

2013

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**GOVERNMENT AMENDMENTS TO THE EMB—
ADMINISTRATIVE DECISIONS (JUDICIAL REVIEW) AMENDMENT BILL 2013**

SUPPLEMENTARY EXPLANATORY STATEMENT

**Presented by
Simon Corbell MLA
Attorney-General**

These amendments are circulated under Standing Order 178A.

Outline of amendments

These amendments will modify the tests for standing to take action under the Administrative Decisions (Judicial Review) Amendment Bill 2013 (the Bill). These amendments will maintain current rights of review under the *Administrative Decisions (Judicial Review) Act 1989* for decisions under the *Heritage Act 2004* and the *Planning and Development Act 2007*.

Notes on Clauses

Government Amendment 1

This amendment will change clause 6 of the Bill, to introduce a new section 4A. New section 4A provides for two categories of decision under the *Administrative Decisions (Judicial Review) Act 1989*: Category A and Category B decisions. The amendment specifies a different test for eligibility to bring proceedings for Category A and Category B decisions.

Category A decisions are those made under the *Heritage Act 2004* or the *Planning and Development Act 2007*. In relation to a Category A decision, the current standard for when a person may make an application under the Act is preserved by including the requirements in new section 4A(2).

Category B decisions are any other decisions to which the Act applies, apart from Category A decisions. In relation to a Category B decision, this amendment provides that there is a presumption in favour of eligibility to bring an application under the Act unless either another Territory enactment does not allow for the application or both of the following circumstances are true: 1) the interests of the eligible person are not adversely affected by the decision or conduct and 2) the application fails to raise a significant issue of public importance.

Government Amendment 2

This amendment changes clause 14 of the Bill to amend the definition of “eligible person”. It would omit existing paragraphs (b) and (c) to substitute new paragraphs (b) and (c) which provide that, for corporations or unincorporated associations or organisations, they are only eligible if the subject matter to which an application relates happened after the organisation came into existence.

The amendment is intended to prevent corporations or organisations formed after the events that give rise to an application from taking action under the Act.