2015

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

PLANNING AND DEVELOPMENT (CAPITAL METRO) LEGISLATION AMENDMENT BILL 2014

REVISED EXPLANATORY STATEMENT

Presented by

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EXPLANATORY STATEMENT

This explanatory statement relates to the *Planning and Development (Capital Metro) Legislation Amendment Bill 2014* (the Bill) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

Background

This explanatory statement provides information about why a Bill is required together with an explanation about the proposed legislative amendments. To give effect to the desired outcomes it is necessary to consider amendments to planning legislation to help fast-track the construction and completion of the Capital Metro light rail project.

The proposed amendments would help the Government to deliver on a key commitment to progress a light rail network for Canberra, with a target date for the laying of tracks for the first route commencing in 2016.

Overview of the Bill

The Bill proposes a number of amendments to the *Planning and Development Act 2007* (the Act), the Planning and Development Regulation 2008 (the regulation) and the *Administrative Decisions (Judicial Review) Act 1989* (ADJR Act). The proposed amendments would assist the Government to expedite the construction and completion of the Capital Metro light rail project.

There are certain key concepts in this Bill. The Bill applies to 'light rail'. The Bill amends the Dictionary of the Planning and Development Act to provide that light rail means 'a system of transport for public passengers using lightweight rail and rolling stock'.

A number of provisions apply to development proposals 'related to light rail'. The Bill defines 'related to light rail' in proposed new section 137A of the Planning and Development Act. New section 137A defines a development proposal as 'related to light rail' if the development 'may facilitate the construction, ongoing operation and maintenance, repairs, refurbishment, relocation or replacement' of light rail track or infrastructure within, or partly within, 1km from existing or proposed light rail track.

In summary the Bill:

- removes ACAT merit review and ADJR Act judicial review rights for development approvals for light rail tracks and associated infrastructure. These restrictions do not apply if the development approval involves a 'protected matter' under the Act as amended by the *Planning and Development (Bilateral Agreement) Amendment Act 2014* (Bilateral Agreement Amendment Act);
- time limits Supreme Court common law review rights for development approvals for light rail tracks and associated infrastructure to 60 days after the day the decision is made;
- permits the planning and land authority to make a declaration by notifiable instrument specifying development proposals where the planning and land authority is satisfied that the proposal meets the prescribed criteria to be related to light rail;

- introduces an expedited process for completion of Territory Plan variations to facilitate light rail. The process would permit the Minister to require the relevant Legislative Assembly committee to report on variation within a defined period of less than six months if the Minister is satisfied that the shorter period will minimise the risk of delay to the development of light rail. The defined period will not be able to be shorter than three months;
- creates additional grounds for a development approval decision-maker to depart from referral agency advice for a development proposal for light rail tracks or associated infrastructure if this is necessary to ensure the light rail project is not unnecessarily delayed or impeded unless the advice is provided by the Commonwealth Environment Minister or Conservator for Flora and Fauna on a 'protected matter' under the Act as amended by the Bilateral Agreement Amendment Act; and
- simplifies development application documentation requirements for applications related to light rail through the ability to remove specified documentation requirements by regulation.

Development approvals – removal of ACAT merit review and restrictions on judicial review

The development assessment and approval process, with some exceptions for relatively minor matters, is subject to ACAT merit review by third parties. In addition all approvals are subject to challenge in the Supreme Court under the ADJR Act. These are important avenues for review and accountability. However, they can result on occasion in delay, uncertainty and costs for the proponent and the wider community. This uncertainty can be problematic for developments that are a high priority for the Government and community when their implementation in a timely and certain manner is of prime importance. The review process can also mean some uncertainty as to the final outcome of the development approval process.

Removal of ACAT merit review

The Bill proposes some limitations on ACAT merit review to improve efficiency and administrative certainty for the Capital Metro light rail project. Development approvals for light rail and associated infrastructure will not be subject to third party ACAT merit review. In other respects, the development application, assessment and approval process remains the same as for standard development applications.

ACAT merit review remains for a development approval decision involving a 'protected matter' as defined by the Bilateral Agreement Amendment Act. The Bilateral Agreement Amendment Act defines a 'protected matter' as a matter protected by the Commonwealth under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) (EPBC Act), or a matter declared to be protected by the Minister. ACAT merit review is retained for these decisions to protect matters of national environmental significance consistent with negotiations with the Commonwealth on the accreditation of ACT environmental assessment processes under the proposed 'one stop shop' process.

The proposed limitations on ACAT merit review are not without precedent. In June 2014 the *Planning and Development (Symonston Mental Health Facility) Amendment Act 2014* (Symonston Mental Health Facility Amendment Act) amended the regulation to provide that development approvals for the secure mental health facility would not be subject to ACAT merit review. The Planning and Development Regulation also restricts priority development in the city centre, Belconnen Town Centre, Gungahlin Town Centre and the Kingston Foreshore from ACAT merit review.

The restriction on ACAT merit review for development approvals for light rail and for associated infrastructure is consistent with these previous approaches. Capital Metro project is a major project warranting similar status to the secure mental health facility.

Restrictions on ADJR Act judicial review

The Bill would amend the ADJR Act to provide that the Act does not apply to a decision in relation to a development proposal for light rail and associated infrastructure.

ADJR Act review would remain for development approval decisions for light rail and for associated infrastructure if the decision involves a 'protected matter' under the Bilateral Agreement Amendment Act. ADJR review is retained for these decisions to protect matters of national environmental significance consistent with negotiations with the Commonwealth on the accreditation of ACT environmental assessment processes under the proposed 'one stop shop' process.

The proposed restriction on ADJR Act judicial review rights is similar to the amendments made to the ADJR Act by the Symonston Mental Health Facility Amendment Act with respect to the Symonston secure mental health facility. Following the passage of the Symonston Mental Health Facility Amendment Act, the ADJR Act does not apply to decisions related to making a special variation of the Territory Plan variation to progress the mental health facility, or development approvals for the mental health facility.

Delivery of the Capital Metro project is a core commitment of the ACT Government. It is a project of major significance to the Territory and to the Canberra community. The exclusion of the ADJR Act will remove uncertainty and potential delays for this important initiative.

Time limits on Supreme Court common law review

The Bill would also limit applications to the Supreme Court for review under its common law inherent jurisdiction for a development proposal for light rail and for associated infrastructure.

Applications will need to be made within 60 days of the development approval decision. This is consistent with certain restrictions in the Supreme Court rules. This is also consistent with the amendments made to the Planning and Development Act to facilitate construction of the Symonston mental health facility. A person cannot bring a proceeding in a court with respect to a development approval for the facility more than 60 days after the day the decision is made.

Declaration of development proposals – directly related to light rail

The Bill amends the Planning and Development Act to permit the planning and land authority to make a declaration by notifiable instrument specifying development proposals that are related to light rail. A development proposal is related to light rail if the development to which the proposal relates may facilitate the construction, ongoing operation and maintenance, repairs, refurbishment, relocation or replacement of light rail track or infrastructure within or partly within 1km from existing light rail track or proposed light rail track.

Importantly, the planning and land authority will not be able to make such a declaration unless satisfied the development proposal does in fact meet the specific criteria in the Act definition of development that is related to light rail. The authority will not, for example, be able to declare residential development along the light rail corridor to be related to light rail.

This declaration would be definitive evidence of the development proposals that are related to light rail. The declaration would be an optional measure with the potential to remove any uncertainty about which proposals were related to light rail should this be necessary. This would reduce the potential for legal disputes about the scope of the amendments and provide clarity about the applicable review rights for development proposals.

This declaration would not be subject to ACAT merit review or judicial review by the Supreme Court under the ADJR Act. A person would not be able to bring a proceeding in the Supreme Court under its common law jurisdiction with respect to the declaration more than 60 days after the day the declaration is made.

Territory Plan variation process – Capital Metro Light Rail project

The Bill would introduce a measure to expedite completion of Territory Plan variations to facilitate the construction, ongoing operation and maintenance, repairs, refurbishment, relocation or replacement of light rail if the Minister is satisfied that a shorter period will minimise the risk of delay to the development of light rail. The Minister would be able to require the relevant Legislative Assembly committee to report on the Territory Plan variation within less than 6 months. Under the proposed measure, the committee would have a minimum of 3 months to report on the variation.

This reduction in time is considered to be acceptable given the straightforward nature and confined scope of the proposed changes to the Territory Plan, and the importance of efficient delivery of the Capital Metro project.

Development approvals – decision-maker may depart from entity advice

The Bill proposes amendments to the Planning and Development Act to create additional grounds for the decision-maker to depart from referral entity advice in deciding a development application. The decision would be able to approve a development proposal for light rail or associated infrastructure if satisfied that the implementation of the advice would risk significant delay, cost or impediment to the commencement or completion of development related to light rail. This ability to depart from entity advice would not apply if the development proposal involves a 'protected matter' under the Bilateral Agreement Amendment Act.

The proposed measure will apply to advice from any referral entity including for example the Environment Protection Agency, Heritage Council and Conservator of Flora and Fauna. For consistency, the proposal will also permit departure from the advice of the Conservator of Flora and Fauna in connection with registered trees and declared sites but only in the abovementioned circumstances. Under existing legislation, there is no ability at all to depart from such advice. It is not anticipated that registered trees will impact on the existing light rail project, but this is possible subject to final design. Further, it is possible that registered trees will have an impact on light rail in possible future stages extending to additional areas in Canberra.

This measure will permit the decision maker to take account of the priority nature of the Capital Metro project when assessing the relevant development application and associated referral agency advice.

An ability to depart from referral entity advice is not without precedent. The Planning and Development Act permits a decision-maker to depart from entity advice when approving a development proposal in certain circumstances. For example, sections 119(2) and 128(2) of the Planning and Development Act allow the decision-maker to give development approval for a development proposal if the decision-maker has considered any applicable guidelines and any reasonable alternatives to the proposed development and the development is consistent with the objects of the Territory Plan.

While the Bill will add to the ability of the decision-maker to depart from referral entity advice, referral entities do retain the ability to comment on development proposals and this comment must be taken into account in assessing and deciding the application for development approval.

Development approvals – reduced documentation requirements

The Bill proposes an amendment to the Planning and Development Act to permit the possible simplification of documentation requirements for development applications (DA) for light rail tracks and associated infrastructure. The Bill will amend the Act to create the ability to simplify, reduce documentation requirements for DAs related to the capital metro project by regulation. This measure will permit the regulations to modify existing requirements as necessary so that they are clear and relevant to the capital metro project and do not impose unnecessary delay or complexity. This measure is about documentation requirements. The development approval notification and assessment process post lodgement of the DA will remain in place.

Human rights implications

The proposed restrictions on review processes arguably engage sections 17 (Taking part in public life) and s21 (Fair trial) of the *Human Rights Act 2004*. However, in the context of the overall proposal, these measures are considered to be acceptable and are an integral part of a process that is democratic, transparent and accountable.

The Canberra community is familiar with the Capital Metro light rail project. The Capital Metro Authority has provided regular updates to the Canberra community on the progress of the project, and recently concluded a Canberra wide consultation program which included a number of information sessions at local shopping centres, an online survey and the distribution of information through the Capital Metro website and at the Capital Metro Information Centre.

Draft Territory Plan variations related to the Capital Metro project have been publicly notified. These variations will be subject to transparent Legislative Assembly tabling processes. Development proposals for the Capital Metro project will be publicly notified and the decision-maker will take into account community representations made during the public notification process. The community retains the right to apply for Supreme Court common law review of development proposals with the 60 day time period.

Case law indicates that human rights legislation does not guarantee a right of review for civil matters. Opportunities for input into planning and development applications and the existence of a right to judicial review have been held in many cases to satisfy the requirement of the right to a fair trial. For example, in *Thomson v ACT Planning and Land Authority* [2009] ACAT 38, the Commissioner commented, "...providing certainty and predictability for applicants for development approval, and the need to ensure a timely approval process are sufficiently important objectives to justify some constraints on third party review rights."[1]

Although the Bill restricts merit review rights and review by the Supreme Court under the ADJR Act, the right to judicial review under the Supreme Court's inherent jurisdiction remains, albeit with time constraints. The time restraints are reasonable in this instance as the main purpose of the proposed Bill is to expedite the construction and completion of the Capital Metro light rail project.

In addition, the right to take part in public life is addressed by the extensive opportunities for public comment on the draft Territory Plan variation and any subsequent publicly notified development application for the Capital Metro light rail project.

To the extent that the proposed law limits any rights afforded by the Human Rights Act, these limitations must meet the proportionality test of section 28 of that Act.

[1] *Thomson v ACT Planning and Land Authority* op cit.

In this case, the proposed law serves to balance the need to provide the Capital Metro project to the Canberra community in a timely and expedient manner against an existing right to third party review. This recognises the need to provide sustainable public transport options to service a growing city and reduce greenhouse gas emissions.

The removal of third party review rights by the proposed law is linked to a specific project for a known purpose. The proposed law does not have general application i.e. it only applies to the Capital Metro light rail associated infrastructure.

It is relevant to note that the *Planning and Development Regulation 2008* already restricts third party applications for ACAT merit review in relation to a number of matters including development in town centres, Kingston Foreshore, the City.

Possible alternatives to the proposed law

One alternative is to rely on the Minister's "call-in" power under the Planning and Development Act. This is not recommended because the call-in power does not provide the same opportunities for the community to provide input into the decision process.

A further alternative is to make a regulation to remove the requirement for the proposed Capital Metro project to obtain development approval under the Planning and Development Act. This option is not recommended because such exemptions are typically used for relatively minor matters.

Outline of Provisions

Part 1 - Preliminary
Clause 1 — Name of Act
This clause names the Act as the *Planning and Development (Capital Metro) Legislation Amendment Act 2014*.

Clause 2 – Commencement
This clause provides that sections 5, 9, 11, 17 and 19 commence on the commencement of section 6 of the *Planning and Development (Bilateral Agreement) Amendment Act 2014*.

This clause also provides that the remaining provisions of the Act commence on a day fixed by the Minister by written notice.

Clause 3 – Legislation Amended
This clause provides that the Act amends the *Administrative Decisions (Judicial Review) Act 1989*, *Planning and Development Act 2007* and Planning and Development Regulation 2008.

Part 2 – Administrative Decisions (Judicial Review) Act 1989
Clause 4 – Schedule 1, item 15, column 3
This clause amends Schedule 1 of the *Administrative Decisions (Judicial Review) Act 1989* to include decisions to which the Administrative Decisions (Judicial Review) Act does not apply.

In effect, the clause excludes from the operation of the Administrative Decisions (Judicial Review) Act a decision to make a light rail declaration and a decision under chapter 7, 8 or 9 of the Planning and Development Act in relation to a development proposal that is related to light rail.

Clause 5 – Schedule 1, item 15, column 3, 5th dot point
This clause provides that a decision under chapter 7, 8 or 9 of the Planning and Development Act for a development proposal that is related to light rail is not excluded from the operation of the Administrative Decisions (Judicial Review) Act if the development proposal involves a protected matter.

Part 3 – Planning and Development Act 2007
Clause 6 – Consideration of draft plan variations by Legislative Assembly committee New section 73(2A)
This clause inserts a new section 73(2A) into the Planning and Development Act.

Section 73 of the Act provides that the Minister may refer a draft Territory Plan variation to an appropriate committee of the Legislative Assembly and request that the committee report to the Assembly on the draft plan variation.

New section 73(2A) provides that the Minister may request the committee report on the draft plan variation within a stated period that is not less than 3 months and not more than 6 months if the draft variation is to facilitate the construction, ongoing operation and maintenance, repairs, refurbishment, relocation or replacement of light rail and the Minister is satisfied that the shorter period will minimise the risk of delay to the development of light rail.

Clause 7 – Committee fails to report promptly on draft plan variations
Section 75(1)(b)
This clause substitutes a new section 75(1)(b) into the Planning and Development Act.

Section 75 of the Act applies if the Minister has referred a draft plan variation to a committee of the Legislative Assembly under section 73, and the committee fails to report promptly on the draft plan variation. Section 75(2) provides that if the committee fails to report promptly, the Minister may take action under section 76 of the Act with respect to the draft plan variation.

New section 75(1)(b) provides that if the Minister has requested the committee report within a stated period under section 73(2A) and the committee has not reported on the variation by the end of the stated period, the Minister may take action under section 76 of the Act.

In any other case, if the committee has not reported on the variation by the end of 6 months, the Minister may take action under section 76 of the Act.

Clause 8 – New section 119A
Development proposal related to light rail – qualification of s 119
This clause inserts a new section 119A into the Planning and Development Act. New section 119A makes a qualification to the operation of section 119.

Section 119 of the Act sets out circumstances in which a development approval in the merit track must not be given.

Section 119(1)(c) provides that development approval must not be given if the proposed development will affect a registered tree or declared site, unless approval is consistent with advice provided by the Conservator of Flora and Fauna on the proposal.

Section 119(2) provides that development approval must not be given if approval would be inconsistent with advice given by an entity to which the application was referred under division 7.3.3 of the Act (referral entity advice), unless the decision-maker is satisfied that any applicable guidelines and realistic alternatives to the development have been considered and approval is consistent with the objects of the Territory Plan.

Section 119(3) removes doubt that a development approval must not be given if the proposed development will affected a registered tree of declared site unless approval is consistent with advice of the Conservator for Flora and Fauna.

New section 119A provides that the decision-maker may also approve a development proposal in the merit track that is related to light rail that is inconsistent with entity advice if the decision maker is satisfied that following the entity's advice will risk significant delay to the commencement or completion of the development to which the proposal relates, risk significantly increasing the financial or resource cost for completion of the development to which the proposal relates, or be a significant impediment to the commencement or completion of the development to which the proposal relates. This includes the capacity to approve the development if approval is inconsistent with advice provided by the Conservator on a registered tree or declared site.

Clause 9 – New section 119A(1)(aa)
This clause inserts a new section 119A(1)(aa) into the Planning and Development Act. New section 119A(1)(aa) provides that section 119A will only apply to a development proposal in the merit track where the proposal does not involve a protected matter.

Clause 10 – New section 128A
Development proposal related to light rail – qualification of s 128
This clause inserts a new section 128A into the Planning and Development Act. New section 128A qualifies the operation of section 128.

Section 128 of the Act sets out circumstances in which development approval in the impact track must not be given.

Section 128(1)(b)(iii) provides that development approval must not be given if the proposed development will affect a registered tree or declared site, unless approval is consistent with advice provided by the Conservator of Flora and Fauna on the proposal.

Section 128(2) provides that development approval must not be given if approval would be inconsistent with advice given by an entity to which the application was referred under division 7.3.3 of the Act (referral entity advice), unless the decision-maker is satisfied that any applicable guidelines, reasonable development options and design solutions and realistic alternatives to the development have been considered and approval is consistent with the objects of the Territory Plan.

Section 128(3) removes doubt that a development approval must not be given if the proposed development will affected a registered tree of declared site unless approval is consistent with advice of the Conservator for Flora and Fauna.

New section 128A provides that the decision-maker may also approve a proposed development that is related to light rail that is inconsistent with entity advice if the decision-maker is satisfied that following the entity's advice will risk significant delay to the commencement or completion of the development to which the proposal relates, risk significantly increasing the financial or resource cost for completion of the development to which the proposal relates, or be a significant impediment to the commencement or completion of the development to which the proposal relates. This includes the capacity to approve the development if approval is inconsistent with advice provided by the Conservator on a registered tree or declared site.

Clause 11 – New section 128A(1)(aa)
This clause inserts a new section 128A(1)(aa) into the Planning and Development Act. New section 128A(1)(aa) that section 128A will only apply to a development proposal in the impact track where the proposal does not involve a protected matter.

Clause 12 – New part 7.2A – Capital Metro facilitation
This clause includes new part 7.2A (Capital Metro facilitation) into the Planning and Development Act.

New part 7.2A establishes a process for the facilitation of the Capital Metro light rail infrastructure project, and inserts the following new sections into the Planning and Development Act.

Division 7.2A.1 - Preliminary

- **New section 137A – Meaning of *related to light rail***
  New section 137A provides that for this Act, a development proposal is related to light rail if the development to which the proposal relates may facilitate the construction, ongoing operation and maintenance, repairs, refurbishment, relocation or replacement of light rail track or infrastructure within, or partly within, 1km from existing light rail track or proposed light rail track. A development proposal is also related to light rail if a declaration under section 137B is made in relation to it.

  In this section, 'proposed light rail track' means light rail track identified in a development proposal in a development application that includes the construction, extension, refurbishment, relocation or replacement of light rail track, or light rail track identified in a development approval that authorises the construction, extension, refurbishment, relocation or replacement of light rail track.

Division 7.2A.2 Light rail declaration

- **New section 137B – Authority may declare development proposal related to light rail**
  New section 137B provides that the planning and land authority may make a light rail declaration to declare that a development proposal is related to light rail. A declaration is a notifiable instrument.

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

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

- **New section 137C – Light rail declaration – time limit on proceedings**
  New section 137C provides that a person may not start a proceeding in a court in relation to a decision to make a light rail declaration more than 60 days after the day the declaration is made.

Division 7.2A.3 – Effect of development proposal being related to light rail

- **New section 137D – Development related to light rail – time limit on proceedings**
  New section 137D applies to a development proposal that is related to light rail.

  This new section provides that a person may not start a proceeding in a court in relation to a decision under chapters 7, 8, or 9 of the Act if the decision is in relation to the development proposal more than 60 days after the day the decision is made.

Clause 13 – Form of development applications
New section 139(3A)
This clause inserts a new section 139(3A) into the Planning and Development Act.

Section 139 of the Act prescribes the form of development applications.

New section 139(3A) provides that a regulation may exempt an application for approval of a development related to light rail from any of the requirements in subsection (2) other than the requirements in subsection (2)(a) (application must be in writing signed by the applicant), (2)(b) (signature by the lessee, land custodian or planning and land authority if the application is made by someone other than the lessee), (2)(f) (impact track documentation requirements) and (2)(m) (environmental significance opinion requirements).

Clause 14 – New chapter 21
Chapter 21 – Transitional – Planning and Development (Capital Metro) Legislation Amendment Act 2014
This clause inserts a new chapter 21 into the Planning and Development Act.
New chapter 21 is a transitional provision for the *Planning and Development (Capital Metro) Legislation Amendment Act 2014*. This new chapter inserts the following new sections into the Planning and Development Act.

- **New section 488 – Meaning of *commencement day* – ch 21**
  New section 488 provides that in chapter 21, 'commencement day' means the day section 3 of the Planning and Development (Capital Metro) Legislation Amendment Act 2014 commences.

- **New section 489 – Development application lodged but not decided prior to commencement of amending Act**
  New section 489 applies in circumstances where, before the commencement day, a development application has been lodged with the planning and land authority and not finally decided. In this situation, a decision in relation to the application is taken to be a decision under the Act as in force immediately before the commencement day.

New section 489(3) provides that a development application is 'not finally decided' until three circumstances have occurred. Firstly, a decision about the application has been made under section 162 of the Planning and Development Act. Secondly, the period for review of the decision allowed under the ACT Civil and Administrative Tribunal Act 2008 has ended and either an entity has not made an application to the ACAT for review of the decision or an entity has made an application to the ACAT for review of the decision and the review is finally disposed of. Thirdly, the period allowed for an entity to seek a review of the decision in the Supreme Court has ended and either the decision has not been reviewed or the decision has been reviewed and the action is finally disposed of.

- **New section 490 - Expiry – ch 21**
  New section 490 provides that chapter 21 expires three years after the commencement day.

  New section 490 also includes a note. This note provides that transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal. The note includes a cross-reference to section 88 of the *Legislation Act 2001*.

Clause 15 – Dictionary, new definitions
This clause inserts new definitions into the Dictionary of the Planning and Development Act, including section cross-references. The Dictionary defines 'light rail' as 'a system of transport for public passengers using lightweight rail and rolling stock'. For 'light rail declaration', the Dictionary refers to section 137B. For 'related to light rail', the Dictionary refers to section 137A.

Part 4 – Planning and Development Regulation 2008
Clause 16 – Schedule 3, part 3.2, new item 17
This clause adds new item 17 to Schedule 3, part 3.2 of the Planning and Development Regulation.

Schedule 3, part 3.2 lists merit track matters that are exempt from third-party ACAT review. The clause adds a development proposal that is related to light rail to this list of merit track matters.

Clause 17 – Schedule 3, part 3.2, item 17
This clause provides that a development that is related to light rail is not exempt from third-party ACAT merit review if it involves a protected matter.

Clause 18 – Schedule 3, part 3.3, new item 3
This clause adds new item 3 to Schedule 3, part 3.3 of the Planning and Development Regulation.

Schedule 3, part 3.3 lists impact track matters that are exempt from third-party ACAT review. This clause adds a development that is related to light rail to this list of impact track matters.

Clause 19 – Schedule 3, part 3.3, item 3
This clause provides that a development that is related to light rail is not exempt from third-party ACAT merit review if it involves a protected matter.

Clause 20 – Dictionary, note 3
Note 3 of the Dictionary provides that terms in the Planning and Development Regulation have the same meaning that they have in the Planning and Development Act, and includes a list of examples.

This clause adds 'light rail' and 'related to light rail' and a cross-reference to section 137A of the Planning and Development Act to this list of examples.