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Civil Consultation Team
Justice and Community Safety Directorate
ACT Government

Via email: civilconsultation@act.gov.au

Dear Civil Consultation Team

The Right to a Healthy Environment

The ACT Council of Social Service (ACTCOSS) is pleased to make a submission to the Right to a Healthy Environment consultation process. ACTCOSS advocates for social justice and is the peak body for the community sector in the ACT.

ACTCOSS is proud of the ACT's commitment to be a human rights jurisdiction, and we support the addition of a right to a healthy environment (RHE) to the 'Economic, Social and Cultural rights' (ESC) section of the ACT Human Rights Act 2004. ACTCOSS believes the Act should be amended to explicitly include all ESC rights, including the right to housing, physical and mental health, and culture. We agree with the proposal to include the right to a healthy environment in the ACT, however, we would like to see a more comprehensive approach to secure ASC rights across the board in the ACT.

According to the Universal Declaration of Human Rights (UDHR), 'all human rights are universal, indivisible, interdependent and interrelated'. Just as the right to a healthy environment is not divisible from civil and political rights, there are a range of conditions that are necessary to living a full life with dignity and freedom. ESC rights are themselves interconnected, for example, how does one safeguard an individual's rights to a healthy environment if they are homeless with an inadequate standard of living? Safeguarding all ESC rights in the ACT will establish a robust human rights framework that recognises the interrelated nature of Economic, Social, Cultural, civil and political rights.

As the peak body representative for community services in the ACT, ACTCOSS recognises the ever-growing need to formally recognise the intrinsic relationship between human wellbeing and our environment. ACTCOSS strongly supports the ACT Government's efforts to take effective action in fighting climate change and strengthening the legislative commitment to protecting the human right to enjoy a safe, healthy and accessible environment now and into the future. However, we must ensure that this does not come at the expense of equitable access to services, housing, health and utilities, particularly for people on low incomes.

Enshrining the right to a healthy environment in legislation must not lead to policy that further exacerbates inequality and injustice, for example by unreasonably preventing the building of social and affordable housing or increasing costs of essential items (such as utilities) for people on the lowest incomes. Resources for mitigating climate change must be aimed at those who are the most vulnerable, rather than used to support or benefit those on the highest incomes, as is the case with current subsidies for the transition to net zero emissions.

The ACT Government must also implement a meaningful oversight and complaints mechanism, such as recommended in the No Rights Without Remedy petition. Without access to avenues of justice for complaints regarding environmental danger or degradation, the RHE risks being a right in name alone.

While acknowledging the importance of economic and social activity, we caution against an over-emphasis on potential restrictions to economic activity as a consequence of enshrining the RHE. It is highly unlikely that economic activity will be unfairly restricted. While we support sustainable and affordable housing developments, we do not support legislation that enables private industry to put productivity over the health of the Canberra community.

The Environmental Defenders Office [A Healthy Environment is a Human Right](#) report contains a multitude of examples wherein the weak wording of environmental legislation in service of private interests has led to environmentally degrading activity being allowed to go ahead. In addition, the economic benefits of improving living conditions and health outcomes for vulnerable groups and reducing inequality will undoubtedly reap economic and social benefits.

ACTCOSS is in favour of wording that recognises the extent to which environmental impacts are felt more intensely by vulnerable groups such as people on low incomes, people with disability, Aboriginal and Torres Strait Islander people and children. However, protections should be included to ensure that the RHE cannot be relied upon for the purpose of enforcing controls or restrictions that lead to unjust impacts on the activities and rights of First Nations people.

In addition, the RHE wording should explicitly encompass the private home environment. It is well understood that environmental harm to health is often caused by substandard housing conditions such as damp, mould, poor ventilation, and extreme temperatures caused by insufficient heating and cooling. Better Renting's

[Unsafe as Houses](#) report estimated that there were 42 deaths attributable to cold temperatures in substandard housing from 2009-17.

The RHE consultation process should include private and public rental tenants who have lived experiences of how substandard home environments impact upon their mental and physical health. The addition of the RHE to the Human Rights Act should aim to support progressive improvement to legislation to protect ACT residents who do not own property.

In addition, we support ongoing consultation with Aboriginal and Torres Islander people to ensure that the RHE further substantiates and enhances existing rights to culture and country.

The ACT Government's ongoing commitment to the progressive improvement of human rights legislation is strongly supported by ACTCOSS. The right to a healthy environment can and should be part of a comprehensive and intersectional approach to human rights in the ACT. The best way to safeguard against unintended and potentially harmful consequences is to enact all ESC rights at once. Securing the right to a healthy environment in legislation alongside other rights, such as to housing, physical and mental health, and work, will improve wellbeing for vulnerable Canberrans.

Yours sincerely,

A handwritten signature in black ink that reads "Emma Campbell." The signature is written in a cursive, flowing style.

Dr Emma Campbell
Chief Executive Officer

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