

2017

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

PLANNING AND DEVELOPMENT AMENDMENT BILL 2017

**SUPPLEMENTARY
EXPLANATORY STATEMENT**

Presented by

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Minister for Planning and Land Management

SUPPLEMENTARY EXPLANATORY STATEMENT

Introduction

The Planning and Development Amendment Bill 2017 (the bill) amends the *Planning and Development Act 2007* (the Act) to:

- require development approval for new and some ongoing storage of dangerous substances
- provide for development approval on contaminated sites to proceed based on an environmental significance opinion provided by the planning and land authority rather than a more onerous environmental impact assessment, and
- require all standard draft Territory Plan variations to be referred to the relevant committee of the Assembly.

This supplementary explanatory statement relates to Government amendments proposed by the Minister for Planning and Land Management (the Amendment Bill) to the bill as presented to the ACT Legislative Assembly on 24 August 2017.

The supplementary explanatory statement 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. The supplementary explanatory statement must be read in conjunction with the Amendment Bill. It is not, and is not meant to be, a comprehensive description of the Amendment Bill.

Overview

The Amendment Bill makes amendments in two areas. Both areas relate to new section 73 inserted by clause 4 of the bill.

The bill provides for all standard draft variations to the Territory Plan to be referred to the relevant committee of the Legislative Assembly (new section 73(2), clause 4). After referral the Committee has 15 working days in which to notify the Minister whether the Committee intends to report on the draft variation (new section 73(3), clause 4). One of the Government amendments is to extend this 15 day reporting period to 20 working days. The Government is of the view that this longer period will provide the Committee with a more realistic, practical opportunity to make its decision. This is the effect of Government amendments number 2 and 3 amending clause 4 to delete the reference to “15 working days” and replace with a reference to “20 working days”.

The second government amendment also relates to the bill provisions on Territory Plan variations. This government amendment relates to the time period in which the Assembly Committee must report on a draft variation if a report is in fact undertaken. The default period for completing a report is 6 months. If the Minister does not receive a report in this time, the Minister can proceed to approve the variation and present it to the Assembly. Under the existing Act, there is an option for the Minister to request a reporting period of less than 6 months but not less than three months if the variation is related to light rail and the Minister is satisfied that the shorter period will minimize risk of delay to the development of the light rail (existing section 73(3) of the Act).

The option of a shorter reporting period for variations related to light rail has been carried over into the amendment bill in the new context of mandatory variation referrals noted above. The Government amendment is to alter these provisions to make it clear that the existing approach to light rail variation report periods is unchanged but for the mandatory referral of these and other variations. In particular, the amendment restores the express mention of the factors that the Minister must be satisfied of before requesting the Committee to report in a shortened period.

This amendment effectively reproduces the criteria that the Minister must consider when requesting a short reporting period on light rail related territory plan variations that are already in place in existing section 73 (3) of the existing *Planning and Development Act 2007*.

This amendment is effected principally through Government amendment number 1 which omits new section 73(2) inserted by clause 4 and replaces it with new sections 73(2), (2A), (2B). Amendment 4 changes a section cross reference as a consequence of Amendment 1.

This is a minor amendment consistent with the existing framework in the bill which already includes the possibility of a shortened reporting period in relation to light rail of not less than three months. The amendment does not add a new mechanism or limitation but confirms the criteria on which a shortened reporting period can be requested consistent with the existing Act.

Human Rights

The Government amendments do not have human rights implications. The human rights implications of the bill as a whole are addressed in the principal explanatory statement.

Clause Notes for the Government Amendment Bill in detail

Amendment 1

Clause 4

Proposed new section 73 (2)

Page 3, line 7

Amendment number 1 amends clause 4 by omitting new section 73(2) and substituting a revised new section 73(2). The revised new section 73(2) includes new sections 73(2A) and new section 73 (2B).

New section 73(2A) sets out the circumstances in which new section 73(2B) applies. New section 73(2B) permits the Minister to request the relevant committee of the Legislative Assembly to report on a draft variation related to light rail within a time period of less than the standard 6 months but not less than 3 months.

New section 73(2A) indicates that new section 73(2B) applies when the draft variation is

- (a) to “facilitate the construction, ongoing operation and maintenance, repairs, refurbishment, relocation or replacement of light rail; and
- (b) the Minister is satisfied that the risk of delay to the development of light rail will be minimised if a shorter period for the Committee to report on the draft variation is set.

This amendment effectively reproduces the criteria that the Minister must consider when requesting a short reporting period on light rail related territory plan variations that are already in place in existing section 73 (3) of the existing *Planning and Development Act 2007*.

Amendment 2

Clause 4

Proposed new section 73 (3) (a)

Page 3, line 20

Amendment 2 amends new section 73 (3) (a) inserted by clause 4 in the bill. The amendment omits “15 working days” and substitutes “20 working days”. The effect of this and Amendment 3 is to require the relevant Committee of the Legislative Assembly to confirm whether it intends to report on a referred territory plan variation within 20 working days rather than the 15 working days in the original bill.

Amendment 3

Clause 4

Proposed new section 73 (3) (b)

Page 3, line 23

Amendment 3 amends new section 73 (3) (b) inserted by clause 4 in the bill. The amendment omits “15 working days” and substitutes “20 working days”. This amendment is consistent with Amendment 2.

Amendment 4

Clause 7

Proposed new section 75 (1) (c) (i)

Page 5, line 11

Amendment 4 is made as a consequence of amendment 1. Amendment 4 amends new section 75 (1) (c) (i) inserted by clause 7. The amendment omits the reference to 73 (2) (b) and substitutes this with a reference to new section 73 (2B) inserted as a result of Government Amendment number 1.