

2014

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning)

Planning and Development (Capital Metro) Legislation Amendment Bill 2014

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Planning and Development (Capital Metro) Legislation Amendment Bill 2014

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Planning and Development (Capital Metro)*
4 *Legislation Amendment Act 2014*.

5 **2 Commencement**

6 (1) The following provisions commence on the commencement of the
7 *Planning and Development (Bilateral Agreement) Amendment*
8 *Act 2014*, section 6:

- 9 • section 5
- 10 • section 9
- 11 • section 11
- 12 • section 17
- 13 • section 19.

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

16 (2) The remaining provisions commence on a day fixed by the Minister
17 by written notice.

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

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

24 **3 Legislation amended**

25 This Act amends the following legislation:

- 26 • *Administrative Decisions (Judicial Review) Act 1989*
- 27 • *Planning and Development Act 2007*
- 28 • *Planning and Development Regulation 2008*.

1 **Part 2** **Administrative Decisions**
2 **(Judicial Review) Act 1989**

3 **4 Decisions to which this Act does not apply**
4 **Schedule 1, item 15, column 3**

5 *after 3rd dot point, insert*

- 6 • a decision to make a light rail declaration
7 • a decision under chapter 7, chapter 8 or chapter 9 in relation to a development
8 proposal that is related to light rail

9 **5 Schedule 1, item 15, column 3, 5th dot point**

10 *after*

11 related to light rail

12 *insert*

13 , other than a development proposal involving a protected matter

1 **Part 3** **Planning and Development**
2 **Act 2007**

3 **6** **Consideration of draft plan variations by Legislative**
4 **Assembly committee**
5 **New section 73 (2A)**

6 *insert*

7 (2A) The Minister may request the committee report on the draft plan
8 variation within a stated period that is not less than 3 months and not
9 more than 6 months after the draft plan variation is referred to the
10 committee if—

11 (a) the draft plan variation is to facilitate the construction, ongoing
12 operation and maintenance, repairs, refurbishment, relocation
13 or replacement of light rail; and

14 (b) the Minister is satisfied that the shorter period will minimise
15 the risk of delay to the development of light rail.

16 **7** **Committee fails to report promptly on draft plan**
17 **variations**
18 **Section 75 (1) (b)**

19 *substitute*

20 (b) the committee has not reported on the variation by the end of—

21 (i) if the Minister has requested the committee report within
22 a stated period under section 73 (2A)—the stated period;
23 or

24 (ii) in any other case—the period of 6 months starting on the
25 day after the day the variation is referred.

8 New section 119A*insert***119A Development proposal related to light rail—qualification of s 119**

(1) This section applies to a development proposal in the merit track if—

- (a) the proposal is related to light rail; and
- (b) an entity has given advice in relation to the proposal.

(2) Section 119 (1) (c), (2) and (3) does not apply to the development proposal if the person deciding the development application for the proposal is satisfied that following the entity's advice will—

- (a) risk significant delay to the commencement or completion of the development to which the proposal relates; or
- (b) risk significantly increasing the financial or resource cost for completion of the development to which the proposal relates; or
- (c) be a significant impediment to the commencement or completion of the development to which the proposal relates.

9 New section 119A (1) (aa)*insert*

- (aa) the proposal does not involve a protected matter; and

1 **10 New section 128A**

2 *insert*

3 **128A Development proposal related to light rail—qualification**
4 **of s 128**

5 (1) This section applies to a development proposal in the impact track
6 if—

7 (a) the proposal is related to light rail; and

8 (b) an entity has given advice in relation to the proposal.

9 (2) Section 128 (1) (b) (iii), (2) and (3) does not apply to the
10 development proposal if the person deciding the development
11 application for the proposal is satisfied that following the entity's
12 advice will—

13 (a) risk significant delay to the commencement or completion of
14 the development to which the proposal relates; or

15 (b) risk significantly increasing the financial or resource cost for
16 completion of the development to which the proposal relates;
17 or

18 (c) be a significant impediment to the commencement or
19 completion of the development to which the proposal relates.

20 **11 New section 128A (1) (aa)**

21 *insert*

22 (aa) the proposal does not involve a protected matter; and

12 New part 7.2A*insert***Part 7.2A Capital Metro facilitation****Division 7.2A.1 Preliminary****137A Meaning of *related to light rail***

(1) For this Act, a development proposal is *related to light rail* if—

(a) the development to which the proposal relates may facilitate the construction, ongoing operation and maintenance, repairs, refurbishment, relocation or replacement of—

(i) light rail track; or

(ii) infrastructure within, or partly within, 1km from—

(A) existing light rail track; or

(B) proposed light rail track; or

(b) a declaration under section 137B is made in relation to it.

Examples—par (a) (ii)

1 temporary infrastructure for construction of light rail such as safety fencing, scaffolding, access roads and parking

2 stops, stations, terminus and associated shelters, seating and toilet amenities, ticketing infrastructure, parking, set-down areas and bicycle storage

3 access roads, footpaths and bicycle lanes

4 entry and access points and safety barriers

5 electricity supply infrastructure including substations, overhead lines and supports

6 signalling and other control facilities

1 7 depot facilities

2 *Note* An example is part of the Act, is not exhaustive and may extend, but
3 does not limit, the meaning of the provision in which it appears (see
4 [Legislation Act](#), s 126 and s 132).

5 (2) In this section:

6 ***proposed light rail track*** means—

7 (a) light rail track identified in a development proposal in a
8 development application that includes the construction,
9 extension, refurbishment, relocation or replacement of light rail
10 track; or

11 (b) light rail track identified in a development approval that
12 authorises the construction, extension, refurbishment,
13 relocation or replacement of light rail track.

14 **Division 7.2A.2 Light rail declaration**

15 **137B Authority may declare development proposal related to** 16 **light rail**

17 (1) The planning and land authority may declare that a development
18 proposal is related to light rail (a ***light rail declaration***).

19 (2) The planning and land authority may make a light rail declaration
20 only if satisfied on reasonable grounds that the development
21 proposal is a development described in section 137A (1) (a).

22 (3) The planning and land authority may make a light rail declaration on
23 its own initiative or on application by the proponent of the
24 development proposal.

25 (4) A declaration is a notifiable instrument.

26 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

1 **137C Light rail declaration—time limit on proceedings**

2 A person may not start a proceeding in a court in relation to a
3 decision to make a light rail declaration more than 60 days after the
4 day the declaration is made.

5 **Division 7.2A.3 Effect of development proposal being**
6 **related to light rail**

7 *Note* The operation of other sections of this Act is also affected by a
8 development proposal being related to light rail (see s 119 and s 128).

9 **137D Development related to light rail—time limit on**
10 **proceedings**

11 (1) This section applies to a development proposal that is related to light
12 rail.

13 (2) A person may not start a proceeding in a court in relation to a
14 decision under this chapter, chapter 8 or chapter 9—

15 (a) if the decision is in relation to the development proposal; and

16 (b) more than 60 days after the day the decision is made.

17 **13 Form of development applications**
18 **New section 139 (3A)**

19 *insert*

20 (3A) A regulation may exempt an application for approval of a
21 development related to light rail from any of the requirements in
22 subsection (2) other than the requirements in subsection (2) (a), (b),
23 (f) and (m).

1 **14 New chapter 21**

2 *insert*

3 **Chapter 21 Transitional—Planning and**
4 **Development (Capital Metro)**
5 **Legislation Amendment**
6 **Act 2014**

7 **488 Meaning of *commencement day*—ch 21**

8 In this chapter:

9 *commencement day* means the day the *Planning and Development*
10 *(Capital Metro) Legislation Amendment Act 2014*, section 3
11 commences.

12 **489 Development application lodged but not decided prior to**
13 **commencement of amending Act**

- 14 (1) This section applies to a development application if, before the
15 commencement day, the application was—
16 (a) lodged with the authority; and
17 (b) not finally decided.
18 (2) A decision in relation to the application is taken to be a decision
19 under this Act as in force immediately before the commencement
20 day.

- 1 (3) In this section:
- 2 *not finally decided*—a development application is *not finally*
3 *decided* until—
- 4 (a) a decision about the application has been made under
5 section 162 (Deciding development applications); and
- 6 (b) the period for review of the decision allowed under the *ACT*
7 *Civil and Administrative Tribunal Act 2008* has ended and
8 either—
- 9 (i) an entity has not made an application to the ACAT for
10 review of the decision; or
- 11 (ii) an entity has made an application to the ACAT for
12 review of the decision and the review is finally disposed
13 of; and
- 14 (c) the period allowed for an entity to appeal against the decision
15 in the Supreme Court has ended and either—
- 16 (i) the decision has not been appealed; or
- 17 (ii) the decision has been appealed and the appeal is finally
18 disposed of.

19 **490 Expiry—ch 21**

20 This chapter expires 3 years after the commencement day.

21 *Note* Transitional provisions are kept in the Act for a limited time. A
22 transitional provision is repealed on its expiry but continues to have
23 effect after its repeal (see [Legislation Act](#), s 88).

1 **15 Dictionary, new definitions**

2 *insert*

3 *light rail* means a system of transport for public passengers using
4 lightweight rail and rolling stock.

5 *light rail declaration*—see section 137B.

6 *related to light rail*—see section 137A.

1 **Part 4** **Planning and Development**
 2 **Regulation 2008**

3 **16** **Matters exempt from third-party ACAT review**
 4 **Schedule 3, part 3.2, new item 17**

5 *insert*

6 17 A development proposal that is related to light rail.

7 **17** **Schedule 3, part 3.2, item 17**

8 *after*

9 rail

10 *insert*

11 , other than a development involving a protected matter

12 **18** **Schedule 3, part 3.3, new item 3**

13 *insert*

3 A development proposal that is related to light rail.

14 **19** **Schedule 3, part 3.3, item 3**

15 *after*

16 rail

17 *insert*

18 , other than a development involving a protected matter

19 **20** **Dictionary, note 3**

20 *insert*

- 21 • light rail
 22 • related to light rail (see s 137A)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 27 November 2014.

2 Notification

Notified under the [Legislation Act](#) on 2014.

3 Republications of amended laws

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

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