



Australian Capital Territory

Planning and Development Amendment Act 2021

A2021-2

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 2021*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

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

4 New part 7.2AA

insert

**Part 7.2AA Prohibited waste facility
development applications**

137E Object of part

- (1) The object of this part is to contribute to the orderly and sustainable development of waste facilities in the ACT by limiting the development of new waste facilities in the division of Fyshwick.
- (2) In this section:
division—see the *Districts Act 2002*, dictionary.

137F Certain development applications for waste facilities prohibited

- (1) The planning and land authority must not accept a prohibited waste facility development application.
- (2) In this section:

division—see the *Districts Act 2002*, dictionary.

handle, in relation to waste, means store, sort, treat, process, recover, recycle, use, reuse or dispose of waste.

prohibited waste facility development application means a development application in relation to a development proposal for the use of land in the division of Fyshwick that would, if it were approved, permit—

- (a) the use of any part of the land as a waste facility; or
- (b) if the land is used, wholly or partly, as an existing waste facility—an increase in the amount of waste handled on the land each year.

waste—see the *Waste Management and Resource Recovery Act 2016*, section 10.

waste facility—

- (a) means a site used for the handling of waste and includes—
 - (i) an incineration facility; and
 - (ii) a landfill site; and
 - (iii) a recyclable material collection site; and
 - (iv) a recycling facility; and
 - (v) a waste transfer facility; and
 - (vi) a hazardous waste facility; but

(b) does not include—

- (i) if the handling of waste on a site is ancillary to the site's primary use—the site; or
- (ii) a site prescribed by regulation.

Examples—par (b) (i)

- 1 a paint supplier that accepts unused paint from its customers
- 2 an electrical goods retailer that uses large on-site bins for storing cardboard for recycling

137G Compensation—safety net

- (1) This section applies if, apart from this section, the operation of this part would result in the acquisition of property from a person otherwise than on just terms under the [Self-Government Act](#), section 23 (1) (a).

Note The Legislative Assembly has no power to make a law in relation to an acquisition otherwise than on just terms (see [Self-Government Act](#), s 23 (1) (a)).

- (2) The Territory must pay reasonable compensation to the person for the acquisition in accordance with this section.
- (3) The Territory and the person may agree on an amount of compensation or other terms in satisfaction of the Territory's obligation under subsection (2).
- (4) If there is no agreement under subsection (3), the person may, by proceeding in a court of competent jurisdiction, recover from the Territory the reasonable compensation that the court decides.
- (5) In deciding what is reasonable compensation, the court—
 - (a) must have regard to any payment made to, or other terms agreed with, the person by or on behalf of the Territory in relation to the acquisition; and

- (b) may have regard to the following:
 - (i) any reasonable costs incurred by the person in relation to a prohibited waste facility development application;
 - (ii) any loss in value of land or buildings on the land related to the acquisition;
 - (iii) any cost of work lawfully undertaken in developing the land for use as a waste facility; but
 - (c) must not have regard to any loss of opportunity or future profit claimed by the person because of the acquisition.
- (6) In this section:
- prohibited waste facility development application*—see section 137F (2).

5 New chapter 27

insert

Chapter 27 Transitional—Planning and Development Amendment Act 2021

515 Meaning of *commencement day*—ch 27

In this chapter:

commencement day means the day the *Planning and Development Amendment Act 2021*, section 3 commences.

516 Prohibited waste facility development applications made before commencement day

- (1) This section applies if—
 - (a) before the commencement day, a person has made a prohibited waste facility development application; and
 - (b) immediately before the commencement day, the application has not been—
 - (i) withdrawn by the applicant; or
 - (ii) approved, or approved subject to a condition, by the planning and land authority.
- (2) The planning and land authority must refuse the prohibited waste facility development application.
- (3) In this section:
prohibited waste facility development application—see section 137F (2).

517 Expiry—ch 27

This chapter expires 5 years after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

6 Dictionary, note 2

insert

- Self-Government Act

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 10 February 2021.

2 Notification

Notified under the [Legislation Act](#) on 19 February 2021.

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 2021, which was passed by the Legislative Assembly on 11 February 2021.

Clerk of the Legislative Assembly

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