

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**PLANNING AND DEVELOPMENT (TERRITORY PLAN VARIATIONS)
AMENDMENT BILL 2017**

EXPLANATORY STATEMENT

Circulated by
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Introduction

This explanatory statement relates to the Planning and Development (Territory Plan Variations) Amendment Bill 2017 as presented by Ms Caroline Le Couteur MLA in 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 Assembly.

The Statement must to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

The *Planning and Development Act 2007* (the Act) provides two methods for making a variation to the Territory Plan. One method, under Part 5.3 of the Act, includes provisions for community consultation, consideration by a Legislative Assembly Committee and possible rejection by the Assembly. The second method, known as ‘Technical Amendments’, is detailed in Part 5.4 of the Act. This method provides for either no public consultation or limited public consultation, and no consideration by the Assembly. Technical Amendments are available under a limited list of grounds set out in section 87 of the Act.

There are community concerns that Technical Amendments are being used for matters that fit within the grounds provided by section 87 of the Act, but are likely to be of interest to the community and therefore should have full community consultation under the Part 5.3 process.

There are also community concerns that Technical Amendments are being used for matters that may not fit within the grounds provided by section 87, but that due to the lack of consultation this is unable to be tested as the community is not aware of the variation until after it is finalised.

This Bill intends to limit the use of Technical Amendments to technical and procedural matters that are unlikely to be of interest to the community. It amends section 89 of the Act to introduce a new requirement that the ACT Planning and Land Authority can only finalise a Technical Amendment variation where the variation is unlikely to be contentious or otherwise cause adverse public comment.

Human Rights

The Bill does not limit any human rights. The Bill will result in more proposed changes to the Territory Plan being subject to community consultation.

Delegation of legislative power

The Bill does not delegate any legislative power to any other person or body.

Notes on Clauses

Clauses 1-3 Name of Act, Commencement, Legislation amended

These are formal clauses setting out the name of the Act, its commencement date and the Act it amends. The Bill will commence on the day after its notification.

Clause 4

Currently, the ACT Planning and Land Authority can make a technical amendment under section 89 (1) if it is satisfied that a variation meets the requirements of being a technical amendment and any limited consultation needed for the variation has taken place. The Bill would restructure section 89 (1) (a) and insert an additional test into it so that the ACT Planning and Land Authority can only make a technical amendment if it meets the current tests and also is unlikely to be contentious or otherwise cause adverse public comment.