

2019

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**PLANNING AND DEVELOPMENT ACT (DESIGN REVIEW PANEL)
AMENDMENT BILL 2019**

EXPLANATORY STATEMENT

Presented by
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Minister for Planning and Land Management

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the Planning and Development (Design Review Panel) Amendment Bill 2019 (the bill) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the bill and help inform debate on it. It does not form part of the bill and has not been endorsed by the Assembly.

This explanatory statement must be read in conjunction with the bill. It is not, and is not meant to be, a comprehensive description of the bill. What is written about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Background

The National Capital Design Review Panel (NCDRP) is a joint initiative between the ACT Government and the National Capital Authority (NCA) with the aim to improve the design quality of development proposals in the areas of the city experiencing high levels of development pressure.

Several design review panel processes have existed across the ACT Government in recent years, however these have traditionally focussed on specific types of development or have been dedicated to a specific project.

Establishing a single design review panel in the ACT will allow for greater potential to attract the best urban planning practitioners and designers to contribute to significant development proposals across Canberra. Where the NCA has a role in providing planning and design advice for development applications, partnering with the NCA will ensure that consistent design advice is provided on individual development proposals and efficiencies can be achieved through development application processes.

The experience in other jurisdictions demonstrates that design review is most effective early in the design process, when there is still an opportunity to make changes to improve the outcome of a development proposal with minimal cost or resources dedicated by proponents or Government. Embedding a design review panel as part of the pre-development application process can reduce the risk, time and potential costs for a development proposal, including public infrastructure proposals, by identifying issues early in the design process to gain a level of certainty before investing in detail design and a development application.

The NCDRP uses the United Kingdom's Design Council's ten principles for successful design review to ensure the panel's advice remains independent and transparent. Additionally, the ACT Government has developed Design Principles for the ACT, in partnership with the NCA, to ensure each development proposal is consistently assessed by the panel.

Following each design review panel session, the proponent and the ACT planning and land authority will be issued with written advice from the NCDRP Chair.

Overview

The bill establishes the NCDRP as part of the pre-development application process to provide a constructive platform to resolve the fundamental planning and design issues that will support the skills of the proponent's design team and the pre-application advice provided by Government.

The bill states that proponents of a development which meets a set of established thresholds will be required to consult with the NCDRP, to determine if the proposal warrants review by the NCDRP.

The bill provides that the Minister for Planning and Land Management, or a delegate, will have the ability to require a proponent to consult with the NCDRP where a proposal is considered to be of economic, social or environmental significance to the Territory.

The bill also provides amendments to the Act to ensure that design advice by the NCDRP is to be considered by the ACT planning and land authority, during assessment of a development application.

The NCDRP is free for proponents to access. Any costs associated with making amendments to a design proposal, in response to the NCDRP's advice, will be at the cost of the proponent.

Establishment of the NCDRP will remain advisory and is not intended as an additional approval body. The aim of the NCDRP is to provide independent and expert advice to proponents and government. It is also the aim of the panel to work with proponents at key stages of the design development process to provide constructive advice to ultimately identify how development proposals could be improved and provide greater amenity for future occupants, neighbours and the broader community.

The new arrangement will apply from 1 October 2019.

Human Rights

The Scrutiny of Bills Committee's terms of reference requires consideration of human rights, among other matters. In this case, no human rights are impacted.

Outline of Provisions

Clause 1 Name of Act

This clause names the Act.

Clause 2 Commencement

This clause provides that the Act commences on 1 October 2019.

Clause 3 Legislation amended

This clause states the legislation that is to be amended: the *Planning and Development Act 2007* and the *Planning and Development Regulation 2008*.

Clause 4 Meaning of *associated document*-pt 3.6

New section 30(1)(fa)

This clause includes a response to the design advice under section 139 (2) (s) is to accompany a development application for a development proposal that was presented to the design review panel.

Clause 5 Merit track—when development approval must not be given

New Section 119(4)

This clause provides that a decision on a merit track development application must not be given if the proponent has not responded to the design advice or if the authority considers the proponent's response is unsatisfactory. This new section is only relevant for those development proposals that have received a design advice from the design review panel.

Clause 6 Merit track—consideration when deciding development approval

New section 120(da)

This clause provides that a design advice and the proponent's response to the design advice must be considered as part of the assessment for a merit track development application. This new section is only relevant for those development proposals that have received a design advice from the design review panel.

Clause 7 Impact track—when development approval must not be given

New section 128(6)

This clause provides that a decision on an impact track development application must not be given if the proponent has not responded to the design advice or if the authority considers that the proponent's response is unsatisfactory. This new section is only relevant for those development proposals that have received a design advice from the design review panel.

Clause 8 Impact track—consideration when deciding development approval

New section 129(da)

This clause provides that a design advice and the proponent's response to the design advice must be considered as part of the assessment for an impact track development application. This new section is only relevant for those development proposals that have received a design advice from the design review panel.

Clause 9 Consideration of a development proposal

New section 138(4)(aa)

This clause provides that the planning and land authority must tell the proponent in writing whether the proponent is required, or is likely to be required, to consult with the design review panel.

Clauses 10 to 13

These clauses insert the new Division 7.2B.4 in the Act.

Clause 14 New division 7.2B.4

This clause sets out the main provisions of the amendment bill, inserting new sections 138AG to 138AM. These new sections are explained below.

Division 7.2B.4 Design review panel advice

Subdivision 7.2B.4.1 Design review panel

Section 138AG Design review panel - establishment

This section states that the design review panel is established.

Section 138AH Design review panel - functions

This section outlines the functions of the design review panel as an advisory panel.

Section 138AI Design review panel - members

This section provides the minimum number of design review panel members, who is on the panel and what is to be included in contracts for panel members.

Section 138AJ Design review panel - rules

This section provides that the Minister may make rules that provide guidance about the panel. This section also requires that the rules be published on the authority's website.

Section 138AK Design principles

This section provides that the Minister may make design principles to provide a consistent reference for design review panel members when they provide advice. This section also requires that the design principles be published on the authority's website.

Subdivision 7.2B.4.2 Design review panel advice

Section 138AL Consultation with design review panel

This section provides that a proponent of prescribed development proposal must consult with the design review panel. This section also outlines that the Minister may require that a proponent consult the design review panel on a development proposal and that a proponent may self-refer a development proposal to the design review panel.

Section 138AM Design review panel may provide design advice

This section outlines that the design review panel may provide advice after a proponent has consulted with the design review panel, or tell the proponent that the panel has no advice about the proposal.

This sections also provides that the design advice will expire if a proponent does not lodge a development application within 18 months after the design advice has been provided to the proponent.

Clause 15 New part 7.3 heading

This clause inserts a new header before division 7.3.1A.

Part 7.3 Development applications

Clause 16 Form of development applications

Section 139(2)(r), new note

This clause inserts a new note.

Clause 17 New section 139(2)(s)

This section provides that if the design review panel gave a design advice for a development proposal, a development application is to include a response by the proponent to the design advice.

Clause 18 New section 139(2), note 1

This section substitutes note 1.

Clause 19 New section 145A

This section provides that the planning and land authority may give the design review panel an opportunity to provide further advice on a development application that is proposed to be amended. This section is only relevant to a development application that is proposed to be amended under section 144 of the Act and that was provided with design advice prior to lodgement of the development application.

Clause 20 Dictionary

This clause includes new definitions relevant to the bill.

Part 3 Planning and Development Regulation 2008

The Bill makes the following amendments to the Planning and Development Regulation 2008

Clause 21 New section 20B

This section outlines the type and location of a development proposal for which the proponent is required to consult with the design review panel.

Clauses 22 and 23

These clauses update the definition of *urban renewal precinct*.