the area of the town centre.

The upgrading of the Molonglo group centre to a town centre under the Planning Act will mean that further development within the defined town centre area will be exempt from third party review in the ACT Civil and Administrative Tribunal (**ACAT**) in some circumstances as is the case with all other town centres and similarly defined areas in the territory.

There is established precedent for emerging development in the territory which exempts developments from third party review in ACAT. For instance, with the growth of the Kingston Foreshore, the now repealed *Planning and Development Regulation 2008* was amended by the *Planning and Development Amendment Regulation 2011 (No 1)* to exempt the defined area from third party review rights.

In the case of the University of Canberra site, this was established as an area exempt from third party review rights by the *Planning and Development (University of Canberra) Amendment Regulation 2015 (No 1)*.

As with the above two examples of amendments to now repealed regulations, no transitional arrangements were deemed necessary for the provisions which formalise Molonglo as a town centre under the Planning Act. People who may be affected by a particular development application in the Molonglo town centre will continue to have the ability to make submissions on individual development applications, as well as on minor (where limited consultation is required) and major plan amendments.

The proposed law does not affect any rights people may have under the *Administrative Decisions (Judicial Review) Act 1989* (the **ADJR Act**).

CONSULTATION ON THE PROPOSED APPROACH

Consultation on the bill was conducted with the Territory Planning Authority, internally within the Environment, Planning and Sustainable Development Directorate, and with other ACT Government directorates and entities, including the

Chief Minister, Treasury and Economic Development Directorate and the Human Rights Unit in the Justice and Community Safety Directorate.

CLIMATE IMPACT

The bill has no impact on climate change.

CONSISTENCY WITH HUMAN RIGHTS

During the development of the bill, due regard was given to its compatibility with human rights as 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. However, the bill does limit the right to a fair trial under section 21 and the right to a healthy environment under section 27C of the HR Act.

1. Nature of the right and the limitation (s 28 (a) and (c))

Right to a Fair Trial

The right to a fair trial is protected by section 21 of the HR Act. Section 21 protects the right to procedural fairness and can also extend to protect third parties whose substantive legal rights may be affected by a determination, for example in planning decisions.

The amendments to reclassify Molonglo group centre as a town centre will mean that certain development within the defined town centre area will be exempt from third party review in the ACAT consistent with schedule 6 of the Act, as is the case with all other town centres and similarly defined areas in the Territory.

These amendments limit the right to a fair trial by placing restrictions on third party review rights for developments in the reclassified Molonglo town centre. In accordance with schedule 6 of the Planning Act, areas of land identified and defined in the schedule, are matters exempt from third party ACAT review.

Right to a Healthy Environment

Section 27C provides that everyone has the right to a clean, healthy and sustainable environment and that everyone is entitled to enjoy this right without discrimination.

These amendments may limit the procedural elements of the right to a healthy environment, which protect access to information, public participation in environmental decision-making, and access to justice and effective remedies. These procedural elements may be limited by the exemption from third party appeals for certain development, consistent with schedule 6 of the Act.

2. Legitimate purpose (s 28 (b))

The proposed amendment applies the general policy decision that review rights are limited in town centres (or other defined areas like the University of Canberra site) in order to provide certainty to the community that infrastructure and the future construction and development of the town centre will be delivered without protracted third party appeals.

This will also assist in limiting anti-competitive appeals to development in the town centre, consistent with the outputs of the revitalised National Competition Policy, which was signed by all states and territories in late 2024.

3. Rational connection between the limitation and the purpose (s 28 (d))

The formalisation of Molonglo as a town centre in the Planning Act reflects how it is currently considered under both the NCP and territory plan.

Exempting some developments from third party ACAT review in Schedule 6 allows certain activities which are not significant development requiring an environmental impact statement (EIS) or a subdivision design application under the legislation to proceed.

Requiring that third parties who may wish to challenge development applications to have made a previous representation limits review rights to those that have proactively engaged in the approval process, meaning fewer parties are able to seek ACAT review.

Reducing the number of potential reviews on development decisions in the town centre will maximise efficient decision-making in the context of low-risk developments for the new town centre that contributes to planning outcomes for the Molonglo town centre to be realised, and provides benefits to the Molonglo community in a timely manner.

4. Proportionality (s 28 (e))

The limitations on the right to a fair trial and the right to a healthy environment are considered proportionate to the legitimate purpose as the benefits to the community outweigh the limitations. These limitations are balanced against a property owners'

interest in having their development applications decided promptly and subject only to necessary interferences.

In the case of development assessment matters, Schedule 6 exempts from third party ACAT review matters considered low-risk (ie not significant) development activities, as discussed above. Significant development requiring an environmental impact statement (EIS) and subdivision design applications would still be subject to third party review rights.

Existing safeguards in the Planning Act will also apply to this amendment, including Division 7.5.4 which includes extensive public notification requirements for all development applications. During this process, the decision-maker is required to consider all representations made during the public notification period, which provides an opportunity for community members to raise concerns about the impact of development proposals.

A further safeguard is that members of the public may still seek judicial review of development decisions where this is available under the ADJR Act.

There are avenues for broad engagement in matters to do with the built environment through the development application process. In accordance with the Territory Plan, any future development applications for buildings in the Molonglo town centre would need to address all the relevant assessment outcomes, many of which support the right to a healthy environment. These outcomes include:

- Biodiversity connectivity is maintained across the landscape.
- Loss of native habitat and biodiversity is avoided and/or minimised.
- The health and functionality of waterways and catchments is maintained, including through application of water sensitive urban design principles.
- Sufficient planting area, canopy trees, deep soil zones and water sensitive urban design measures are provided to enhance living infrastructure, support healthy tree growth and minimise stormwater runoff.
- Urban heat island effects are reduced through limiting impervious surfaces, selection of building materials and provision of canopy trees and plants.
- Threats to biodiversity such as noise, light pollution, invasive species incursion or establishment, chemical pollution, or site disturbance are avoided or minimised through good design.
- Cut and fill is minimised to protect natural hydrological function and limit soil erosion and site disturbance.
- Environmental risks, including noise, bushfire, flooding, contamination, air quality or hazardous materials are appropriately considered for the development on the site.

The decision-maker is required to consider an individual's submission on a development application and respond to any concerns or issues raised.

Planning (Molonglo Town Centre) Amendment Bill 2025

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Planning (Molonglo Town Centre) Amendment Bill 2025**. 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 the Act

This clause provides that the name of the Act is the *Planning (Molonglo Town Centre) Amendment Act 2025*.

Clause 2 Commencement

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

Clause 3 Legislation amended

The clause provides that the Act amends the *Planning Act 2023*.

Clause 4 Definitions—sch 6 Schedule 6, section 6.1, new definition of *Molonglo town centre*

The clause inserts a definition of ***Molonglo town centre***, and defines the area of land to be referred to, by reference to the map in the schedule, division 6.3.3A.

Clause 5 Schedule 6, section 6.1, definition of *town centre*

This clause specifies that under the definition of ***town centre***, ‘the Molonglo town centre’ be inserted after the existing definition of ‘Gungahlin town centre’.

Clause 6 Schedule 6, new division 6.3.3A

This clause inserts the map which identifies and defines the area of the Molonglo town centre as new division 6.3.3A.

Clause 7 Dictionary, new definition of *Molonglo town centre*

This clause inserts a signpost definition of ***Molonglo town centre***, for schedule 6.