

2009

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Ms Caroline Le Couteur)

# Planning and Development (Notifications and Review) Amendment Bill 2009

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# **Planning and Development (Notifications and Review) Amendment Bill 2009**

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## **A Bill for**

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

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

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J2009-859

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

- 1 **1 Name of Act**
- 2 This Act is the *Planning and Development (Notifications and*  
3 *Review) Amendment Act 2009.*
- 4 **2 Commencement**
- 5 This Act commences on the 7th 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 **4 Section 121**
- 11 *substitute*
- 12 **121 Merit track—notification and right of review**
- 13 If a development proposal is in the merit track, the application for  
14 development approval for the proposal must be publicly notified  
15 under division 7.3.4 and there may be a right of review under  
16 chapter 13 by someone other than the applicant in relation to the  
17 decision on the application.
- 18 **5 What is *publicly notifies* for ch 7?**  
19 **Section 152 (1), note 2**
- 20 *omit*

1 **6 Public notice to adjoining premises**  
2 **Section 153 (5)**

3 *substitute*

4 (5) If the planning and land authority is satisfied that a failure to notify  
5 a person about an application as required under this section has not  
6 resulted in a defined circumstance—

7 (a) the planning and land authority may make a declaration to that  
8 effect; and

9 (b) the validity of the development approval is not affected by the  
10 failure.

11 (6) A declaration is a notifiable instrument.

12 *Note* A notifiable instrument must be notified under the Legislation Act.

13 (7) In this section:

14 ***defined circumstance***, in relation to a failure to notify a person  
15 about an application as required under this section, means the  
16 failure—

17 (a) unfavourably affects the person's awareness of the existence  
18 and nature of the application; or

19 (b) denies or restricts the opportunity of the person to make  
20 representations about the application under section 156.

1 **7 Major public notification**  
2 **Section 155 (5)**

3 *substitute*

4 (5) If the planning and land authority is satisfied that a failure to notify  
5 a development application under subsection (1) has not resulted in a  
6 defined circumstance—

7 (a) the planning and land authority may make a declaration to that  
8 effect; and

9 (b) the validity of the development approval is not affected by the  
10 failure.

11 (6) A declaration is a notifiable instrument.

12 *Note* A notifiable instrument must be notified under the Legislation Act.

13 (7) In this section:

14 ***defined circumstance***, in relation to a failure to notify a  
15 development application as required under subsection (1), means the  
16 failure—

17 (a) unfavourably affects the public's awareness of the existence  
18 and nature of the application; or

19 (b) denies or restricts the opportunity of the public to make  
20 representations about the application under section 156.

1 **8 Notice of approval of application**  
2 **Section 170 (3), note**

3 *omit*

4 s 408 (2)

5 *substitute*

6 s 408

7 **9 Notice of refusal of application**  
8 **Section 171 (3), note**

9 *omit*

10 s 408 (2)

11 *substitute*

12 s 408

13 **10 Reconsideration**  
14 **Section 193 (3)**

15 *omit*

16 **11 Notice of decisions on reconsideration**  
17 **Section 195, note**

18 *omit*

19 s 408 (2)

20 *substitute*

21 s 408

1 **12 Decision about whether lease concessional**  
2 **Section 257 (5), note**

3 *omit*

4 s 408 (2)

5 *substitute*

6 s 408

7 **13 Authority may decide whether lease concessional on own**  
8 **initiative**  
9 **Section 258 (4), note 1**

10 *omit*

11 s 408 (2)

12 *substitute*

13 s 408

14 **14 Decision on rent payout lease variation application**  
15 **Section 272B (3), note**

16 *omit*

17 s 408 (2)

18 *substitute*

19 s 408

20 **15 Section 408**

21 *substitute*

22 **408 Reviewable decision notices**

23 If a decision-maker makes a reviewable decision, the  
24 decision-maker must give a reviewable decision notice to the  
25 following entities in relation to the decision:

- 26 (a) each eligible entity for the decision;



1 (b) each interested entity for the decision.

2 *Note 1* The decision-maker must also take reasonable steps to give a  
3 reviewable decision notice to any other person whose interests are  
4 affected by the decision (see *ACT Civil and Administrative Tribunal*  
5 *Act 2008*, s 67A).

6 *Note 2* The requirements for reviewable decision notices are prescribed under  
7 the *ACT Civil and Administrative Tribunal Act 2008*.

## 8 **408A Applications for review**

9 The following may apply to the ACAT for review of a reviewable  
10 decision:

11 (a) an eligible entity for the decision;

12 (b) any other person whose interests are affected by the decision.

13 *Note* If a form is approved under the *ACT Civil and Administrative Tribunal*  
14 *Act 2008* for the application, the form must be used.

## 15 **16 ACAT review—people who made representations etc** 16 **Section 409 (2) (a)**

17 *omit*

18 the person was told about the decision

19 *substitute*

20 notice of the decision was received by the person

## 21 **17 Section 409 (2) (b)**

22 *omit*

23 given

24 *substitute*

25 received

1 **18 Section 409 (3) and note**

2 *substitute*

3 *Note 1* The time for making an application may be extended (see *ACT Civil*  
4 *and Administrative Tribunal Procedure Rules 2009 (No 2)*).

5 *Note 2* For how documents may be served, see the Legislation Act, pt 19.5.

6 **19 Meaning of *material detriment*—Act**  
7 **Section 419**

8 *omit*

9 **20 Reviewable decisions, eligible entities and interested**  
10 **entities**  
11 **Schedule 1, item 3, column 2**

12 *substitute*

13 decision under s 162 to approve a development application in the  
14 merit track subject to a condition or to refuse to approve the  
15 application

16 **21 Schedule 1, item 4, column 4**

17 *substitute*

18 an entity if the entity made a representation under s 156 about the  
19 development proposal or had a reasonable excuse for not making a  
20 representation

21 **22 Schedule 1, item 6, column 4**

22 *substitute*

23 an entity if the entity made a representation under s 156 about the  
24 development proposal or had a reasonable excuse for not making a  
25 representation

1 **23 Schedule 1, item 12, column 4**

2 *substitute*

3 an entity if the entity made a representation under s 156 about the  
4 development proposal or had a reasonable excuse for not making a  
5 representation

6 **24 Dictionary, definition of *material detriment***

7 *omit*

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### Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2009.

**2 Notification**

Notified under the Legislation Act on 2009.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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