



## Mick Gentleman MLA

MINISTER FOR PLANNING  
MINISTER FOR ROADS AND PARKING  
MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS  
MINISTER FOR CHILDREN AND YOUNG PEOPLE  
MINISTER FOR AGEING

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MEMBER FOR BRINDABELLA

Mr Gary Kent  
Chair  
Inner South Canberra Community Council  
PO Box 3310  
Manuka ACT 2603

Dear Mr Kent

Thank you for your letter of 9 February 2015 for the Inner South Canberra Community Council about the *Planning and Development (Capital Metro) Legislation Amendment Bill 2014* (the bill).

The status of the bill is as follows. The bill amends the *Planning and Development Act 2007* (Planning and Development Act) and was passed by the Legislative Assembly on 12 February 2015. As a result became the Planning and Development (Capital Metro) Legislation Amendment Act 2015 (Amendment Act). The Amendment Act was notified on 25 February 2014 and will commence operation shortly through written notice. A copy of the Amendment Act and explanatory statement can be accessed on the web at [www.legislation.act.gov.au/a/2015-2/default.asp](http://www.legislation.act.gov.au/a/2015-2/default.asp).

I note the concerns of the Inner South Canberra Community Council (Council) in relation to the timing of debate, the scope of the bill and the effects of the bill on review rights and the operation of the *Heritage Act 2004* and *Tree Protection Act 2005*.

It is my view that the Capital Metro Light Rail project is of importance to the growing ACT community with numerous benefits, including increased access to public transport with significantly improved economic, planning and health outcomes for this city. Given the importance of this project, legislation is necessary to ensure as far as possible that the project is not unnecessarily delayed.

### ACT LEGISLATIVE ASSEMBLY

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In connection with the timing of the passage of the bill, I recognise the importance of community consultation and full debate on measures such as this. In this case, I believe it was necessary for the Legislative Assembly debate to continue as scheduled in February 2015 to ensure there would be no risk of delay to the light rail project. I would, however, note that the bill was presented to the Assembly and made public on 27 November 2014.

In addition, the Amendment Act is, in part, a response of the Government to community comment and debate on the now withdrawn *Planning and Development (Project Facilitation) Legislation Amendment Bill 2014* (project facilitation bill), referred to in your letter. In response to comments on the project facilitation bill, the Amendment Act is a comparatively limited measure for the light rail project only.

I would note that the Amendment Act does not apply to standard railways as suggested. This is because the new definition of "light rail" requires the rail to be "lightweight rail". Consistent with the widely accepted meaning of this term, this means the rail must not be a standard railway.

I note the suggestion that the geographical reach of the Amendment Act be restricted to the easement of the light rail track and for the track to be defined by legislation. This would in my view be unduly restrictive. This is because it would prevent the Amendment Act from applying to much more than the track itself and would prevent the Act from applying to key infrastructure contrary to its underlying purpose.

The proposal in your letter to fix the position of the track in the legislation itself is not appropriate in my view. This is because the potential location of the track beyond stage one is a matter for further consideration and community consultation into the future. The Amendment Act is a framework for the facilitation of light rail into the future, not the vehicle for determining its location.

I note also the suggestion that the Amendment Act apply only to projects put forward by the Capital Metro Agency and providers of utility services. In my view such a provision is not necessary given the existing limitations to the scope of the Amendment Act.

In relation to restrictions on review rights, I would note the following. In the interests of certainty of outcomes and to limit the potential for delay the Amendment Act removes third party ACAT merit review rights and rights of review by the Supreme Court under the *Administrative Decisions (Judicial Review) Act 1989*. The right to seek review in the Supreme Court under the common law remains.

It is also important to note that the Amendment Act preserves existing rights of the community to be notified of development applications related to light rail and to comment on those applications. Further, development application and assessment processes will continue to apply. This includes the need to meet the requirements of the Territory Plan and planning legislation.

In relation to the operation of the Heritage Act, Tree Protection Act and other legislation in connection with the planning approvals for the light rail project, I would make the following points. The Amendment Act preserves existing requirements for agencies such as the Heritage Council to review development applications and provide advice. The decision maker on the relevant development application must still take full account of any such advice in arriving at a decision. The provisions in the Amendment Act are there to permit the decision maker to consider such agency comments in the light of the significance of the Capital Metro Light Rail project and, if appropriate, depart from the advice if implementation would result in significant delay to the project or other significant impediment. In my view, this is a balanced measure necessary to permit the decision maker to assess the issue in the context of the significance of the light rail project.

I thank the Council for its continued interest in the light rail project and specific questions raised. I trust this response is of assistance in setting out the priorities behind, and the parameters of, this important reform.

Yours sincerely



Mick Gentleman MLA  
Minister for Planning

18 March 2015