



Australian Capital Territory

Planning Legislation Amendment Act 2020

A2020-44

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Australian Capital Territory

Planning Legislation Amendment Act 2020

A2020-44

An Act to amend legislation about planning, and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *Planning Legislation Amendment Act 2020*.

2 Commencement

- (1) This Act (other than the following provisions) commences on the day after its notification day:
- section 4
 - sections 7 and 8
 - section 11
 - part 4.

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

- (2) Section 4 commences 2 years after this Act's notification day.
- (3) Sections 7, 8 and 11 commence on 1 July 2021.
- (4) Part 4 commences 6 months after this Act's notification day.

3 Legislation amended

This Act amends the following legislation:

- *Planning and Development Act 2007*
- *Planning and Development Regulation 2008*
- *Residential Tenancies Act 1997*.

Part 2 Planning and Development Act 2007

4 Inspection etc of public register and associated documents Section 29 (1)

substitute

- (1) The planning and land authority must ensure that—
 - (a) during business hours, the public register and associated documents are available for public inspection; and
 - (b) the following are available on the authority website:
 - (i) the public register information mentioned in section 28 (1) (a), (b) and (c)—indefinitely;
 - (ii) the associated documents for a development application mentioned in section 30 (1) (a), (b), (c), (d), (f), (g) and (r) (i)—for the period of 5 years from the day the development application is publicly notified under division 7.3.4;
 - (iii) the associated documents for a development application mentioned in section 30 (1) (o), (q) and (r) (ii)—for the period of 5 years from the day the notice of decision on the development application is given under division 7.3.8.

5 Committee fails to report promptly on draft plan variations
Section 75 (1) (c) (i) and (ii)

substitute

- (i) if the Minister's referral is made within the period of 4 months before a general election of members of the Legislative Assembly—
 - (A) if the Minister stated a period under section 73 (4)—that period of time commencing on the first sitting day of the Assembly after the general election; or
 - (B) in any other case—6 months after the first sitting day of the Assembly after the general election; or
- (ii) in any other case—
 - (A) if a period was stated by the Minister under section 73 (4)—that period; or
 - (B) in any other case—6 months after the day the variation is referred to the committee.

6 Design review panel may provide design advice
Section 138AM (1) (b)

substitute

- (b) the planning and land authority gives the design review panel an opportunity to provide further design advice about a development proposal under—
 - (i) section 141A (Further information—entities and design review panel); or
 - (ii) section 145A (Amended development application—previous consultation with design review panel).

**7 Form of development applications
New section 139 (2) (t)**

before the notes, insert

- (t) if the annual amount of the expected greenhouse gas emissions from operating the development is more than the amount prescribed by regulation—an expected greenhouse gas emissions statement for the development.

8 Section 139 (8), new definition of *expected greenhouse gas emissions statement*

insert

expected greenhouse gas emissions statement, for a development, means written information stating the annual amount of expected greenhouse gas emissions from operating the development.

9 New sections 141A and 141B

insert

141A Further information—entities and design review panel

- (1) This section applies if—
 - (a) the planning and land authority receives further information in relation to a development application under section 141; and
 - (b) before the planning and land authority receives the further information—
 - (i) the development application was referred to an entity under—
 - (A) section 127A (Impact track—referral of matter protected by the Commonwealth to Commonwealth); or

- (B) section 147A (Development applications involving protected matter to be referred to conservator); or
 - (C) section 148 (Some development applications to be referred); or
 - (ii) the design review panel provided design advice about the development proposal under section 138AM.
- (2) The planning and land authority may—
- (a) if subsection (1) (b) (i) applies—refer the development application to the entity again, including the further information; or
 - (b) if subsection (1) (b) (ii) applies—give the design review panel an opportunity to provide further design advice about the development proposal.

141B Further information—public notification

- (1) This section applies if—
- (a) a development application is publicly notified; and
 - (b) the public notification period for the development application has passed; and
 - (c) the planning and land authority receives further information in relation to the development application under section 141.
- (2) The planning and land authority may publicly notify the development application again, including the further information, under division 7.3.4 (Public notification of development applications and representations).

10 Section 142

substitute

142 Not providing or providing false or misleading information—development applications

- (1) This section applies if the applicant for a development application—
 - (a) includes false or misleading information in the application; or
 - (b) is asked for further information in relation to the application by the planning and land authority under section 141 and the applicant—
 - (i) provides false or misleading information in response to the request; or
 - (ii) does not provide some or all of the information in accordance with the request.
- (2) The planning and land authority may refuse the application under section 162.

Note It is also an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

**11 Development proposals requiring EIS—areas and processes
Schedule 4, part 4.3, new item 9**

insert

9	proposal for which the annual expected greenhouse gas emissions from operating the development is more than the amount prescribed by regulation
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12 Dictionary, new definition of *greenhouse gas emissions*

insert

greenhouse gas emissions—see the [Climate Change and Greenhouse Gas Reduction Act 2010](#), dictionary.

Part 3 Planning and Development Regulation 2008

13 Prescribed development proposal for community consultation—Act, s 138AE Section 20A (2) (b)

after

schedule 1B

insert

other than a development proposal that is less than 100m from a dwelling

14 Section 20B

substitute

20B Consultation with design review panel—Act, s 138AL

The following development proposals are prescribed:

- (a) a proposal for a building with 5 or more storeys;
- (b) a proposal—
 - (i) to increase the floorspace of a shop by more than 2 000m²; and
 - (ii) that is fully or partly located within 1 or more of the following:
 - (A) a residential zone;
 - (B) a commercial zone;
 - (C) a community facility zone;

(D) a parks and recreation zone.

Note **Zone** means a zone identified in the [territory plan](#) (see [Act](#), dict).

**15 Public notification period—Act, s 157, def *public notification period*, par (a)
New section 28 (2)**

insert

(2) In this section:

working day means a day that is not—

- (a) a Saturday or Sunday; or
- (b) a public holiday in the ACT; or
- (c) in the period beginning on 20 December in a year and ending on 10 January the following year.

Part 4 Residential Tenancies Act 1997

16 Section 11A (7), definition of *existing energy efficiency rating*

omit

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 May 2020.

2 Notification

Notified under the [Legislation Act](#) on 27 August 2020.

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 Legislation Amendment Bill 2020, which was passed by the Legislative Assembly on 20 August 2020.

Clerk of the Legislative Assembly

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