

2014

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment and Sustainable Development)

Planning and Development (Symonston Mental Health Facility) Amendment Bill 2014

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Part 5.3 heading	2
5 How territory plan is varied under pt 5.3	
Section 57 (1)	2
6 Section 57 (1), note	3
7 Section 57 (8)	3
8 Section 59	3

J2014-214

Contents

		Page
9	New part 5.3A	4
10	Restrictions on public availability—comments, applications, representations and proposals New section 411 (1) (aa)	11
11	Section 411 (2), definition of <i>relevant document</i> , new paragraph (aa)	12
12	Restrictions on public availability—security Section 412 (5), definition of <i>relevant document</i> , new paragraphs (ba) and (bb)	12
13	New schedule 6	13
14	Dictionary, definition of <i>background papers</i>	14
15	Dictionary, definitions of <i>consultation comments</i> , <i>consultation notice</i> and <i>consultation period</i>	14
16	Dictionary, definition of <i>corresponding plan variation</i>	15
17	Dictionary, new definitions	15
18	Dictionary, definitions of <i>plan variation</i> and <i>public availability notice</i>	15
19	Dictionary, new definitions	15
Schedule 1	Other amendments	16
Part 1.1	Administrative Decisions (Judicial Review) Act 1989	16
Part 1.2	Planning and Development Regulation 2008	16

2014

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment and Sustainable Development)

Planning and Development (Symonston Mental Health Facility) Amendment Bill 2014

A Bill for

An Act to amend the *Planning and Development Act 2007*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2014-214

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

1 **1 Name of Act**
2 This Act is the *Planning and Development (Symonston Mental*
3 *Health Facility) Amendment Act 2014.*

4 **2 Commencement**
5 This Act commences on the day after its notification day.
6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).

8 **3 Legislation amended**
9 This Act amends the *Planning and Development Act 2007*.
10 *Note* This Act also amends other legislation (see sch 1).

11 **4 Part 5.3 heading**
12 *substitute*

13 **Part 5.3 Variations of territory plan other**
14 **than special variation or**
15 **technical amendments**

16 **5 How territory plan is varied under pt 5.3**
17 **Section 57 (1)**
18 *before*
19 technical
20 *insert*
21 special variation or

1 **6 Section 57 (1), note**

2 *substitute*

3 *Note 1* For [territory plan](#) variations that are special variations, see pt 5.3A.

4 *Note 2* For [territory plan](#) variations that are technical amendments, see pt 5.4
5 and pt 5.5.

6 **7 Section 57 (8)**

7 *substitute*

8 (8) Different provisions apply to plan variations that are special
9 variations and technical amendments, including future urban areas.

10 *Note 1* For [territory plan](#) variations that are special variations, see pt 5.3A.

11 *Note 2* For [territory plan](#) variations that are technical amendments, see pt 5.4,
12 pt 5.5 and s 95.

13 **8 Section 59**

14 *substitute*

15 **59 Application—pt 5.3**

16 This part does not apply to variations of the [territory plan](#) that are—

- 17 (a) special variations under part 5.3A; and
18 (b) technical amendments under part 5.4.

1 **9** **New part 5.3A**

2 *insert*

3 **Part 5.3A** **Special variation—Symonston**
4 **mental health facility**

5 **Division 5.3A.1** **Preliminary**

6 **85A** **Definitions—pt 5.3A**

7 In this part:

8 *mental health facility*—see the *Mental Health (Treatment and*
9 *Care) Act 1994*, dictionary.

10 *Symonston mental health facility* means a mental health facility at
11 the Symonston site.

12 *Symonston site* means the area outlined in bold on the plan in
13 schedule 6.

1 **Division 5.3A.2 Special variation—consultation**
2 **requirements**

3 **85B Preparation of draft Symonston mental health facility**
4 **variation**

- 5 (1) The planning and land authority must prepare an instrument to make
6 a draft variation of the [territory plan](#) in relation to the Symonston
7 mental health facility (the *draft special variation*).

8 **Example**

9 The planning and land authority prepares a variation to the [territory plan](#) to state
10 that development of the Symonston mental health facility is assessable in the
11 merit assessment track.

12 *Note* An example is part of the Act, is not exhaustive and may extend, but
13 does not limit, the meaning of the provision in which it appears (see
14 [Legislation Act](#), s 126 and s 132).

- 15 (2) The draft special variation must—
16 (a) identify the Symonston site; and
17 (b) include any [territory plan](#) variations that are required to
18 implement the special variation; and
19 (c) state how the special variation would meet the criteria in
20 section 85I (When Executive may make special variation).

21 **85C Consultation on draft special variation**

- 22 (1) The planning and land authority must give written notice inviting
23 comment on the draft special variation under section 85B to the
24 national capital authority.
25 (2) The planning and land authority must also consult with the public in
26 accordance with section 85D.

1 **85D Public consultation—notification**

2 (1) Before giving the draft special variation to the Executive under
3 section 85G, the planning and land authority must prepare a notice
4 (the *consultation notice*)—

5 (a) stating that copies of the draft special variation are available
6 for public inspection and purchase during a stated period of not
7 less than 15 working days (the *consultation period*) at stated
8 places; and

9 (b) inviting people to give written comments (*consultation*
10 *comments*) about the draft special variation to the authority at a
11 stated address during the consultation period; and

12 (c) stating that copies of consultation comments, or comments
13 received from the national capital authority, will be made
14 available for public inspection for a period of at least
15 15 working days starting 10 working days after the day the
16 consultation period ends, at stated places.

17 (2) The planning and land authority may by notice (an *extension*
18 *notice*) extend or further extend the consultation period.

19 *Note* The planning and land authority may extend the consultation period
20 after the end of the period being extended (see [Legislation Act](#),
21 s 151C (3)).

22 (3) The following are notifiable instruments:

23 (a) the consultation notice;

24 (b) any extension notice.

25 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

26 (4) If a notifiable instrument under subsection (3) does not state when
27 the instrument expires, the instrument expires 6 months after the day
28 it is notified.

- 1 (5) The planning and land authority must also publish the consultation
2 notice and any extension notice in a daily newspaper and on the
3 authority website.

4 *Note* **Authority website**—see the dictionary.

5 **85E Public consultation—availability of draft special variation**

6 The planning and land authority must make copies of the draft
7 special variation mentioned in the consultation notice available for
8 public inspection and purchase during office hours during the
9 consultation period and at the places stated in the consultation
10 notice.

11 **85F Public inspection of comments on draft special variation**

12 The planning and land authority must make copies of any
13 consultation comments made on the draft special variation available
14 for public inspection during office hours during the consultation
15 period at the place mentioned in the consultation notice.

16 *Note* This section is subject to s 411 and s 412.

17 **85G Draft variation to be given to Executive**

- 18 (1) This section applies if the consultation process for the draft special
19 variation has ended.
- 20 (2) The planning and land authority must give the draft special variation
21 to the Executive, together with a written report setting out—
- 22 (a) comments received from the national capital authority; and
- 23 (b) details of the public consultation; and
- 24 (c) the issues raised in any consultation about the draft special
25 variation.

- 1 (3) The Executive may return the draft special variation to the planning
2 and land authority and direct the authority to do 1 or more of the
3 following:
- 4 (a) conduct further stated consultation in accordance with this
5 division;
- 6 (b) withdraw the draft special variation.
- 7 (4) If the Executive directs the withdrawal of the draft special variation
8 by the planning and land authority under subsection (3) (b), the
9 authority must prepare a notice stating that the draft special
10 variation is withdrawn.
- 11 (5) The following are notifiable instruments:
- 12 (a) a direction under subsection (3) (b);
- 13 (b) a notice under subsection (4).
- 14 *Note* A notifiable instrument must be notified under the [Legislation Act](#).
- 15 (6) If a notifiable instrument under subsection (5) does not state when
16 the instrument expires, the instrument expires 6 months after the day
17 it is notified.
- 18 (7) The planning and land authority must also publish the notice under
19 subsection (4) in a daily newspaper and on the authority website.
- 20 *Note* **Authority website**—see the dictionary.

1 **Division 5.3A.2 Special variation**

2 **85H Executive may make special variation**

- 3 (1) The Executive may make an instrument to vary the [territory plan](#) in
4 relation to the Symonston mental health facility (the *special*
5 *variation*).
- 6 (2) The special variation must—
- 7 (a) identify the Symonston site; and
- 8 (b) include any [territory plan](#) variations that are required to
9 implement the special variation; and
- 10 (c) state how, in the Executive’s opinion, the area meets the
11 special variation criteria in section 85I; and
- 12 (d) include the consultation report on the draft special variation
13 prepared by the planning and land authority under section 85G.
- 14 (3) The special variation is a notifiable instrument.

15 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

16 **85I When Executive may make special variation**

- 17 (1) The Executive may only make the special variation under
18 section 85H if—
- 19 (a) the planning and land authority has consulted the national
20 capital authority and the public about the draft special variation
21 in accordance with the requirements in section 85C; and
- 22 (b) the Executive has considered the planning and land authority’s
23 consultation report provided to the Executive by the authority
24 under section 85G; and

- 1 (c) the Executive considers—
- 2 (i) the special variation will facilitate the Symonston mental
- 3 health facility at the Symonston site; and
- 4 (ii) there is no substantive public policy reason for the
- 5 development of the Symonston mental health facility not
- 6 to proceed.
- 7 (2) However, the Executive may make the special variation in a revised
- 8 form to the draft special variation if, having regard to the report of
- 9 the planning and land authority under section 85G, the Executive
- 10 considers it appropriate to do so.

11 **85J Effect of special variation—variations to territory plan**

- 12 (1) A variation to the [territory plan](#) that is included in the special
- 13 variation takes effect on the day the special variation commences.
- 14 (2) The planning and land authority must publish in a daily newspaper
- 15 and on the authority website details of—
- 16 (a) each variation to the [territory plan](#) made by the special
- 17 variation; and
- 18 (b) where copies of the plan variation may be inspected or
- 19 purchased.
- 20 *Note Authority website*—see the dictionary.
- 21 (3) The planning and land authority must make copies of the plan
- 22 variation available for inspection or purchase during office hours at
- 23 the places, and during the period, published in the newspaper under
- 24 subsection (2) (b).

1 **85K Special variation—time limit on bringing court**
2 **proceedings**

3 A person may not start a proceeding in a court in relation to the
4 special variation more than 60 days after the variation is made.

5 *Note* Section 104 limits challenges to the validity of [territory plan](#) provisions
6 more generally.

7 **85L Time limit on proceedings in relation to Symonston**
8 **mental health facility**

9 (1) This section applies to a development proposal for the development
10 of the Symonston mental health facility if the Executive makes a
11 special variation.

12 (2) A person may not start a proceeding in a court in relation to a
13 decision under chapter 7, chapter 8 or chapter 9—

14 (a) if the decision is in relation to the development proposal; and

15 (b) more than 60 days after the day the decision is made.

16 (3) This section expires 5 years after the day this section commences
17 unless the period that this section is in force is extended by
18 regulation.

19 (4) The period may not be extended under subsection (3) by more than
20 5 years.

21 *Note* The [Legislation Act](#), s 84 (1) (a) provides that the repeal of a law does
22 not revive anything not in force or existing when the repeal takes effect.

23 **10 Restrictions on public availability—comments,**
24 **applications, representations and proposals**
25 **New section 411 (1) (aa)**

26 *insert*

27 (aa) a person who makes consultation comments on a draft special
28 variation; or

1 **11 Section 411 (2), definition of *relevant document*, new**
2 **paragraph (aa)**

3 *insert*

4 (aa) in relation to a person who makes consultation comments on a
5 draft special variation—the consultation comments; or

6 **12 Restrictions on public availability—security**
7 **Section 412 (5), definition of *relevant document*, new**
8 **paragraphs (ba) and (bb)**

9 *insert*

10 (ba) a draft special variation;

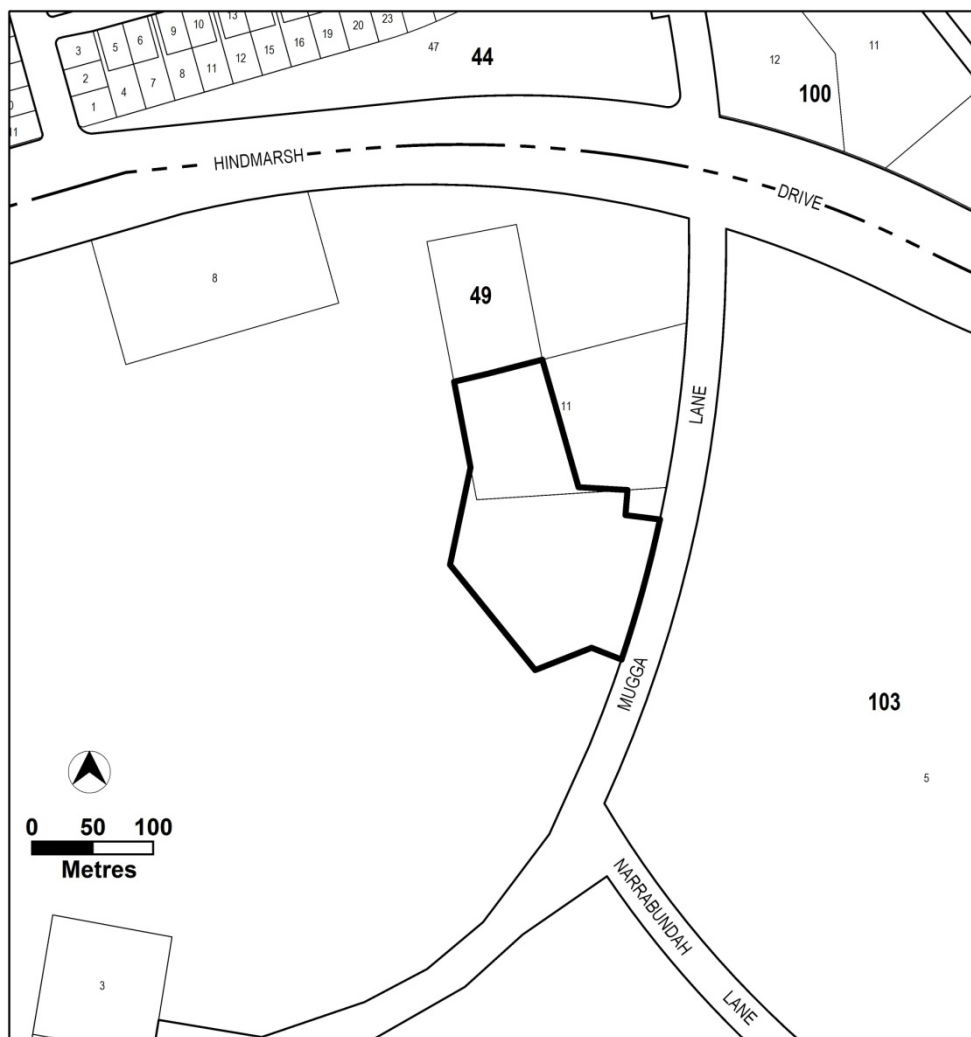
11 (bb) consultation comments on a draft special variation;

1 **13 New schedule 6**

2 *insert*

3 **Schedule 6 Symonston site**

4 (see s 85A)



1 **14 Dictionary, definition of *background papers***

2 *before*

3 technical

4 *insert*

5 special variation or

6 **15 Dictionary, definitions of *consultation comments*,
7 *consultation notice* and *consultation period***

8 *substitute*

9 *consultation comments*—

10 (a) for part 5.3 (Variations of [territory plan](#) other than special
11 variation or technical amendments)—see section 63 (1) (b);
12 and

13 (b) for part 5.3A (Special variation—Symonston mental health
14 facility)—see section 85D (1) (b).

15 *consultation notice*—

16 (a) for part 5.3 (Variations of [territory plan](#) other than special
17 variation or technical amendments)—see section 63 (1); and

18 (b) for part 5.3A (Special variation—Symonston mental health
19 facility)—see section 85D (1).

20 *consultation period*—

21 (a) for part 5.3 (Variations of [territory plan](#) other than special
22 variation or technical amendments)—see section 63 (1) (a);
23 and

24 (b) for part 5.3A (Special variation—Symonston mental health
25 facility)—see section 85D (1) (a).

-
- 1 **16 Dictionary, definition of *corresponding plan variation***
- 2 *before*
- 3 technical
- 4 *insert*
- 5 special variation or
- 6 **17 Dictionary, new definitions**
- 7 *insert*
- 8 *draft special variation*—see section 85B (1).
- 9 *mental health facility*, for part 5.3A (Special variation—Symonston
- 10 mental health facility)—see section 85A.
- 11 **18 Dictionary, definitions of *plan variation* and *public***
- 12 ***availability notice***
- 13 *before*
- 14 technical
- 15 *insert*
- 16 special variation or
- 17 **19 Dictionary, new definitions**
- 18 *insert*
- 19 *special variation*—see section 85H.
- 20 *Symonston mental health facility*, for part 5.3A (Special
- 21 variation—Symonston mental health facility)—see section 85A.
- 22 *Symonston site*, for part 5.3A (Special variation—Symonston
- 23 mental health facility)—see section 85A.

1 **Schedule 1 Other amendments**
2 (see s 3)

3 **Part 1.1 Administrative Decisions**
4 **(Judicial Review) Act 1989**

5 **[1.1] Schedule 1, item 15, column 3**

6 *after 2nd dot point, insert*

- 7 • a decision making, or forming part of the process of making, or leading up to
8 the making of, a special variation
9 • a decision under chapter 7, chapter 8 or chapter 9 in relation to a development
10 proposal to which section 85L applies

11 **Part 1.2 Planning and Development**
12 **Regulation 2008**

13 **[1.2] Schedule 3, part 3.2, new item 15**

14 *insert*

15 15 A development in relation to the Symonston mental health facility.

16 **[1.3] Schedule 3, part 3.3, new item 2**

17 *insert*

18 2 A development in relation to the Symonston mental health facility.

19 **[1.4] Dictionary, note 3**

20 *insert*

- 21 • Symonston mental health facility (see s 85A)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 May 2014.

2 Notification

Notified under the [Legislation Act](#) on 2014.

3 Republications of amended laws

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

© Australian Capital Territory 2014