



Australian Capital Territory

Planning and Development Amendment Act 2017

A2017-30

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Section 73	3
5 New section 73A	4
6 Committee reports on draft plan variations Section 74 (1)	5
7 Section 75	5
8 Minister's powers in relation to draft plan variations Section 76 (1) and (2)	6

Contents

	Page
9 Exempt development—authorised use	
New section 134 (3A)	6
10 Section 134 (8), new definition of <i>commencement day</i>	6
11 Impact track proposals if not likely to have significant adverse environmental impact	
Section 138AA (1) (a)	7
12 Section 138AA (1) (b)	7
13 New section 138AA (3) and (4)	7
14 Development proposals in impact track because of need for EIS	
Schedule 4, part 4.2, new item 11	8
15 Schedule 4, part 4.3, item 7	8
16 Dictionary, note 2	8
17 Dictionary, new definitions	9
18 Dictionary, definition of <i>relevant agency</i>	9



Australian Capital Territory

Planning and Development Amendment Act 2017

A2017-30

An Act to amend the *Planning and Development Act 2007*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Planning and Development Amendment Act 2017*.

2 Commencement

- (1) This Act (other than the following provisions) commences on the day after its notification day:

- sections 9 to 11
- sections 14 and 17.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) The provisions mentioned in subsection (1) commence on a day fixed by the Minister by written notice.

Note 1 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

Note 2 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

3 Legislation amended

This Act amends the *Planning and Development Act 2007*.

4 Section 73*substitute***73 Consideration of draft plan variations by Legislative Assembly committee**

- (1) This section applies if the Minister is given a draft plan variation under section 69.
- (2) The Minister must, within 5 working days after the day the public availability notice for the draft plan variation is notified, refer the draft plan variation documents to an appropriate committee of the Legislative Assembly, together with a request that the committee decide whether it will prepare a report on the draft plan variation.
- (3) Subsection (4) applies if—
 - (a) the draft plan variation is to facilitate the construction, ongoing operation and maintenance, repairs, refurbishment, relocation or replacement of light rail; and
 - (b) if the committee decides to prepare a report on the draft plan variation—the Minister is satisfied that the risk of delay to the development of light rail will be minimised if the committee's report on the draft plan variation were given to the Minister earlier than 6 months after the day the draft plan variation is referred to the committee.
- (4) When the Minister refers the draft plan variation to the committee, the Minister may request that, if the committee decides to prepare a report, the report be completed and given to the Minister within a period stated by the Minister, that is not less than 3 months and not more than 6 months after the day the draft plan variation is referred to the committee.

- (5) The committee—
 - (a) must tell the Minister, within 20 working days after the day the draft plan variation is referred to the committee, whether or not it will prepare a report on the draft plan variation; and
 - (b) if the committee has not told the Minister, within that 20-day period, whether it will prepare a report—is taken to have decided not to prepare a report.
- (6) Without limiting the matters the committee may include in a report on a draft plan variation, the committee must include—
 - (a) a recommendation that the Minister approve the draft plan variation; or
 - (b) another recommendation about the draft plan.
- (7) In this section:
draft plan variation documents means—
 - (a) the draft plan variation; and
 - (b) the documents mentioned in section 69 (2) that relate to the draft plan variation.

5 New section 73A

insert

73A Committee decides not to report

- (1) This section applies if—
 - (a) the Minister has referred a draft plan variation to a committee of the Legislative Assembly under section 73; and
 - (b) the committee has decided, or is taken to have decided, not to prepare a report on the draft plan variation.

- (2) The Minister must take action in accordance with section 76 in relation to the variation.

6 Committee reports on draft plan variations

Section 74 (1)

substitute

- (1) This section applies if—
- (a) the Minister has referred a draft plan variation to a committee of the Legislative Assembly under section 73; and
 - (b) the committee has decided to prepare a report on the draft plan variation.

7 Section 75

substitute

75 Committee fails to report promptly on draft plan variations

- (1) This section applies if—
- (a) the Minister has referred a draft plan variation to a committee of the Legislative Assembly under section 73; and
 - (b) the committee has decided to prepare a report on the draft plan variation; and
 - (c) the committee has not reported on the variation by the end of—
 - (i) if a period was stated under section 73 (4)—that period; or
 - (ii) in any other case—6 months after the day the variation is referred to the committee.
- (2) The Minister may take action in accordance with section 76 in relation to the draft plan variation, even though the committee of the Legislative Assembly has not reported on the variation.

**8 Minister's powers in relation to draft plan variations
Section 76 (1) and (2)**

substitute

- (1) This section applies if—
- (a) the Minister is given a draft plan variation under section 69, and either—
 - (i) section 73A applies; or
 - (ii) section 75 applies and the Minister decides to take action in accordance with this section; or
 - (b) the Minister is given a draft plan variation under section 78 (3) or (4); or
 - (c) the Minister revokes the approval of a plan variation under section 77.

**9 Exempt development—authorised use
New section 134 (3A)**

insert

- (3A) Also, use of the land, or a building or structure on the land, is not exempt from requiring development approval if—
- (a) the placard quantity or more of a dangerous substance is to be stored on the land, or in a building or structure on the land; and
 - (b) immediately before the commencement day, the land on which, or the building or structure in which, the dangerous substance is to be stored is not registered in the placard quantity register.

10 Section 134 (8), new definition of *commencement day*

insert

commencement day means the day the *Planning and Development Amendment Act 2017*, section 9 commences.

**11 Impact track proposals if not likely to have significant adverse environmental impact
Section 138AA (1) (a)**

after

item 3 (c) or (d)

insert

or item 11

12 Section 138AA (1) (b)

omit

or item 6

substitute

, item 6 or item 7

13 New section 138AA (3) and (4)

before the notes, insert

- (3) If the planning and land authority is the relevant agency for an environmental significance opinion, the authority must not give an opinion unless it has consulted each of the following entities:
 - (a) the work safety commissioner;
 - (b) the environment protection authority;
 - (c) the emergency services commissioner;
 - (d) the director-general of the administrative unit responsible for the *Health Act 1993*;
 - (e) if an area adjacent to the ACT could be adversely affected by development that is the subject of the development proposal—the council for the area;

(f) an entity prescribed by regulation.

(4) In this section:

area—see the [Local Government Act 1993](#) (NSW), dictionary.

council—see the [Local Government Act 1993](#) (NSW), dictionary.

14 Development proposals in impact track because of need for EIS Schedule 4, part 4.2, new item 11

insert

11	<p>proposal that involves storage of the placard quantity of a dangerous substance on land, or in a building or structure on the land, that, immediately before the commencement day, was not registered in the placard quantity register, unless the authority produces an environmental significance opinion indicating that the proposal is not likely to have a significant adverse environmental impact</p> <p><i>Note 1</i> <i>Dangerous substance, placard quantity, and placard quantity register</i>—see the dictionary.</p> <p><i>Note 2</i> <i>Commencement day</i>—see section 134 (8).</p>
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15 Schedule 4, part 4.3, item 7

substitute

7	<p>proposal involving land included on the register of contaminated sites under the Environment Protection Act 1997 unless the authority produces an environmental significance opinion indicating that the proposal is not likely to have a significant adverse environmental impact</p>
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16 Dictionary, note 2

insert

- emergency services commissioner
- planning and land authority
- work safety commissioner

17 Dictionary, new definitions

insert

dangerous substance—see the [Dangerous Substances Act 2004](#), dictionary.

placard quantity—see the [Dangerous Substances \(General\) Regulation 2004](#), dictionary.

placard quantity register—see the [Dangerous Substances \(General\) Regulation 2004](#), dictionary.

18 Dictionary, definition of *relevant agency*

substitute

relevant agency means—

- (a) for schedule 4, part 4.2, item 3 (c) and (d)—the conservator of flora and fauna; and
- (b) for schedule 4, part 4.2, item 11—the planning and land authority; and
- (c) for schedule 4, part 4.3, item 1, item 2 (a) and (b) and item 3—the conservator of flora and fauna; and
- (d) for schedule 4, part 4.3, item 6—the heritage council; and
- (e) for schedule 4, part 4.3, item 7—the planning and land authority.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 24 August 2017.

2 Notification

Notified under the [Legislation Act](#) on 28 September 2017.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Planning and Development Amendment Bill 2017, which was passed by the Legislative Assembly on 19 September 2017.

Clerk of the Legislative Assembly

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