

2017

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning and Land Management)

Planning and Development Amendment Bill 2017

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(As presented)

(Minister for Planning and Land Management)

Planning and Development Amendment Bill 2017

A Bill for

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—
 - (a) 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; and
 - (b) if the draft plan variation is related to light rail—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.
- (3) The committee—
 - (a) must tell the Minister, within 15 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 15-day period, whether it will prepare a report—is taken to have decided not to prepare a report.
- (4) 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

- 1 (b) another recommendation about the draft plan.
- 2 (5) In this section:
- 3 *draft plan variation documents* means—
- 4 (a) the draft plan variation; and
- 5 (b) the documents mentioned in section 69 (2) that relate to the
- 6 draft plan variation.

7 **5 New section 73A**

8 *insert*

9 **73A Committee decides not to report**

- 10 (1) This section applies if—
- 11 (a) the Minister has referred a draft plan variation to a committee
- 12 of the Legislative Assembly under section 73; and
- 13 (b) the committee has decided, or is taken to have decided, not to
- 14 prepare a report on the draft plan variation.
- 15 (2) The Minister must take action in accordance with section 76 in
- 16 relation to the variation.

17 **6 Committee reports on draft plan variations**

18 **Section 74 (1)**

19 *substitute*

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

- 1 (b) the Minister is given a draft plan variation under section 78 (3)
2 or (4); or
3 (c) the Minister revokes the approval of a plan variation under
4 section 77.

5 **9 Exempt development—authorised use**
6 **New section 134 (3A)**

7 *insert*

8 (3A) Also, use of the land, or a building or structure on the land, is not
9 exempt from requiring development approval if—

- 10 (a) the placard quantity or more of a dangerous substance is to be
11 stored on the land, or in a building or structure on the land; and
12 (b) immediately before the commencement day, the land on which,
13 or the building or structure in which, the dangerous substance
14 is to be stored is not registered in the placard quantity register.

15 **10 Section 134 (8), new definition of *commencement day***

16 *insert*

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

19 **11 Impact track proposals if not likely to have significant**
20 **adverse environmental impact**
21 **Section 138AA (1) (a)**

22 *after*

23 item 3 (c) or (d)

24 *insert*

25 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.

1	14	Development proposals in impact track because of need for EIS
2		
3		Schedule 4, part 4.2, new item 11
4		<i>insert</i>
	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> Dangerous substance, placard quantity, and placard quantity register—see the dictionary.</p> <p><i>Note 2</i> Commencement day—see section 134 (8).</p>
5	15	Schedule 4, part 4.3, item 7
6		<i>substitute</i>
	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>
7	16	Dictionary, note 2
8		<i>insert</i>
9		<ul style="list-style-type: none"> • emergency services commissioner
10		<ul style="list-style-type: none"> • planning and land authority
11		<ul style="list-style-type: none"> • work safety commissioner
12	17	Dictionary, new definitions
13		<i>insert</i>
14		dangerous substance —see the Dangerous Substances Act 2004 ,
15		dictionary.
16		placard quantity —see the Dangerous Substances (General)
17		Regulation 2004 , dictionary.

1 *placard quantity register*—see the *Dangerous Substances (General)*
2 *Regulation 2004*, dictionary.

3 **18 Dictionary, definition of *relevant agency***

4 *substitute*

5 *relevant agency* means—

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

Endnotes

1 Presentation speech

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

2 Notification

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

3 Republications of amended laws

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

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