



Australian Capital Territory

Planning and Development (Design Review Panel) Amendment Act 2019

A2019-22

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Legislation amended 2
Part 2	Planning and Development Act 2007
4	Meaning of <i>associated document</i> —pt 3.6 New section 30 (1) (fa) 3
5	Merit track—when development approval must not be given New section 119 (4) 3

J2019-16

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

Contents

	Page	
6	Merit track—considerations when deciding development approval New section 120 (da)	3
7	Impact track—when development approval must not be given New section 128 (6)	4
8	Impact track—considerations when deciding development approval New section 129 (da)	4
9	Consideration of development proposals New section 138 (4) (aa)	4
10	Part 7.3 heading	5
11	Division 7.3.1 heading	5
12	New division 7.2B.2 heading	5
13	New division 7.2B.3 heading	5
14	New division 7.2B.4	5
15	New part 7.3 heading	9
16	Form of development applications Section 139 (2) (r), new note	9
17	New section 139 (2) (s)	9
18	Section 139 (2), note 1	10
19	New section 145A	10
20	Dictionary, new definitions	10
Part 3	Planning and Development Regulation 2008	
21	New section 20B	11



Australian Capital Territory

Planning and Development (Design Review Panel) Amendment Act 2019

A2019-22

An Act to amend the *Planning and Development Act 2007* and the *Planning and Development Regulation 2008*

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

Part 1 Preliminary

1 Name of Act

This Act is the *Planning and Development (Design Review Panel) Amendment Act 2019*.

2 Commencement

This Act commences on 1 October 2019.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Planning and Development Act 2007* and the *Planning and Development Regulation 2008*.

Part 2 Planning and Development Act 2007

4 **Meaning of *associated document*—pt 3.6** **New section 30 (1) (fa)**

insert

- (fa) a response to a design advice required under section 139 (2) (s) to accompany the application;

5 **Merit track—when development approval must not be given** **New section 119 (4)**

insert

- (4) In addition, development approval must not be given for a development proposal in the merit track if the design review panel provided the proponent with design advice about the development proposal under section 138AM and either—
- (a) the proponent has not responded to the design advice; or
 - (b) the authority considers the proponent's response to the design advice is unsatisfactory.

6 **Merit track—considerations when deciding development approval** **New section 120 (da)**

insert

- (da) if the design review panel provided the proponent with design advice about the development proposal—
- (i) the design advice; and
 - (ii) the proponent's response to the design advice;

7 Impact track—when development approval must not be given
New section 128 (6)

insert

- (6) In addition, development approval must not be given for a development proposal in the impact track if the design review panel provided the proponent with design advice about the development proposal under section 138AM and either—
- (a) the proponent has not responded to the design advice; or
 - (b) the authority considers the proponent’s response to the design advice is unsatisfactory.

8 Impact track—considerations when deciding development approval
New section 129 (da)

insert

- (da) if the design review panel provided the proponent with design advice about the development proposal—
- (i) the design advice; and
 - (ii) the proponent’s response to the design advice;

9 Consideration of development proposals
New section 138 (4) (aa)

after the note, insert

- (aa) whether the proponent must, or is likely to be required by the Minister to, consult the design review panel about the development proposal under section 138AL (Consultation with design review panel);

10 Part 7.3 heading*substitute***Part 7.2B Pre-application matters****11 Division 7.3.1 heading***substitute***Division 7.2B.1 Planning and land authority to advise on development proposals****12 New division 7.2B.2 heading***after section 138, insert***Division 7.2B.2 Environmental significance opinions****13 New division 7.2B.3 heading***after section 138AD, insert***Division 7.2B.3 Community consultation****14 New division 7.2B.4***after section 138AF, insert***Division 7.2B.4 Design review panel advice****Subdivision 7.2B.4.1 Design review panel****138AG Design review panel—establishment**

The Design Review Panel is established.

138AH Design review panel—functions

The design review panel has the following functions:

- (a) to provide design advice to proponents of development proposals;
- (b) to exercise any other function given to the panel under this Act or another territory law.

138AI Design review panel—members

- (1) The design review panel consists of at least 3 of the following members:
 - (a) the government architect;
 - (b) a representative of the national capital authority;
 - (c) 1 or more members contracted under subsection (2) to provide design review services to the panel.
- (2) The planning and land authority may, on behalf of the Territory, enter into a contract for services with a person to provide design review services to the design review panel.
- (3) However, the planning and land authority must not enter into a contract with a person unless satisfied that the person has appropriate expertise in architecture, urban design, urban planning, landscape architecture, engineering or another area relevant to the urban environment.
- (4) The contract must include conditions to ensure the accountability, transparency and independence of contracted panel members, including conditions about the following:
 - (a) ending the member's contract;
 - (b) disclosure of interests;
 - (c) conflicts of interest.

138AJ Design review panel—rules

- (1) The Minister may make rules (*design review panel rules*) for the design review panel, including rules about—
 - (a) the terms of reference for the panel; and
 - (b) how the panel is to be constituted; and
 - (c) the conduct of meetings of the panel; and

Examples

- 1 the quorum at meetings
- 2 who is to preside at meetings
- 3 how questions are to be resolved at meetings
- 4 how conflicts of interest are to be dealt with at meetings

- (d) processes and procedures for assessing development proposals.

Examples

- 1 site inspections
- 2 sources of best practice for design review

- (2) The design review panel rules may apply, adopt or incorporate an instrument as in force from time to time.
- (3) The [Legislation Act](#), section 47 (6) does not apply to an instrument applied, adopted or incorporated under subsection (2).

Note The instrument does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Legislation Act](#), s 47 (7)).

- (4) The design review panel rules must be published on the authority website.

138AK Design principles

- (1) The Minister may make principles (*design principles*) to be used by the design review panel in assessing development proposals under this Act.
- (2) The design principles must be published on the authority website.

Subdivision 7.2B.4.2 Design review panel advice**138AL Consultation with design review panel**

- (1) Before lodging a development application for a prescribed development proposal, the proponent must consult the design review panel about the proposal.
- (2) Also, if the Minister is satisfied that a development proposal is likely to be of economic, social or environmental significance to the Territory, the Minister may require the proponent to consult the design review panel about the proposal.
- (3) In addition, the proponent of any other development proposal may consult the design review panel about the proposal.
- (4) If the proponent of a development proposal consults the design review panel about the proposal, the consultation must be carried out in accordance with any design review panel rules.

138AM Design review panel may provide design advice

- (1) This section applies if—
 - (a) the proponent of a development proposal consults the design review panel about the proposal under section 138AL; or
 - (b) the planning and land authority gives the design review panel an opportunity to provide further design advice about a development proposal under section 145A (Amended development application—previous consultation with design review panel).
- (2) The design review panel must—
 - (a) consider the proposal; and

- (b) either—
- (i) provide the proponent with advice about how the proposal could be made consistent, or more consistent, with any design principles (*design advice*); or
 - (ii) tell the proponent that the panel has no advice about the proposal; and
- (c) if the panel provides the proponent with design advice—give a copy of the design advice to the planning and land authority.

Note If design advice is given, the proponent's response to the design advice must be included in the development application (see s 139 (2) (s)).

- (3) If the proponent does not lodge a development application for the development proposal within 18 months after the design advice is provided, the design advice expires.

15 New part 7.3 heading

before division 7.3.1A, insert

Part 7.3 Development applications

16 Form of development applications Section 139 (2) (r), new note

insert

Note *Estate development plan*—see s 94.

17 New section 139 (2) (s)

before the notes, insert

- (s) if the design review panel provided the proponent with design advice about the development proposal under section 138AM—be accompanied by the proponent's response to the design advice.

18 Section 139 (2), note 1

substitute

Note 1 Some development applications must be publicly notified (see div 7.3.4). However, the applicant may apply for part of the application to be excluded from publication (see s 411).

19 New section 145A

insert

145A Amended development application—previous consultation with design review panel

- (1) This section applies if—
 - (a) a development application has been amended under section 144; and
 - (b) before it was amended, the design review panel had provided design advice about the development proposal under section 138AM.
- (2) The planning and land authority may give the design review panel an opportunity to provide further design advice about the development proposal.

20 Dictionary, new definitions

insert

design advice—see section 138AM.

design principles—see section 138AK.

design review panel means the Design Review Panel established under section 138AG.

design review panel rules—see section 138AJ.

Part 3 Planning and Development Regulation 2008

21 New section 20B

in part 3.1AB, insert

20B Consultation with design review panel—Act, s 138AL

A development proposal for a building with 5 or more storeys is prescribed.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 May 2019.

2 Notification

Notified under the [Legislation Act](#) on 8 August 2019.

3 Republications of amended laws

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

I certify that the above is a true copy of the Planning and Development (Design Review Panel) Amendment Bill 2019, which was passed by the Legislative Assembly on 1 August 2019.

Clerk of the Legislative Assembly

© Australian Capital Territory 2019