

Mr Peter Cain, Dr Marisa Paterson and Mr Andrew Braddock
Standing Committee on Justice and Community Safety
ACT Legislative Assembly, GPO Box 1020, Canberra ACT 2601
LACommitteeJCS@parliament.act.gov.au

29 November 2023

Dear Committee,

SUBMISSION TO INQUIRY INTO THE HUMAN RIGHTS (HEALTHY ENVIRONMENT) AMENDMENT BILL 2023

The ACT Council of Social Service (ACTCOSS) welcomes the opportunity to provide a submission to the Inquiry into the Human Rights (Healthy Environment) Amendment Bill 2023 (the Bill). ACTCOSS advocates for social justice in the ACT and represents not-for-profit community organisations.

ACTCOSS is proud of the ACT's commitment to be a human rights jurisdiction, and we support the addition of the right to a healthy environment to the Economic, Social and Cultural rights (ESC) section of the *Human Rights Act 2004* (Human Rights Act). The human rights implications of environmental degradation, climate inaction and toxic environments fall disproportionately on structurally marginalised communities. First Nations peoples, women, children, people who are financially disadvantaged, older people, people with disabilities, and other peoples experiencing social and economic exclusion are the most at risk of environmental harm, with subsequent effects on their health and wellbeing.

The right to a healthy environment is a precondition to the realisation of other human rights, and enshrining this right in the Human Rights Act has the potential to ensure those who are socially, economically or politically marginalised are better supported to realise the breadth of their human rights. To ensure this is achieved, we encourage the ACT Government to prioritise Principles 3 and 14 of the *Framework Principles on Human Rights and the Environment* recommended by the UN Special Rapporteur on Human Rights, namely:

- *States should prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.*
- *States should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.*¹

The proposed amendment will mean the ACT becomes the first jurisdiction in Australia to expressly enact a human right to a healthy environment, setting an important precedent for other governments across Australia. The

¹ [UN Special Rapporteur on Human Rights and the Environment's 2018 Framework Principles](#), UN Doc A/HRC/37/59, (24 January 2018).

dialogue model of the Human Rights Act provides a robust framework for incorporating the right, with clear obligations on public authorities, law makers and courts. This will help ensure that the relationship between human wellbeing and the environment is centred in the decision-making and service provision of the ACT Government and in the creation and interpretation of laws that will affect future generations in the ACT.

While ACTCOSS supports the incorporation of the right to a healthy environment into the ACT's Human Rights Act, we remain concerned that fundamental ESC rights continue to be absent from the Act. Economic, social, and cultural rights include the human right to work, the right to an adequate standard of living, including food, clothing, and housing, the right to physical and mental health, the right to social security, and the right to education. The indivisibility of human rights means that all ESC rights should have the same status as civil and political rights, yet the Human Rights Act is focused on civil and political rights and, except for the limited right to education and right to work, the Legislative Assembly has largely ignored ESC rights. Given the indivisibility of human rights, the right to a healthy environment is less likely to be fully realised without incorporating the full range of ESC into law. For example, the right to housing is intimately connected with building climate change resilience, and the health of an environment and the community that resides within it. Uneven access to the right to health places certain groups at greater risk of the health-related effects of climate change and can also mean such groups are less able to recover from these health effects.

ACTCOSS strongly recommends the Human Rights Act is amended to explicitly include the full suite of economic, social, and cultural rights, including the right to housing, physical and mental health, and culture. While we fully support incorporating the right to a healthy environment into the Act, it is imperative there is a more comprehensive approach to secure ESC rights across the board in the ACT. We strongly support the ACT Government's efforts to take effective action in fighting climate change and strengthening the legislative commitment to protecting the right to a healthy environment now and into the future. However, this must be pursued in tandem with efforts to secure equitable access to services, housing, health, and utilities, particularly for people on low incomes. Legislating the right to a healthy environment must not lead to policy that exacerbates inequality and injustice or the enjoyment of other human rights, for example by 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.

We also note that the ACT is yet to fully incorporate the United Nations Declaration on the Rights of Indigenous People (UNDRIP) in the Human Rights Act. In 2019, the ACT Government amended the Act to include specific recognition of two of the UNDRIP's 43 articles, specifically by guaranteeing Aboriginal and Torres Strait Islander control over cultural issues and establishing Aboriginal and Torres Strait Islander people's rights to a 'relationship' with their land (Articles 25 and 31). However, adopting the UNDRIP requires full rather than partial enactment, including articles relating to self-determination, consultation and participation rights. Expanding the Human Rights Act to include the full suite of UNDRIP rights will help ensure the right to a healthy environment is implemented in a way that supports the rights of First Nations peoples in the ACT.

As advocates for social justice in the ACT, we are excited to see the creation of laws that enshrine the right to a healthy environment, as we know vulnerable and low-income people are the most affected by climate change and



environmental degradation and the least able to adapt. While recognising that the amendments to the Act could go further, we applaud the recognition of the right to a healthy environment as an important, nation leading reform.

Yours sincerely

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