

2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning and Land Management)

Planning and Development (Design Review Panel) Amendment Bill 2019

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
Part 2	Planning and Development Act 2007	
4	Meaning of <i>associated document</i> —pt 3.6 New section 30 (1) (fa)	3
5	Merit track—when development approval must not be given New section 119 (4)	3

J2019-16

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

	Page	
6	Merit track—considerations when deciding development approval New section 120 (da)	3
7	Impact track—when development approval must not be given New section 128 (6)	4
8	Impact track—considerations when deciding development approval New section 129 (da)	4
9	Consideration of development proposals New section 138 (4) (aa)	4
10	Part 7.3 heading	5
11	Division 7.3.1 heading	5
12	New division 7.2B.2 heading	5
13	New division 7.2B.3 heading	5
14	New division 7.2B.4	5
15	New part 7.3 heading	9
16	Form of development applications Section 139 (2) (r), new note	9
17	New section 139 (2) (s)	9
18	Section 139 (2), note 1	10
19	New section 145A	10
20	Dictionary, new definitions	10
Part 3	Planning and Development Regulation 2008	
21	New section 20B	11
22	Referral of certain development applications—Act, s 148 (1) Section 26 (5), definition of <i>urban renewal precinct</i>	12
23	Dictionary, new definition of <i>urban renewal precinct</i>	12

2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning and Land Management)

Planning and Development (Design Review Panel) Amendment Bill 2019

A Bill for

An Act to amend the *Planning and Development Act 2007* and the *Planning and Development Regulation 2008*

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 (Design Review Panel)*
4 *Amendment Act 2019*.

5 **2 Commencement**

6 This Act commences on 1 October 2019.

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

9 **3 Legislation amended**

10 This Act amends the *Planning and Development Act 2007* and the
11 *Planning and Development Regulation 2008*.

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

3 **4** **Meaning of *associated document*—pt 3.6**
4 **New section 30 (1) (fa)**

5 *insert*

- 6 (fa) a response to a design advice required under section 139 (2) (s)
7 to accompany the application;

8 **5** **Merit track—when development approval must not be**
9 **given**
10 **New section 119 (4)**

11 *insert*

- 12 (4) In addition, development approval must not be given for a
13 development proposal in the merit track if the design review panel
14 provided the proponent with design advice about the development
15 proposal under section 138AM and either—

- 16 (a) the proponent has not responded to the design advice; or
17 (b) the authority considers the proponent's response to the design
18 advice is unsatisfactory.

19 **6** **Merit track—considerations when deciding development**
20 **approval**
21 **New section 120 (da)**

22 *insert*

- 23 (da) if the design review panel provided the proponent with design
24 advice about the development proposal—

- 25 (i) the design advice; and
26 (ii) the proponent's response to the design advice;

1 **7 Impact track—when development approval must not be**
2 **given**
3 **New section 128 (6)**

4 *insert*

- 5 (6) In addition, development approval must not be given for a
6 development proposal in the impact track if the design review panel
7 provided the proponent with design advice about the development
8 proposal under section 138AM and either—
9 (a) the proponent has not responded to the design advice; or
10 (b) the authority considers the proponent's response to the design
11 advice is unsatisfactory.

12 **8 Impact track—considerations when deciding**
13 **development approval**
14 **New section 129 (da)**

15 *insert*

- 16 (da) if the design review panel provided the proponent with design
17 advice about the development proposal—
18 (i) the design advice; and
19 (ii) the proponent's response to the design advice;

20 **9 Consideration of development proposals**
21 **New section 138 (4) (aa)**

22 *after the note, insert*

- 23 (aa) whether the proponent must, or is likely to be required by the
24 Minister to, consult the design review panel about the
25 development proposal under section 138AL (Consultation with
26 design review panel);

1 **10 Part 7.3 heading**

2 *substitute*

3 **Part 7.2B Pre-application matters**

4 **11 Division 7.3.1 heading**

5 *substitute*

6 **Division 7.2B.1 Planning and land authority to advise**
7 **on development proposals**

8 **12 New division 7.2B.2 heading**

9 *after section 138, insert*

10 **Division 7.2B.2 Environmental significance opinions**

11 **13 New division 7.2B.3 heading**

12 *after section 138AD, insert*

13 **Division 7.2B.3 Community consultation**

14 **14 New division 7.2B.4**

15 *after section 138AF, insert*

16 **Division 7.2B.4 Design review panel advice**

17 **Subdivision 7.2B.4.1 Design review panel**

18 **138AG Design review panel—establishment**

19 The Design Review Panel is established.

1 **138AH Design review panel—functions**

2 The design review panel has the following functions:

- 3 (a) to provide design advice to proponents of development
4 proposals;
- 5 (b) to exercise any other function given to the panel under this Act
6 or another territory law.

7 **138AI Design review panel—members**

8 (1) The design review panel consists of at least 3 of the following
9 members:

- 10 (a) the government architect;
- 11 (b) a representative of the national capital authority;
- 12 (c) 1 or more members contracted under subsection (2) to provide
13 design review services to the panel.

14 (2) The planning and land authority may, on behalf of the Territory, enter
15 into a contract for services with a person to provide design review
16 services to the design review panel.

17 (3) However, the planning and land authority must not enter into a
18 contract with a person unless satisfied that the person has appropriate
19 expertise in architecture, urban design, urban planning, landscape
20 architecture, engineering or another area relevant to the urban
21 environment.

22 (4) The contract must include conditions to ensure the accountability,
23 transparency and independence of contracted panel members,
24 including conditions about the following:

- 25 (a) ending the member's contract;
- 26 (b) disclosure of interests;
- 27 (c) conflicts of interest.

1 **138AJ Design review panel—rules**

2 (1) The Minister may make rules (*design review panel rules*) for the
3 design review panel, including rules about—

- 4 (a) the terms of reference for the panel; and
5 (b) how the panel is to be constituted; and
6 (c) the conduct of meetings of the panel; and

7 **Examples**

- 8 1 the quorum at meetings
9 2 who is to preside at meetings
10 3 how questions are to be resolved at meetings
11 4 how conflicts of interest are to be dealt with at meetings

12 (d) processes and procedures for assessing development proposals.

13 **Examples**

- 14 1 site inspections
15 2 sources of best practice for design review

16 (2) The design review panel rules may apply, adopt or incorporate an
17 instrument as in force from time to time.

18 (3) The [Legislation Act](#), section 47 (6) does not apply to an instrument
19 applied, adopted or incorporated under subsection (2).

20 *Note* The instrument does not need to be notified under the [Legislation Act](#)
21 because s 47 (6) does not apply (see [Legislation Act](#), s 47 (7)).

22 (4) The design review panel rules must be published on the authority
23 website.

24 **138AK Design principles**

25 (1) The Minister may make principles (*design principles*) to be used by
26 the design review panel in assessing development proposals under
27 this Act.

28 (2) The design principles must be published on the authority website.

1 **Subdivision 7.2B.4.2 Design review panel advice**

2 **138AL Consultation with design review panel**

- 3 (1) Before lodging a development application for a prescribed
4 development proposal, the proponent must consult the design review
5 panel about the proposal.
- 6 (2) Also, if the Minister is satisfied that a development proposal is likely
7 to be of economic, social or environmental significance to the
8 Territory, the Minister may require the proponent to consult the
9 design review panel about the proposal.
- 10 (3) In addition, the proponent of any other development proposal may
11 consult the design review panel about the proposal.
- 12 (4) If the proponent of a development proposal consults the design
13 review panel about the proposal, the consultation must be carried out
14 in accordance with any design review panel rules.

15 **138AM Design review panel may provide design advice**

- 16 (1) This section applies if—
- 17 (a) the proponent of a development proposal consults the design
18 review panel about the proposal under section 138AL; or
- 19 (b) the planning and land authority gives the design review panel an
20 opportunity to provide further design advice about a
21 development proposal under section 145A (Amended
22 development application—previous consultation with design
23 review panel).
- 24 (2) The design review panel must—
- 25 (a) consider the proposal; and

- 1 (b) either—
- 2 (i) provide the proponent with advice about how the proposal
- 3 could be made consistent, or more consistent, with any
- 4 design principles (*design advice*); or
- 5 (ii) tell the proponent that the panel has no advice about the
- 6 proposal; and
- 7 (c) if the panel provides the proponent with design advice—give a
- 8 copy of the design advice to the planning and land authority.
- 9 *Note* If design advice is given, the proponent's response to the design advice
- 10 must be included in the development application (see s 139 (2) (s)).
- 11 (3) If the proponent does not lodge a development application for the
- 12 development proposal within 18 months after the design advice is
- 13 provided, the design advice expires.

14 **15 New part 7.3 heading**

15 *before division 7.3.1A, insert*

16 **Part 7.3 Development applications**

17 **16 Form of development applications**

18 **Section 139 (2) (r), new note**

19 *insert*

20 *Note* *Estate development plan*—see s 94.

21 **17 New section 139 (2) (s)**

22 *before the notes, insert*

- 23 (s) if the design review panel provided the proponent with design
- 24 advice about the development proposal under section 138AM—
- 25 be accompanied by the proponent's response to the design
- 26 advice.

1 **18 Section 139 (2), note 1**

2 *substitute*

3 *Note 1* Some development applications must be publicly notified (see div 7.3.4).
4 However, the applicant may apply for part of the application to be
5 excluded from publication (see s 411).

6 **19 New section 145A**

7 *insert*

8 **145A Amended development application—previous**
9 **consultation with design review panel**

- 10 (1) This section applies if—
- 11 (a) a development application has been amended under section 144;
12 and
- 13 (b) before it was amended, the design review panel had provided
14 design advice about the development proposal under
15 section 138AM.
- 16 (2) The planning and land authority may give the design review panel an
17 opportunity to provide further design advice about the development
18 proposal.

19 **20 Dictionary, new definitions**

20 *insert*

21 *design advice*—see section 138AM.

22 *design principles*—see section 138AK.

23 *design review panel* means the Design Review Panel established
24 under section 138AG.

25 *design review panel rules*—see section 138AJ.

1 **Part 3** **Planning and Development**
2 **Regulation 2008**

3 **21** **New section 20B**

4 *in part 3.1AB, insert*

5 **20B** **Consultation with design review panel—Act, s 138AL**

6 (1) A development proposal is a prescribed development proposal if it is
7 for a building—

8 (a) with 5 or more storeys; and

9 (b) to be located—

10 (i) in the Belconnen town centre, the Gungahlin town centre,
11 the Tuggeranong town centre or the Woden town centre;
12 or

13 (ii) in the urban renewal precinct; or

14 (iii) on land in a section adjoining—

15 (A) Northbourne Avenue; or

16 (B) Federal Highway; or

17 (C) Ainslie Avenue; or

18 (D) Canberra Avenue, except between National Circuit
19 and State Circle.

20 (2) In this section:

21 *adjoining*—see the [Act](#), section 153.

22 *Belconnen town centre* means the area outlined in bold on the plan
23 in schedule 3, division 3.4.2.

24 *Gungahlin town centre* means the area outlined in bold on the plan
25 in schedule 3, division 3.4.3.

1 *section*, in relation to land—see the [Districts Act 2002](#), dictionary.

2 ***Tuggeranong town centre*** means the area outlined in bold on the plan
3 in schedule 3, division 3.4.4.

4 ***Woden town centre*** means the area outlined in bold on the plan in
5 schedule 3, division 3.4.5.

6 **22 Referral of certain development applications—**
7 **Act, s 148 (1)**
8 **Section 26 (5), definition of *urban renewal precinct***

9 *omit*

10 **23 Dictionary, new definition of *urban renewal precinct***

11 *insert*

12 ***urban renewal precinct***—see the [City Renewal Authority and](#)
13 [Suburban Land Agency Act 2017](#), dictionary.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 May 2019.

2 Notification

Notified under the [Legislation Act](#) on 2019.

3 Republications of amended laws

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

© Australian Capital Territory 2019