



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2004–2005–2006–2007

MINUTES OF PROCEEDINGS

No. 108

THURSDAY, 23 AUGUST 2007

1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Berry) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 ELECTORAL LEGISLATION AMENDMENT BILL 2007

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Electoral Act 1992* and the *Referendum (Machinery Provisions) Act 1994*, and for other purposes.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement.

Title read by Clerk.

Mr Corbell moved—That this Bill be agreed to in principle.

Debate adjourned (Mr Stefaniak—Leader of the Opposition) and the resumption of the debate made an order of the day for the next sitting.

3 LAND (PLANNING AND ENVIRONMENT) ACT—VARIATION NO. 259 TO THE TERRITORY PLAN—WODEN TOWN CENTRE: COMMERCIAL B—CHANGES TO PRECINCTS, ENTERTAINMENT ACCOMMODATION AND LEISURE AND RESTRICTED ACCESS RECREATION LAND USE POLICIES AND ALL TOWN CENTRES—CHANGES TO APPENDIX II AND COMMERCIAL B PRECINCT “C”—PROPOSED REJECTION

Dr Foskey, pursuant to notice, moved—That this Assembly, in accordance with subsection 29(4) of the *Land (Planning and Environment) Act 1991*, rejects Variation No. 259 to the Territory Plan—Woden Town Centre: Commercial B—Changes to Precincts,

Entertainment Accommodation and Leisure and Restricted Access Recreation Land Use Policies and All Town Centres—Changes to Appendix II and Commercial B Precinct “c”.

Paper: Dr Foskey, by leave, presented the following paper:

Variation No. 259 to the Territory Plan—Woden Town Centre: Commercial B—Changes to Precincts, Entertainment Accommodation and Leisure and Restricted Access Recreation Land Use Policies and All Town Centres—Changes to Appendix II and Commercial B Precinct “c”—Copy of letter to the Minister for Planning from the Chair, Woden Valley Community Council, dated 22 July 2007.

Debate continued.

Mr Mulcahy addressing the Assembly—

It being 45 minutes after the commencement of Assembly business—

Ordered—That the time allotted to Assembly business be extended by 30 minutes.

Debate continued.

Question—put.

The Assembly voted—

AYES, 8		NOES, 9	
Mrs Burke	Mr Seselja	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Smyth	Mr Berry	Ms MacDonald
Dr Foskey	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Pratt		Mr Gentleman	

And so it was negatived.

4 PLANNING AND ENVIRONMENT—STANDING COMMITTEE—REPORT 26—RECOMMENDATIONS—RESPONSE FROM JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES—STATEMENT BY CHAIR

Mr Gentleman (Chair), pursuant to standing order 246A, made a statement concerning the recommendations made by the Standing Committee on Planning and Environment in its report No. 26, entitled *Report on Annual and Financial Reports 2005-06*, concerning the issue of joint inquiries and a response received from the Joint Standing Committee on the National Capital and External Territories.

5 PLANNING AND ENVIRONMENT—STANDING COMMITTEE—INAUGURAL CONFERENCE OF AUSTRALIAN MEMBERS OF PARLIAMENT—STATEMENT BY CHAIR

Mr Gentleman (Chair), by leave, informed the Assembly of the attendance by the Chair of the Standing Committee on Planning and Environment at the Inaugural Conference of Australian Members of Parliament, entitled *Environment and Industry*, held at the Parliament of Victoria.

6 MULTICULTURAL YOUTH FORUM—MINISTERIAL STATEMENT

Mr Hargreaves (Minister for Multicultural Affairs), by leave, made a ministerial statement concerning the Multicultural Youth Forum held on 9 August 2007.

7 PLANNING AND DEVELOPMENT BILL 2006

The Assembly, according to order, resumed consideration at the detail stage.

Detail Stage

Clause 15 debated and agreed to.

Clauses 16 to 27, by leave, taken together and agreed to.

Clause 28 debated and agreed to.

Clause 29 agreed to.

Clauses 30 to 44, by leave, taken together—

Debate continued.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

8 QUESTIONS

Questions without notice were asked.

9 SUSPENSION OF STANDING ORDERS—ORDER TO TABLE DOCUMENTS

Mr Stanhope (Chief Minister) moved—That so much of the standing orders be suspended as would prevent Mr Stanhope from moving a motion to require Mrs Burke to table documents by 6 p.m. today.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 10		NOES, 7	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Smyth
Mr Berry	Mr Hargreaves	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms MacDonald	Mr Mulcahy	
Dr Foskey	Ms Porter	Mr Pratt	
Ms Gallagher	Mr Stanhope	Mr Seselja	

And so it was resolved in the affirmative.

10 EQUIPMENT SHORTAGES—CANBERRA AND CALVARY HOSPITALS—ORDER TO TABLE DOCUMENTS

Mr Stanhope (Chief Minister) moved—That Mrs Burke table before 6 p.m. today all evidence which she has claimed she has in her possession of equipment shortages at Canberra and Calvary Hospitals with all identifying information about individuals removed.

Debate ensued.

Closure: Dr Foskey moved—That the question be now put.

Question—That the question be now put—put.

The Assembly voted—

AYES, 10		NOES, 7	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Smyth
Mr Berry	Mr Hargreaves	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms MacDonald	Mr Mulcahy	
Dr Foskey	Ms Porter	Mr Pratt	
Ms Gallagher	Mr Stanhope	Mr Seselja	

And so it was resolved in the affirmative.

And the question—That the motion be agreed to—being accordingly put—

The Assembly voted—

AYES, 9		NOES, 7	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Smyth
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms Porter	Mr Mulcahy	
Ms Gallagher	Mr Stanhope	Mr Pratt	
Mr Gentleman		Mr Seselja	

And so it was resolved in the affirmative.

11 PRESENTATION OF PAPER

The Speaker presented the following paper:

Travel report—Non-Executive Members—Sixth Assembly, up to and including 30 June 2007.

12 REUSABLE MEDICAL AND SURGICAL DEVICES—REVIEW—INTERIM REPORT—PAPER AND STATEMENT BY MINISTER

Ms Gallagher (Minister for Health) presented the following paper:

Reusable medical and surgical devices—Review—Interim report, prepared by SpencerSmith and Associates Pty Ltd, dated 18 April 2007—

and, by leave, made a statement in relation to the paper.

Mrs Burke, by leave, also made a statement in relation to the paper.

13 PRESENTATION OF PAPER

Ms Gallagher (Minister for Disability and Community Services) presented the following paper:

Variation to the Commonwealth State/Territory Disability Agreement—Variation Agreement between the Commonwealth and the Australian Capital Territory, dated 9 July 2007.

14 LAND (PLANNING AND ENVIRONMENT) ACT—STATEMENT REGARDING EXERCISE OF CALL-IN POWERS—DEVELOPMENT APPLICATION NO. 200603581—WEST BELCONNEN REGIONAL SCHOOL—BLOCK 1 SECTION 48 HOLT—PAPER AND STATEMENT BY MINISTER

Mr Hargreaves (Minister for Territory and Municipal Services) presented the following paper:

Land (Planning and Environment) Act, pursuant to subsection 229B(7)—Statement regarding exercise of call-in powers—Development application No. 200603581—West Belconnen Regional School—Block 1 Section 48 Holt, dated 22 August 2007—
and, by leave, made a statement in relation to the paper.

15 PLANNING AND DEVELOPMENT BILL 2006

The Assembly, according to order, resumed further consideration at the detail stage.

Detail Stage

Clauses 30 to 44—

Debate continued.

Question—put.

The Assembly voted—

AYES, 10		NOES, 7	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Smyth
Mr Berry	Mr Hargreaves	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms MacDonald	Mr Mulcahy	
Dr Foskey	Ms Porter	Mr Pratt	
Ms Gallagher	Mr Stanhope	Mr Seselja	

And so it was resolved in the affirmative—Clauses 30 to 44 agreed to.

Clauses 45 and 46, by leave, taken together and agreed to.

Clause 47 debated and agreed to.

Clause 48 agreed to.

Clause 49 agreed to.

Clause 50—

On the motion of Mr Barr (Minister for Planning), his amendment No. 7 (*see [Schedule 1](#)*) was made, after debate.

Clause 50, as amended, agreed to.

Clauses 51 and 52, by leave, taken together and agreed to.

Clause 53—

On the motion of Mr Barr, by leave, his amendments Nos. 8 to 10 (*see [Schedule 1](#)*) were made together.

Clause 53, as amended, agreed to.

Clause 54—

On the motion of Mr Barr, by leave, his amendments Nos. 11 to 14 (*see* [Schedule 1](#)) were made together.

Clause 54, as amended, agreed to.

Clauses 55 to 59, by leave, taken together and agreed to.

Clause 60—

Papers: Dr Foskey, by leave, presented the following papers:

Neighbourhood planning in the ACT—Neighbourhood Planning Newsletters—

Issue 6: February 2004.

Issue 7: April 2004.

Debate continued.

Clause 60 agreed to.

Clause 61 agreed to.

Clause 62 debated and agreed to.

Clauses 63 and 64, by leave, taken together and agreed to.

Clause 65—

On the motion of Mr Barr, his amendment No. 15 (*see* [Schedule 1](#)) was made, after debate.

Clause 65, as amended, agreed to.

Clauses 66 to 86, by leave, taken together and agreed to.

Clause 87 debated and agreed to.

Clause 88—

On the motion of Mr Barr, his amendment No. 16 (*see* [Schedule 1](#)) was made, after debate.

Clause 88, as amended, agreed to.

Clauses 89 to 92, by leave, taken together and agreed to.

Clause 93—

On the motion of Mr Barr, his amendment No. 17 (*see* [Schedule 1](#)) was made, after debate.

Clause 93, as amended, agreed to.

Clauses 94 to 110, by leave, taken together and agreed to.

Clause 111—

On the motion of Mr Barr, by leave, his amendments Nos. 18 to 20 (*see* [Schedule 1](#)) were made together, after debate.

Clause 111, as amended, agreed to.

Clause 112 agreed to.

Clause 113—

On the motion of Mr Barr, his amendment No. 21 (*see* [Schedule 1](#)) was made.

Clause 113, as amended, agreed to.

Clause 114—

On the motion of Mr Barr, by leave, his amendments Nos. 22 to 27 (*see* [Schedule 1](#)) were made together.

Clause 114, as amended, agreed to.

Clause 115—

On the motion of Mr Barr, by leave, his amendments Nos. 28 and 29 (*see* [Schedule 1](#)) were made together.

Clause 115, as amended, agreed to.

Clauses 116 to 119, by leave, taken together and agreed to.

Clause 120—

On the motion of Mr Barr, his amendment No. 30 (*see* [Schedule 1](#)) was made.

Clause 120, as amended, agreed to.

Clause 121 agreed to.

Clause 122—

On the motion of Mr Barr, his amendment No. 31 (*see* [Schedule 1](#)) was made, after debate.

Clause 122, as amended, agreed to.

Clauses 123 to 131, by leave, taken together and agreed to.

Division 7.2.6 (clauses 132 to 134)—

Mr Barr moved his amendment No. 32 (*see* [Schedule 1](#)).

Mr Seselja, by leave, moved his amendments Nos. 2 to 4, which amend Mr Barr's amendment No. 32, together (*see* [Schedule 3](#)).

Debate continued.

Mr Seselja, who had already spoken, by leave, again addressed the Assembly.

Mr Seselja's amendments Nos. 2 to 4 negatived.

Mr Barr's amendment No. 32 agreed to.

Papers: Mrs Burke, pursuant to order, presented the following papers:

Equipment shortages—Canberra and Calvary Hospitals—

Human Rights Act 2004—Extract, page 6.

Letter to the Speaker from Mrs Burke, dated 23 August 2007.

Media releases—Mrs Burke—

Reinstate sacked nurse and improve infection control, dated 13 July 2007.

Gallagher runs for cover as nurses tell it like it is, dated 31 July 2007.

Mismanagement not winter ills behind hospitals' crisis, dated 3 August 2007.

ACT hospitals short of basic equipment, dated 6 August 2007.

Minister still denying the undeniable, dated 7 August 2007.

Another day another excuse from the ACT Health Minister, dated 9 August 2007.

Not another health plan, dated 10 August 2007.

Staffing critical at top heavy ACT public hospitals, dated 13 August 2007.

Hospital nurses being bullied into silence, dated 15 August 2007.

Is training a factor in nurse shortage at hospitals?, dated 16 August 2007.

Division 7.2.6 (clauses 132-134), as amended, agreed to.

Clause 135—

On the motion of Mr Barr, his amendment No. 33 (*see* [Schedule 1](#)) was made, after debate.

Clause 135, as amended, agreed to.

Clause 136—

Mr Barr, by leave, moved his amendments Nos. 34 to 39 together (*see* [Schedule 1](#)).

Adjournment negatived: It being 6 p.m.—The question was proposed—That the Assembly do now adjourn.

Question—put and negatived.

Debate continued.

Amendments agreed to.

Clause 136, as amended, agreed to.

Clause 137—

On the motion of Mr Barr, his amendment No. 40 (*see* [Schedule 1](#)) was made.

Clause 137, as amended, agreed to.

Clauses 138 to 142, by leave, taken together and agreed to.

Clause 143 agreed to.

Clauses 144 to 149, by leave, taken together and agreed to.

Clause 150—

On the motion of Mr Seselja, his amendment No. 22 (*see* [Schedule 2](#)) was made, after debate.

Clause 150, as amended, agreed to.

Clauses 151 and 152, by leave, taken together and agreed to.

Clause 153—

On the motion of Mr Barr, by leave, his amendments Nos. 41 to 43 (*see* [Schedule 1](#)) were made together.

Clause 153, as amended, agreed to.

New clause—

On the motion of Mr Barr, new clause 153A (his amendment No. 44—*see* [Schedule 1](#)) was inserted in the Bill.

Clauses 154 to 155, by leave, taken together and agreed to.

Clause 156 debated and agreed to.

Clause 157 agreed to.

Clause 158—

On the motion of Mr Barr, his amendment No. 45 (*see* [Schedule 1](#)) was made.

Clause 158, as amended, agreed to.

Clause 159 agreed to.

New clause—

On the motion of Mr Barr, new clause 159A (his amendment No. 46—*see* [Schedule 1](#)) was inserted in the Bill, after debate.

Clause 160—

On the motion of Mr Barr, his amendment No. 47 (*see* [Schedule 1](#)) was made.

Mr Seselja moved his amendment No. 3 (*see* [Schedule 2](#)).

Amendment negatived.

On the motion of Mr Barr, his amendment No. 48 (*see* [Schedule 1](#)) was made, after debate.

Clause 160, as amended, agreed to.

Clauses 161 to 163, by leave, taken together and agreed to.

Clause 164—

On the motion of Mr Barr, his amendment No. 49 (*see* [Schedule 1](#)) was made.

Clause 164, as amended, agreed to.

Clause 165—

Mr Seselja moved his amendment No. 4 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

On the motion of Mr Barr, his amendment No. 50 (*see* [Schedule 1](#)) was made.

Clause 165, as amended, agreed to.

Clauses 166 to 169, by leave, taken together and agreed to.

Clause 170—

On the motion of Mr Barr, his amendment No. 51 (*see* [Schedule 1](#)) was made.

Clause 170, as amended, agreed to.

Clause 171—

On the motion of Mr Barr, by leave, his amendments Nos. 52 and 53 (*see* [Schedule 1](#)) were made together.

Clause 171, as amended, agreed to.

Clause 172—

On the motion of Mr Barr, by leave, his amendments Nos. 54 and 55 (*see* [Schedule 1](#)) were made together.

Clause 172, as amended, agreed to.

Clause 173 agreed to.

Clause 174—

On the motion of Mr Barr, his amendment No. 56 (*see* [Schedule 1](#)) was made.

Clause 174, as amended, agreed to.

Clause 175—

On the motion of Mr Barr, his amendment No. 57 (*see* [Schedule 1](#)) was made.

Clause 175, as amended, agreed to.

Clause 176 agreed to.

Clause 177—

On the motion of Mr Barr, his amendment No. 58 (*see* [Schedule 1](#)) was made.

Clause 177, as amended, agreed to.

Clause 178—

On the motion of Mr Barr, by leave, his amendments Nos. 59 and 60 (*see* [Schedule 1](#)) were made together.

Clause 178, as amended, agreed to.

Clause 179—

On the motion of Mr Barr, his amendment No. 61 (*see* [Schedule 1](#)) was made.

Mr Seselja moved his amendment No. 5 (*see* [Schedule 2](#)).

Amendment negatived.

Mr Barr moved his amendment No. 62 (*see* [Schedule 1](#)).

Mr Seselja moved his amendment No. 6 (*see* [Schedule 3](#)), which amends Mr Barr's amendment No. 62.

Mr Seselja's amendment No. 6 negatived.

Mr Barr's amendment No. 62 agreed to.

Clause 179, as amended, agreed to.

Clause 180—

Mr Barr, by leave, moved his amendments Nos. 63 and 64 together (*see* [Schedule 1](#)).

Mr Seselja moved his amendment No. 7 (*see* [Schedule 3](#)), which amends Mr Barr's amendment No. 64.

Mr Seselja's amendment No. 7 negatived.

Mr Barr's amendments Nos. 63 and 64 agreed to.

Clause 180, as amended, agreed to.

Clause 181—

Debate continued.

On the motion of Mr Barr, by leave, his amendments Nos. 66 to 69 (*see* [Schedule 1](#)) were made together.

Clause 181, as amended, agreed to.

Clause 182—

Debate continued.

On the motion of Mr Barr, his amendment No. 70 (*see* [Schedule 1](#)) was made.

Clause 182, as amended, agreed to.

New clause—

Mr Barr moved his amendment No. 71 (*see* [Schedule 1](#)), which inserts a new clause 182A in the Bill.

Mr Seselja moved his amendment No. 8 (*see* [Schedule 3](#)), which amends Mr Barr's amendment No. 71.

Mr Seselja's amendment No. 8 negatived.

Mr Barr's amendment No. 71 agreed to.

Clauses 183 and 184, by leave, taken together and agreed to.

Clause 185—

On the motion of Mr Barr, his amendment No. 72 (*see* [Schedule 1](#)) was made.

Clause 185, as amended, agreed to.

Clause 186 agreed to.

Clause 187—

On the motion of Mr Barr, his amendment No. 73 (*see* [Schedule 1](#)) was made.

Clause 187, as amended, agreed to.

Clauses 188 to 192, by leave, taken together and agreed to.

Clause 193—

Mr Seselja moved his amendment No. 8 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

Clause 193 agreed to.

Clause 194—

Mr Seselja, by leave, moved his amendments Nos. 9 and 10 together (*see* [Schedule 2](#)).

Debate continued.

Amendments negatived.

Clause 194 agreed to.

Clauses 195 and 196, by leave, taken together and agreed to.

Clause 197—

Mr Seselja moved his amendment No. 11 (*see* [Schedule 2](#)).

Amendment negatived.

Mr Seselja moved his amendment No. 12 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

On the motion of Mr Barr, by leave, his amendment No. 74 (*see* [Schedule 1](#)) was made.

Clause 197, as amended, agreed to.

Clause 198—

Debate continued.

On the motion of Mr Barr, his amendment No. 75 (*see* [Schedule 1](#)) was made.

Clause 198, as amended, agreed to.

Clauses 199 to 204, by leave, taken together and agreed to.

Clause 205—

Debate continued.

On the motion of Mr Barr, his amendment No. 76 (*see* [Schedule 1](#)) was made.

Clause 205, as amended, agreed to.

Clause 206 agreed to.

Clause 207—

On the motion of Mr Barr, his amendment No. 77 (*see* [Schedule 1](#)) was made.

Clause 207, as amended, agreed to.

Clauses 208 to 210, by leave, taken together and agreed to.

Clause 211—

On the motion of Mr Barr, his amendment No. 78 (*see* [Schedule 1](#)) was made.

Clause 211, as amended, agreed to.

New clause—

On the motion of Mr Barr, new clause 211A (his amendment No. 79—*see* [Schedule 1](#)) was inserted in the Bill.

Clause 212—

On the motion of Mr Barr, his amendment No. 80 (*see* [Schedule 1](#)) was made.

Clause 212, as amended, agreed to.

Clause 213 agreed to.

Clause 214—

On the motion of Mr Barr, by leave, his amendments Nos. 81 and 82 (*see* [Schedule 1](#)) were made together.

Clause 214, as amended, agreed to.

Clauses 215 to 219, by leave, taken together and agreed to.

Clause 220 debated and agreed to.

Clauses 221 to 225, by leave, taken together and agreed to.

New clause—

On the motion of Mr Barr, new clause 225A (his amendment No. 83—*see* [Schedule 1](#)) was inserted in the Bill.

Clause 226—

On the motion of Mr Barr, his amendment No. 84 (*see* [Schedule 1](#)) was made.

Clause 226, as amended, agreed to.

Clause 227—

Debate continued.

On the motion of Mr Barr, his amendment No. 85 (*see* [Schedule 1](#)) was made.

Clause 227, as amended, agreed to.

Clause 228 debated and negatived.

Clauses 229 and 230, by leave, taken together and agreed to.

Clause 231—

On the motion of Mr Barr, his amendment No. 87 (*see* [Schedule 1](#)) was made, after debate.

Clause 231, as amended, agreed to.

Clause 232 agreed to.

Clause 233—

On the motion of Mr Barr, by leave, his amendments Nos. 88 and 89 (*see* [Schedule 1](#)) were made together.

Clause 233, as amended, agreed to.

Clause 234—

On the motion of Mr Barr, his amendment No. 90 (*see* [Schedule 1](#)) was made.

Clause 234, as amended, agreed to.

Clause 235—

On the motion of Mr Barr, by leave, his amendments Nos. 91 and 92 (*see* [Schedule 1](#)) were made together.

Clause 235, as amended, agreed to.

Clause 236—

On the motion of Mr Barr, his amendment No. 93 (*see* [Schedule 1](#)) was made.

Clause 236, as amended, agreed to.

Clauses 237 and 238, by leave, taken together and agreed to.

Clause 239—

On the motion of Mr Barr, by leave, his amendments Nos. 94 and 95 (*see* [Schedule 1](#)) were made together.

Clause 239, as amended, agreed to.

Clause 240—

Mr Seselja moved his amendment No. 14 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

On the motion of Mr Barr, his amendment No. 96 (*see* [Schedule 1](#)) was made.

Clause 240, as amended, agreed to.

Clauses 241 to 245, by leave, taken together and agreed to.

New clause—

On the motion of Mr Barr, new clause 245A (his amendment No. 97—*see* [Schedule 1](#)) was inserted in the Bill.

Clause 246—

Mr Seselja moved his amendment No. 15 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

Clause 246 agreed to.

Clause 247 debated and agreed to.

Clauses 248 to 251, by leave, taken together and agreed to.

Clause 252—

On the motion of Mr Barr, his amendment No. 98 (*see* [Schedule 1](#)) was made.

Clause 252, as amended, agreed to.

Clause 253—

On the motion of Mr Barr, his amendment No. 99 (*see* [Schedule 1](#)) was made.

Clause 253, as amended, agreed to.

Clauses 254 and 255, by leave, taken together and agreed to.

Clause 256 debated and agreed to.

Clause 257 agreed to.

Clause 258—

On the motion of Mr Barr, his amendment No. 100 (*see* [Schedule 1](#)) was made.

Clause 258, as amended, agreed to.

Clauses 259 to 262, by leave, taken together and agreed to.

Clause 263 debated and negatived.

Clauses 264 to 268, by leave, taken together and agreed to.

Clause 269—

On the motion of Mr Barr, his amendment No. 102 (*see* [Schedule 1](#)) was made.

Clause 269, as amended, agreed to.

Clauses 270 to 280, by leave, taken together and agreed to.

Clause 281 debated and agreed to.

Clauses 282 to 290, by leave, taken together and agreed to.

Clause 291 debated and negatived.

Clause 292—

Debate continued.

On the motion of Mr Barr, by leave, his amendments Nos. 104 to 106 (*see* [Schedule 1](#)) were made together, after debate.

Clause 292, as amended, agreed to.

Clauses 293 to 298, by leave, taken together and agreed to.

Clause 299—

Mr Seselja moved his amendment No. 18 (*see* [Schedule 2](#)).

Amendment negatived.

Clause 299 agreed to.

Clauses 300 to 311, by leave, taken together and agreed to.

Clause 312—

On the motion of Mr Barr, his amendment No. 107 (*see* [Schedule 1](#)) was made.

Clause 312, as amended, agreed to.

Clauses 313 and 314, by leave, taken together and agreed to.

Clause 315—

On the motion of Mr Barr, his amendment No. 108 (*see* [Schedule 1](#)) was made.

Clause 315, as amended, agreed to.

Clauses 316 to 324, by leave, taken together and agreed to.

New clause—

On the motion of Mr Barr, new clause 324A (his amendment No. 109—*see* [Schedule 1](#)) was inserted in the Bill.

Clauses 325 to 369, by leave, taken together and agreed to.

Clause 370—

On the motion of Mr Barr, by leave, his amendments Nos. 110 to 113 (*see* [Schedule 1](#)) were made together.

Clause 370, as amended, agreed to.

Clauses 371 to 379, by leave, taken together and agreed to.

Clause 380—

On the motion of Mr Barr, his amendment No. 114 (*see* [Schedule 1](#)) was made.

Clause 380, as amended, agreed to.

Clauses 381 to 399, by leave, taken together and agreed to.

Clause 400—

Mr Seselja moved his amendment No. 19 (*see* [Schedule 2](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 5		NOES, 8	
Mr Mulcahy	Mr Stefaniak	Mr Barr	Mr Gentleman
Mr Pratt		Mr Berry	Mr Hargreaves
Mr Seselja		Mr Corbell	Ms MacDonald
Mr Smyth		Dr Foskey	Ms Porter

And so it was negatived.

On the motion of Mr Barr, his amendment No. 115 (*see* [Schedule 1](#)) was made.

Clause 400, as amended, agreed to.

Clause 401 agreed to.

Clause 402—

On the motion of Mr Barr, his amendment No. 116 (*see* [Schedule 1](#)) was made.

Clause 402, as amended, agreed to.

Clause 403—

On the motion of Mr Barr, his amendment No. 117 (*see* [Schedule 1](#)) was made.

Clause 403, as amended, agreed to.

Proposed new clause—

Mr Seselja moved his amendment No. 20 (*see* [Schedule 2](#)), which inserts a new clause 403A in the Bill.

Debate continued.

Amendment negatived.

Clause 404 agreed to.

Clause 405—

On the motion of Mr Barr, his amendment No. 118 (*see* [Schedule 1](#)) was made.

Clause 405, as amended, agreed to.

Clauses 406 and 407, by leave, taken together and agreed to.

New clause—

On the motion of Mr Barr, new clause 407A (his amendment No. 119—*see* [Schedule 1](#)) was inserted in the Bill.

Clauses 408 to 410, by leave, taken together and agreed to.

Clause 411—

Mr Seselja moved his amendment No. 21 (*see* [Schedule 2](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 4		NOES, 7
Mr Mulcahy	Mr Barr	Mr Gentleman
Mr Pratt	Mr Berry	Mr Hargreaves
Mr Seselja	Mr Corbell	Ms MacDonald
Mr Smyth	Dr Foskey	

And so it was negatived.

Mr Seselja moved his amendment No. 1 (*see* [Schedule 4](#)).

Debate continued.

Amendment negatived.

Clause 411 agreed to.

Clauses 412 to 414, by leave, taken together and agreed to.

New clause—

On the motion of Mr Barr, new clause 414A (his amendment No. 120—*see* [Schedule 1](#)) was inserted in the Bill.

Clauses 415 and 416, by leave, taken together and agreed to.

Clause 417—

On the motion of Mr Barr, by leave, his amendments Nos. 121 and 122 (*see* [Schedule 1](#)) were made together.

Clause 417, as amended, agreed to.

Clauses 418 and 419, by leave, taken together and agreed to.

Clause 420—

On the motion of Mr Barr, his amendment No. 123 (*see* [Schedule 1](#)) was made.

Clause 420, as amended, agreed to.

Clause 421 agreed to.

Clause 422—

On the motion of Mr Barr, his amendment No. 124 (*see* [Schedule 1](#)) was made.

Clause 422, as amended, agreed to.

Clause 423—

On the motion of Mr Barr, his amendment No. 125 (*see* [Schedule 1](#)) was made.

Clause 423, as amended, agreed to.

Clause 424—

On the motion of Mr Barr, his amendment No. 126 (*see* [Schedule 1](#)) was made.

Clause 424, as amended, agreed to.

Clauses 425 to 428, by leave, taken together and agreed to.

New clauses—

On the motion of Mr Barr, new clauses 428A and 428B (his amendment No. 127—*see* [Schedule 1](#)) were inserted in the Bill.

New clause—

On the motion of Mr Barr, new clause 428C (his amendment No. 128—*see* [Schedule 1](#)) was inserted in the Bill.

Clause 429 agreed to.

Clause 430—

On the motion of Mr Barr, his amendment No. 129 (*see* [Schedule 1](#)) was made.

Clause 430, as amended, agreed to.

New clause—

On the motion of Mr Barr, new clause 430A (his amendment No. 130—*see* [Schedule 1](#)) was inserted in the Bill.

Clause 431 debated and negatived.

Clauses 432 and 433, by leave, taken together and agreed to.

New clause—

On the motion of Mr Barr, new clause 433A (his amendment No. 132—*see* [Schedule 1](#)) was inserted in the Bill.

Clause 434 agreed to.

Clause 435—

On the motion of Mr Barr, his amendment No. 133 (*see* [Schedule 1](#)) was made, after debate.

Clause 435, as amended, agreed to.

Clause 436 debated and negatived.

Clause 437 debated and negatived.

Clause 438 debated and negatived.

Clauses 439 to 456, by leave, taken together and agreed to.

New clause—

On the motion of Mr Barr, new clause 457 (his amendment No. 137—*see* [Schedule 1](#)) was inserted in the Bill.

Remainder of Bill, by leave, taken as a whole—

Mr Barr, by leave, moved his amendments Nos. 138 to 160 (*see* [Schedule 1](#)) together.

Debate continued.

Suspension of standing order 76: Mr Corbell (Manager of Government Business) moved—That standing order 76 be suspended for the remainder of this sitting.

Question—put and passed, with the concurrence of an absolute majority.

Debate continued.

Amendments agreed to.

Remainder of Bill, as a whole, as amended, agreed to.

Clause 281—Reconsideration:

Dr Foskey, pursuant to standing order 187, moved—That clause 281 be reconsidered.

Question—put and passed.

Clause 281—

Dr Foskey moved her amendment No. 1 (*see* [Schedule 5](#)).

Debate continued.

Amendment agreed to.

Clause 281, as amended, agreed to.

Question—That this Bill, as amended, be agreed to—proposed.

Mr Corbell (Attorney-General) sought leave to speak to the question.

Objection being raised, leave not granted.

Suspension of standing orders—Member to speak to question: Mr Corbell moved—That so much of the standing orders be suspended as would prevent Mr Corbell from speaking to the question.

Question—put and passed, with the concurrence of an absolute majority.

Mr Corbell addressed the Assembly.

Question—put and passed.

16 PLANNING AND DEVELOPMENT (CONSEQUENTIAL AMENDMENTS) BILL 2007

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Question—That this Bill be agreed to in principle—put and passed.

Detail Stage

Clause 1 agreed to.

Clause 2—

On the motion of Mr Barr (Minister for Planning), his amendment No. 1 (*see* [Schedule 6](#)) was made.

Paper: Mr Barr presented a supplementary explanatory statement to the Government amendments.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Schedule 1—

Amendments 1.1 to 1.42, by leave, taken together and agreed to.

Amendment 1.43 debated and agreed to.

Amendments 1.44 to 1.82, by leave, taken together and agreed to.

Amendment 1.83—

Mr Seselja moved his amendment No. 1 (*see* [Schedule 7](#)).

Debate continued.

Amendment negatived.

Amendment 1.83 agreed to.

Amendment 1.84—

Mr Seselja moved his amendment No. 2 (*see* [Schedule 7](#)).

Debate continued.

Amendment negatived.

Amendment 1.84 agreed to.

Amendments 1.85 to 1.89, by leave, taken together and agreed to.

Amendment 1.90—

Mr Seselja moved his amendment No. 3 (*see* [Schedule 7](#)).

Debate continued.

Amendment negatived.

Amendment 1.90 agreed to.

Remainder of Bill, by leave, taken as a whole—

On the motion of Mr Barr (Minister for Planning), by leave, his amendments Nos. 2 to 8 (*see* [Schedule 6](#)) were made together.

Remainder of Bill, as a whole, as amended, agreed to.

Question—That this Bill, as amended, be agreed to—put and passed.

17 BUILDING LEGISLATION AMENDMENT BILL 2007

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Paper: Mr Barr (Minister for Planning) presented a revised explanatory statement to the Bill.

Question—That this Bill be agreed to in principle—put and passed.

Detail Stage

Bill, by leave, taken as a whole—

On the motion of Mr Barr, by leave, his amendments Nos. 1 to 34 (*see* [Schedule 8](#)) were made together.

Bill, as a whole, as amended, agreed to.

Question—That this Bill, as amended, be agreed to—put and passed.

18 ADJOURNMENT

Mr Barr (Minister for Education and Training) moved—That the Assembly do now adjourn.

Question—put and passed.

And then the Assembly, at 11.30 p.m., adjourned until Tuesday, 28 August 2007 at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

PLANNING AND DEVELOPMENT BILL 2006

Amendments circulated by the Minister for Planning

7

Proposed new clause 50 (2) (ca)

Page 36, line 19—

insert

- (ca) make provision in relation to affordable residential housing; and
-

8

Clause 53 (1) (a)

Page 37, line 18—

omit clause 53 (1) (a), substitute

- (a) the minimum assessment track that applies to each development proposal; and

Note Assessment tracks are dealt with in ch 7.

9

Clause 53 (1) (b), proposed new note

Page 37, line 21—

insert

Note Exempt developments are further dealt with in div 7.2.6.

10

Proposed new clause 53 (3)

Page 38, line 9—

insert

- (3) The assessment tracks, from minimum to maximum, are as follows:
- (a) code track;
 - (b) merit track;
 - (c) impact track.
-

11**Clause 54 (1)****Page 38, line 11—***after*

general code

insert

or precinct code that is a concept plan

12**Clause 54 (1) (a)****Page 38, line 13—***omit*(the *code requirements*)

13**Clause 54 (1) (b)****Page 38, line 15—***omit*(the *merit criteria*)

14**Clause 54 (5)****Page 38, line 25—***omit clause 54 (5), substitute*

- (5) A code that sets out requirements applicable to the Territory, the Executive, a Minister or a Territory authority is a **general code**.
- (6) To remove any doubt, a general code may also contain—
- (a) policies to be complied with; and
 - (b) rules and criteria applicable to development proposals the code applies to.

15**Clause 65 (2) and (3)****Page 48, line 1—***omit clause 65 (2) and (3), substitute*

- (2) However, the planning and land authority must not make a part of the draft plan variation or of a background paper available under subsection (1) if satisfied that publication of the part—
- (a) would disclose a trade secret; or
 - (b) would, or could reasonably be expected to—
 - (i) endanger the life or physical safety of anyone; or
 - (ii) lead to damage to, or theft of, property.

- (3) If part of a draft plan variation or a background paper is not made available under subsection (1) because of the operation of subsection (2), each copy of the draft plan variation or background paper made available must include—
- (a) a statement to the effect that an unmentioned part of the document has been excluded; and
 - (b) the reason for the exclusion.

16**Clause 88 (1) (b)****Page 63, line 19—**

omit clause 88 (1) (b), substitute

- (b) limited consultation has taken place.

17**Clause 93 (1) (a)****Page 67, line 4—**

after

concept plan

insert

(if any)

18**Clause 111 (2) (a)****Page 80, line 14—**

omit

code requirements

substitute

rules

19**Clause 111 (2) (b)****Page 81, line 2—**

omit

code requirements and merit criteria

substitute

rules and criteria

20**Clause 111 (2) (c)****Page 81, line 9—***omit*

code requirements and merit criteria

substitute

rules and criteria

21**Proposed new clause 113 (3)****Page 82, line 24—***insert*

(3) To remove any doubt—

- (a) the planning and land authority may refuse to accept a development application made in an assessment track other than the assessment track for the development proposal; and
- (b) if the authority assesses a development application made in an assessment track other than the track for the proposal, the authority must refuse the application.

22**Clause 114 heading****Page 83, line 1—***omit clause 114 heading, substitute***114 Application of inconsistent code requirements**

23**Clause 114 (1) (b)****Page 83, line 5—***omit*

relevant code requirements for the proposal

*substitute*requirements under each code (the *code requirements*) that apply to the proposal

24**Clause 114 (2)****Page 83, line 7—***omit clause 114 (2), substitute*

- (2) If the code requirements of a precinct code and either a development code or a general code are inconsistent, the code requirements of the precinct code apply to the development proposal and not the code requirements of the development code or general code, to the extent of the inconsistency.
-

25**Clause 114 (3)****Page 83, line 12—**

omit clause 114 (3), substitute

- (3) If the code requirements of a development code and a general code are inconsistent, the code requirements of the development code apply to the development proposal and not the code requirements of the general code, to the extent of the inconsistency.

26**Clause 114 (4)****Page 83, line 17—**

omit clause 114 (4), substitute

- (4) If the code requirements of 2 or more precinct codes, development codes or general codes are inconsistent, the code requirements of the more recent code apply to the development approval and not the code requirements of the earlier code, to the extent of the inconsistency.

27**Clause 114 (5)****Page 83, line 22—**

omit clause 114 (5), substitute

- (5) To remove any doubt, a code requirement is not inconsistent with the code requirements of another code only because one code deals with a matter and the other does not.

28**Clause 115 (b)****Page 84, line 6—**

omit

relevant code requirements

substitute

relevant rules

29**Clause 115, notes 1 and 2****Page 84, line 7—**

omit notes 1 and 2, substitute

Note 1 **Relevant rules**—see the dictionary.

Note 2 **Rules**—see the dictionary.

Note 3 If a development application is made in the code track, but the development proposal is in another track, the application must be refused (see s 113 (3)).

30**Clause 120****Page 87, line 6—**

omit clause 120, substitute

120 Merit track—notification and right of review

- (1) To remove any doubt, if a development proposal is in the merit track, the application for development approval for the proposal must be publicly notified under division 7.3.4.
- (2) If there is a right of review under chapter 13 in relation to a decision to approve an application for development approval for a proposal in the merit track, the right of review is only in relation to the decision, or part of the decision, to the extent that—
 - (a) the proposal is subject to a rule and does not comply with the rule; or
 - (b) no rule applies to the proposal.

31**Proposed new clause 122 (e)****Page 88, line 6—**

insert

- (e) the Commonwealth Minister responsible for administering the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) advises the Minister in writing that the development proposed—
 - (i) is a controlled action under that Act, section 75; and
 - (ii) does not require assessment under that Act, part 8 (Assessing impacts of controlled actions) because a bilateral agreement between the Commonwealth and the Territory under that Act allows the proposal to be assessed under this Act.

32**Division 7.2.6****Page 94, line 7—**

omit division 7.2.6, substitute

Division 7.2.6 Exempt development**132 What is an *exempt development*?**

In this Act:

exempt development means development that is exempt from requiring development approval under—

- (a) the relevant development table; or

Note 1 Development tables are dealt with in s 53.

Note 2 **Relevant development table**—see the dictionary.

- (b) section 132A; or
- (c) a regulation.

132A Exempt development—authorised use

- (1) An authorised use of land, or a building or structure on the land, is exempt from requiring development approval.
- (2) However, use of the land is not exempt from requiring development approval if—
 - (a) earthworks or other construction work is carried out on the land; and
 - (b) the work requires development approval.
- (3) Also, use of the land, or a building or structure on the land, is not exempt from requiring development approval if—
 - (a) a building or structure on the land is constructed, altered or demolished; and
 - (b) the construction, alteration or demolition requires development approval.
- (4) To remove any doubt, if an authorised use of land, a building or structure is exempt from requiring development approval under subsection (1), the right to use the land, building or structure as authorised does not end only because 1 or more of the following apply in relation to the use:
 - (a) the use is not continuous;
 - (b) someone deals with the lease (the *affected lease*) that authorises the use;
 - (c) a further lease is granted for the affected lease on application under section 246, whether or not the grant happens immediately after the expiry of the affected lease.
- (5) However, the authorised use of the land, building or structure stops being exempt from requiring development approval if the use was authorised by a lease (the *affected lease*) and—
 - (a) the affected lease expires and no application is made under section 246 for a further lease; or

Note A person may apply for the grant of a further lease not later than 6 months after the expiry of the affected lease (see s 246).

- (b) the affected lease is—
 - (i) surrendered, other than for a lease variation or renewal; or
 - (ii) terminated.

- (6) Also, the authorised use of the land, building or structure stops being exempt from requiring development approval if—
- (a) the use was authorised by a licence under this Act or a permit under the *Roads and Public Places Act 1937*; and
 - (b) the licence or permit ends—
 - (i) whether on expiry or otherwise; and
 - (ii) even if renewed.
- (7) To remove any doubt, an authorised use of a building or structure is exempt from requiring development approval if the construction of the building or structure is exempt from requiring development approval.
- (8) In this section:

authorised use, of land, or a building or structure on the land—

- (a) means a use authorised by any of the following (whether expressly or by implication):
 - (i) a lease;
 - (ii) a licence under this Act;
 - (iii) a permit under the *Roads and Public Places Act 1937*;
 - (iv) a provision of chapter 15 (Transitional); and
- (b) includes a use authorised by a lease that expired not more than 6 months before the use if the lease is renewed within 6 months after the expiry; and
- (c) does not include a use authorised by section 240.

consolidation—see section 226.

subdivision—see section 226.

132B Exempt development—no need for application or approval

- (1) An exempt development may be undertaken without a development application and development approval.
- (2) A person cannot apply for approval of a development proposal for an exempt development.

Note The development proposal may still need a building approval under the *Building Act 2004*.

Division 7.2.7 Prohibited development

133 Development proposals for prohibited development

- (1) If a development is prohibited, either under the relevant development table or under subsection (2), a person cannot apply for approval of a development proposal for the development.

Note 1 A development is prohibited if any part of the development is prohibited (see dict, def *prohibited*).

Note 2 It is an offence to undertake prohibited development (see s 194).

Note 3 However, if development is authorised by a development approval and subsequently becomes prohibited, the development can continue (see s 195).

Note 4 Also, development that is lawful when it begins continues to be lawful (see s 197 and s 198).

- (2) A development by an entity other than the Territory or a territory authority in a future urban area is prohibited unless the structure plan for the area states otherwise.

134 Applications for development approval in relation to use for otherwise prohibited development

- (1) This section applies to a development proposal in relation to a use of land, or a building or structure on the land, if—

- (a) the use is an authorised use; but
- (b) beginning the use is a prohibited development.

- (2) Despite section 133—

- (a) a person may apply to the planning and land authority for development approval for the development proposal; and
- (b) the proposal is taken not to be a prohibited development; and
- (c) the impact track applies to the proposal.

- (3) In this section:

authorised use, of land, or a building or structure on the land, means—

- (a) a use authorised by—
 - (i) a lease; or
 - (ii) section 240; or
 - (iii) a provision of chapter 15 (Transitional); and
 - (b) includes a use authorised by a lease that expired not more than 6 months before the use if the lease is renewed within 6 months after the expiry.
-

33**Clause 135 (1)****Page 97, line 5—**

omit clause 135 (1), substitute

- (1) The planning and land authority must consider a development proposal if asked by the proponent of the proposal.
- (1A) However, the planning and land authority need not consider the development proposal if satisfied that the information provided by the proponent in relation to the proposal would not allow the authority to provide adequate advice in relation to the matters mentioned in subsection (2).
- (1B) The planning and land authority must tell the proponent if, because the authority is satisfied under subsection (1A), the authority does not consider the development proposal.

34**Clause 136 (2) (c)****Page 99, line 10—**

omit

relevant code requirements

substitute

relevant rules

35**Clause 136 (2) (d)****Page 99, line 13—**

omit clause 136 (2) (d), substitute

- (d) if the application is for approval of a development in the merit track—be accompanied by information or documents addressing the relevant rules and relevant criteria; and
- (da) if the application is for approval of a development in the merit track and the territory plan requires an assessment (an *assessment of environmental effects*) of the possible environmental effects of the development in detail that is sufficient taking into consideration the size and significance of the impact of the development on the environment—be accompanied by an assessment of environmental effects; and

36**Clause 136 (2) (e) (i)****Page 99, line 21—**

omit

relevant code requirements and relevant merit criteria

substitute

relevant rules and relevant criteria

37**Clause 136 (2) (f)**
Page 99, line 24—*omit*

variation of a lease

substitute

variation of a nominal rent lease (other than a variation to which section 269 does not apply)

38**Clause 136 (2) (g) (iii)**
Page 100, line 7—*omit*

direct grant

substitute

direct sale

39**Clause 136 (4), definition of *relevant merit criteria***
Page 101, line 11—*omit the definition, substitute****relevant criteria***, for a development proposal, means the criteria that apply to the proposal in each relevant code.

40**Clause 137 (1) (a)**
Page 101, line 20—*omit clause 137 (1) (a), substitute*

- (a) a code that applies to a development proposal requires an entity to approve the development or certify something in relation to the development; and

41**Clause 153 (2), proposed new note**
Page 115, line 9—*insert**Note* ***Public consultation period*** for a development application—see s 153A.

42**Proposed new clause 153 (3A)****Page 115, line 13—***insert*

- (3A) If the planning and land authority extends the public consultation period under subsection (3), the authority must give the applicant for the development approval written notice of the extension.

43**Clause 153 (6)****Page 115, line 24—***omit*

44**Proposed new clause 153A****Page 115, line 28—***insert***153A Meaning of *public consultation period* for development applications—Act**

In this Act:

public consultation period, for a development application, means—

- (a) the period prescribed by regulation; or
- (b) if the period prescribed is extended under section 153 (3)—the prescribed period as extended.

45**Proposed new clause 158 (1A)****Page 119, line 24—***insert*

- (1A) However, the planning and land authority or Minister must refuse a development application to which division 9.4.2 (Varying concessional leases to remove concessional status) applies if the Minister decides under section 253 that considering the application is not in the public interest.
-

46**Proposed new clause 159A****Page 121, line 14—***insert***159A Refusal does not affect existing use**

The refusal of a development application in relation to the use of land does not affect an existing use of the land.

47**Clause 160 (3)****Page 121, line 25—***omit*

approved

substitute

given

48**Clause 160 (4), proposed new examples****Page 123, line 21—***insert***Examples of conditions that may be prescribed**

- 1 requirement to keep documents or other administrative requirement
- 2 manage the impact of carrying out development, whether on or off development site

49**Clause 164 (3)****Page 126, line 24—***omit clause 164 (3), substitute*

Note **Public consultation period** for a development application—see s 153A.

50**Clause 165 (1) (c)****Page 127, line 10—***omit clause 165 (1) (c), substitute*

- (c) if the application approved relates to the use of land, or a building or structure on the land—to the registrar-general for notification under the *Land Titles Act 1925*; and
-

51**Clause 170 (1) (b) and (c)****Page 130, line 24—***omit clause 170 (1) (b) and (c), substitute*

- (b) either—
- (i) there are no representations about the application; or
 - (ii) there is no right to apply to the AAT for review of the decision to approve the application because—
 - (A) the application is in the code track; or
 - (B) the application was not required to be publicly notified under section 152; or
 - (C) the proposal to which the application relates is exempt from review under a regulation; and

52**Clause 171 heading****Page 131, line 10—***omit clause 171 heading, substitute*

171 When development approvals take effect—single representation with AAT review right

53**Proposed new clause 171 (1) (ba) to (bc)****Page 131, line 16—***insert*

- (ba) the development is not in the code track; and
- (bb) the application was required to be publicly notified under section 152 (Major public notification); and
- (bc) the development proposal is not exempt from review under a regulation; and

54**Clause 172 heading****Page 132, line 4—***omit clause 172 heading, substitute*

172 When development approvals take effect—multiple representations with AAT review rights

55**Proposed new clause 172 (1) (ba) to (bc)****Page 132, line 10—***insert*

- (ba) the development is not in the code track; and

- (bb) the application was required to be publicly notified under section 152 (Major public notification); and
- (bc) the development proposal is not exempt from review under a regulation; and

56**Clause 174 (2) (c) (ii)****Page 134, line 16—**

omit clause 174 (2) (c) (ii), substitute

- (ii) the application for review is withdrawn, dismissed or struck out.

57**Clause 175 (2) (c) (ii)****Page 135, line 13—**

omit clause 175 (2) (c) (ii), substitute

- (ii) the application for review is withdrawn, dismissed or struck out.

58**Clause 177 (2) (b)****Page 136, line 25—**

omit clause 177 (2) (b), substitute

- (b) the day after the day the approval is confirmed under division 7.3.10;

59**Proposed new clause 178 (1) (aa)****Page 137, line 11—**

insert

- (aa) 1 or more representations have been made about the application; and

60**Clause 178 (1) (c)****Page 137, line 18—**

omit clause 178 (1) (c), substitute

- (c) both of the following apply:
 - (i) the application has been publicly notified under section 152;
 - (ii) the substituted decision is not exempt from review under chapter 13.
-

61**Clause 179 (1) (c)**
Page 138, line 3—*omit*

, including beginning a new use or a change of use

62**Clause 179 (3), proposed new note**
Page 138, line 26—*insert**Note* A development approval to which this section applies continues unless the approval ends under this section, s 180, s 181 or s 182.

63**Clause 180 (2) (vi)**
Page 139, line 25—*omit clause 180 (2) (vi), substitute*

(vi) the lease is surrendered, other than for a lease variation or renewal; or

64**Clause 180 (2), proposed new note**
Page 140, line 2—*insert**Note* A development approval to which this section applies continues unless the approval ends under s 179, this section, s 181 or s 182.

65**Proposed new clause 180 (3)**
Page 140, line 2—*insert*

(3) In this section:

consolidation—see section 226.*subdivision*—see section 226.

66**Clause 181 (1) (a)**
Page 140, line 8—*omit*

, including beginning a new use or a change of use

67**Clause 181 (2) (d)**
Page 140, line 17—

omit clause 181 (2) (d), substitute

- (d) the approval is surrendered, other than for a lease variation or renewal; or

68**Clause 181 (2), proposed new note**
Page 140, line 21—

insert

Note A development approval to which this section applies continues unless the approval ends under s 179, s 180, this section or s 182.

69**Clause 181 (3)**
Page 140, line 22—

omit clause 181 (3), substitute

- (3) If only 1 use is allowed under the development approval and the use in accordance with the development approval does not begin or happen before the end of the period of 2 years starting on the day after the day the approval is given, the development approval ends at the end of the 2-year period.
- (3A) If more than 1 use is allowed under the development approval and none of the uses in accordance with the development approval begin or happen before the end of the period of 2 years starting on the day after the day the approval is given, the development approval ends at the end of the 2-year period.

70**Clause 182 (2), proposed new note**
Page 142, line 8—

insert

Note A development approval to which this section applies continues unless the approval ends under s 179, s 180, s 181 or this section.

71**Proposed new clause 182A**
Page 142, line 20—

insert

182A Development approvals continue unless ended

- (1) This section applies to a development approval to which any of the following applies:
- (a) section 179 (End of development approvals other than lease variations);

- (b) section 180 (End of development approvals for lease variations);
 - (c) section 181 (End of development approvals for use under lease without lease variation, licence or permit);
 - (d) section 182 (End of development approvals for use under licence or permit).
- (2) To remove any doubt, a development approval to which this section applies continues unless the approval ends in accordance with a section mentioned in subsection (1).

72**Clause 185 (2)****Page 143, line 25—**

omit clause 185 (2), substitute

- (2) However, this section does not apply in relation to—
- (a) the refusal of a development application, or an application for amendment of a development approval, in the code track; or
 - (b) the refusal of a development application to which division 9.4.2 (Varying concessional leases to remove concessional status) applies if the Minister decides that considering the application is not in the public interest.

73**Proposed new clause 187 (2A)****Page 145, line 20—**

insert

- (2A) Also, the planning and land authority may only reconsider the original decision to the extent that the development proposal approved or refused in the original decision or part of the original decision—
- (a) is subject to a rule and does not comply with the rule; or
 - (b) is not subject to a rule.

74**Clause 197 (1) (a)****Page 154, line 3—**

omit

continuing

75**Clause 198 (1)****Page 154, line 11—**

omit clause 198 (1), substitute

- (1) This section applies to the use of land, or a building or structure on the land, if—
- (a) the use, when it began, was exempt from requiring development approval in a development table or by regulation; and
 - (b) the use is authorised by—
 - (i) a lease (the *affected lease*) for the land; or
 - (ii) a licence under this Act; or
 - (iii) a permit under the *Roads and Public Places Act 1937*; or
 - (iv) section 240; and
 - (c) the use stops being exempt.

76**Clause 205****Page 160, line 9—**

omit

for approval

substitute

for development approval

77**Clause 207 (3)****Page 161, line 8—**

omit clause 207 (3), substitute

- (3) In this section:

consultant means a person who satisfies the criteria prescribed by regulation.

Note See also s 417 (2) (c) (Regulation-making power).

78**Clause 211 (2) and (3)****Page 163, line 1—**

omit

79**Proposed new clause 211A****Page 163, line 7—***insert***211A Meaning of *public consultation period* for draft EIS—
Act**

In this Act:

public consultation period, for a draft EIS, means—

- (a) the period, not less than 20 working days, when representations may be made on the draft EIS under section 211 (1) (a) (ii); or
- (b) if the period is extended under section 212 (2A)—the period as extended.

80**Proposed new clause 212 (2A) and (2B)****Page 163, line 12—***insert*

- (2A) The planning and land authority may, by notice published in a daily newspaper, extend the public consultation period.

Note The planning and land authority may extend the public consultation period after it has ended (see Legislation Act, s 151C).

- (2B) If the planning and land authority extends the public consultation period under subsection (2A), the authority must give the proponent of the development proposal written notice of the extension.

81**Clause 214 (1), proposed new note****Page 164, line 15—***insert*

Note The public consultation period may be extended under s 212 (2A).

82**Clause 214 (4)****Page 165, line 1—***omit*

83**Proposed new clause 225A****Page 171, line 16—***insert***225A Recovery of inquiry panel costs**

The direct and indirect costs to the Territory of the conduct of an inquiry about an EIS are recoverable from the proponent of the development proposal to which the EIS relates.

Example of indirect costs

the administrative overheads of staff exercising functions in relation to the inquiry

Note 1 The costs may be recovered in a court of competent jurisdiction (see Legislation Act, s 177).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

84**Clause 226, definition of *nominal rent lease*****Page 173, line 7—***omit*

85**Clause 227, definition of *concessional lease*, proposed new subclause (1) (c) (iiia)****Page 175, line 8—***insert*

(iiia) a lease granted to the Territory; or

86**Clause 228****Page 176, line 1—***[oppose the clause]*

87**Clause 231 (1) (d)****Page 177, line 15—***omit clause 231 (1) (d), substitute*

(d) direct sale.

88**Clause 233 heading****Page 178, line 12—***omit clause 233 heading, substitute*

233**Restriction on direct sale by authority**

89**Clause 233 (2)****Page 179, line 4—***omit*

direct grant

substitute

direct sale

90**Clause 234 heading****Page 179, line 17—***omit clause 234 heading, substitute***234****Direct sale if single person in restricted class**

91**Clause 235 heading****Page 180, line 1—***omit clause 235 heading, substitute***235****Notice of direct sale**

92**Clause 235 (1)****Page 180, line 3—***omit*

direct grant

substitute

direct sale

93**Clause 236 heading****Page 180, line 23—***omit clause 236 heading, substitute***236****Direct sale leases subject to agreed provisions**

94**Clause 239 (2) (a)****Page 181, line 20—***omit clause 239 (2) (a), substitute*

(a) a rental lease granted for the full market rental value of the lease; or

Note **Rental lease**—see s 226.

95**Proposed new clause 239 (3) and (4)****Page 181, line 27—**

insert

- (3) To remove any doubt, an entity pays an amount that is not less than the market value of a lease if—
 - (a) the entity pays less than the market value of the lease (the *monetary component*); and
 - (b) the entity provides infrastructure, or carries out other work, in relation to the lease (the *works component*); and
 - (c) the total of the monetary component and the value of the works component is not less than the market value of the lease.
- (4) The validity of a lease granted by the planning and land authority is not affected by a failure to comply with this section.

96**Clause 240 (2) and (3)****Page 182, line 9—**

omit clause 240 (2) and (3), substitute

- (2) However, if the lease is a residential lease, the land may also be used for home business.
- (3) In this section:

home business, carried on on land subject to a residential lease, means a profession, trade or other occupation carried on by a resident of the land.

97**Proposed new clause 245A****Page 186, line 21—**

insert

245A Leases held by Territory not to be transferred or assigned

- (1) The Territory must not transfer or assign a lease if the Territory is the registered proprietor of the lease.
 - (2) To remove any doubt, subsection (1) does not prevent the Territory from subletting a lease if the Territory is the registered proprietor of the lease.
-

98**Clause 252****Page 192, line 16—***omit*

to remove its concessional status

substitute

if the application includes the removal of its concessional status

99**Clause 253****Page 193, line 1—***omit clause 253, substitute***253 No decision on application unless consideration in public interest**

- (1) The planning and land authority, or Minister, must not decide a development application to which this part applies under section 158 (Deciding development applications) unless the Minister decides whether it is in the public interest to consider the application.
- (2) In deciding whether it is in the public interest to consider the development application, the Minister must consider the following:
 - (a) whether the Territory wishes to continue to monitor the use and operation of the lease by requiring consent before the lease is dealt with;
 - (b) whether approving the application would cause any disadvantage to the community;
 - (c) whether the application to vary the lease to make it a market value lease is, or is likely to be, part of a larger development and, if so, what that development will involve;
 - (d) whether the Territory should buy back, or otherwise acquire, the lease.
- (3) The Minister must give notice of the decision to the planning and land authority.
- (4) The decision is a notifiable instrument.

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

100**Clause 258 (2) (b)****Page 196, line 20—***after*

lessee

insert

or eligible person

101**Clause 263****Page 201, line 5—***[oppose the clause]*

102**Proposed new clause 269 (3)****Page 204, line 25—***insert*

- (3) This section does not apply to a variation of a nominal rent lease if—
- (a) the only effect of the variation would be to alter a common boundary between 2 or more adjoining leases; and
 - (b) the land comprised in each adjoining lease is leased for the same purpose; and
 - (c) none of the adjoining leases is a rural lease.

103**Clause 291****Page 220, line 18—***[oppose the clause]*

104**Clause 292 (2) (b) (i)****Page 222, line 12—***omit clause 292 (2) (b) (i), substitute*

- (i) the authority is satisfied that the lessee cannot, for personal reasons prescribed by regulation, comply with the building and development provision; or
- (ia) the authority is satisfied that—
 - (A) the lessee cannot comply with the building and development provision for financial reasons; and
 - (B) the financial reasons are connected with the lease; or

- (ib) the authority is satisfied that—
- (A) an unforeseen major event outside the lessee’s control happened after the lessee purchased the lease; and
 - (B) the event has had a demonstrable affect on the lessee’s ability to develop the land comprised in the lease; or

105**Clause 292 (2), proposed new examples**
Page 222, line 19—*insert***Examples of unforeseen major events**

- 1 a bushfire
- 2 a large increase in interest rates

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

106**Proposed new clause 292 (2A)**
Page 222, line 19—*insert*

- (2A) For subsection (2) (b) (ia), a financial reason is connected with the lease unless—
- (a) the reason is that the lessee has borrowed an amount, using the land as security, for a purpose other than to purchase or develop the land; and
 - (b) the amount is used for a purpose other than to meet an expense arising from a personal reason prescribed by regulation for subsection (2) (b) (i).

Examples of financial reasons not connected with lease

- 1 expenditure on purchase of other land
- 2 purchase of luxury car
- 3 expenditure on extended overseas holiday

107**Clause 312**
Page 236, line 3—*omit clause 312, substitute***1 312 Definitions—pt 10.4**

In this part:

proponent means—

- (a) for a draft plan of management, or technical variation of a plan of management, for an area of public land—the custodian of the land; or
- (b) for a draft variation, or technical variation of a plan of management, for an area of public land—
 - (i) the custodian of the land; or
 - (ii) if the draft variation or technical variation was prepared by the conservator of flora and fauna—the conservator of flora and fauna.

technical variation, of a plan of management, includes a variation of the plan of management to—

- (a) correct a minor error or anomaly in a geographical description of a boundary; or
- (b) change an incorrect or outdated reference to a territory law; or
- (c) update the name of an administrative unit or other territory entity.

108**Clause 315**

Page 237, line 8—

omit clause 315, substitute

315 Variations of plans of management other than technical variations

- (1) The custodian for an area of public land, or the conservator of flora and fauna, may prepare a draft variation of a plan of management (other than a technical variation) in the same way as a draft plan of management.
- (2) However, the conservator of flora and fauna must not prepare a draft variation of a plan of management for an area of public land (other than a technical variation) unless the conservator has consulted the custodian for the area.
- (3) This part applies to a draft variation of a plan of management (other than a technical variation) as if it were a draft plan of management.

109**Proposed new clause 324A**

Page 242, line 22—

insert

324A Technical variations

- (1) A technical variation of a plan of management in relation to an area of public land may be made by—

- (a) the custodian of land; or
 - (b) the conservator of flora and fauna with the agreement of the custodian.
- (2) The technical variation is a disallowable instrument.
- Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.
- (3) Subject to any disallowance under the Legislation Act, chapter 7, the technical variation of the plan of management commences—
- (a) on the day after the 6th sitting day after the day the technical variation is presented to the Legislative Assembly under that chapter; or
 - (b) if the technical variation provides for a later date or time of commencement—on the later date or time.
- (4) Not later than 5 working days after the day the technical variation is notified under the Legislation Act, the proponent must publish a notice in a daily newspaper that—
- (a) describes the variation; and
 - (b) states the date of effect of the variation; and
 - (c) if the proponent considers it necessary or helpful—states where the variation and information about the variation is available for inspection.

110**Clause 370 (3) (b)**
Page 274, line 5—*omit everything before subparagraph (i), substitute*

- (b) an entity by which or on behalf of which the activity—

111**Clause 370 (4) (b) and (c)**
Page 274, line 11—*omit clause 370 (4) (b) and (c), substitute*

- (b) each entity to which it is directed; and
- (c) that the notice takes effect when it is given to an entity to which it is directed; and

112**Clause 370 (4) (f) (i) and (ii)**
Page 274, line 18—*omit clause 370 (4) (f) (i) and (ii), substitute*

- (i) must not be carried on by the entity; or

- (ii) must not be carried on by the entity except in accordance with the notice; and

113**Clause 370 (5)****Page 274, line 26—**

omit clause 370 (5), substitute

- (5) A prohibition notice takes effect when it is given to an entity to which it is directed.

114**Clause 380****Page 282, line 2—**

omit clause 380, substitute

2 380 Appointment of inspectors

The planning and land authority may appoint a public servant as an inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

115**Clause 400, definition of *reviewable decision*****Page 298, line 18—**

omit the definition, substitute

***reviewable decision*—**

- (a) means a decision mentioned in schedule 1, column 2; but
 - (b) does not include—
 - (i) a decision by the Minister under section 253 about whether considering a development application is in the public interest; or
 - (ii) a decision by the planning and land authority or Minister to refuse a development application under section 158 because the Minister decides under section 253 that considering the application is not in the public interest.
-

116**Clause 402 (2) and (3)****Page 299, line 12—***omit clause 402 (2) and (3), substitute*

- (2) The application for review must be made not later than 4 weeks after—
- (a) for a decision to which section 171 (When development approvals take effect—single representation with AAT review right) applies—the day the person was told about the decision; or
 - (b) for a decision to which section 172 (When development approvals take effect—multiple representations with AAT review right) applies—the day final notice of the decision was given.
- (3) The period for making the application for review may not be extended under the *Administrative Appeals Tribunal Act 1989*.
- (4) In this section:
final notice—see section 172 (3).

117**Clause 403 (2)****Page 299, line 22—***omit clause 403 (2), substitute*

Note A decision of the Minister under s 158 is not a reviewable decision (see s 400, def *reviewable decision* and sch 1).

118**Clause 405 (5), definition of *relevant document*, proposed new paragraph (aa)****Page 303, line 1—***before paragraph (a), insert*

- (aa) a draft plan variation;

119**Proposed new clause 407A****Page 305, line 15—***insert***407A Enforcement actions unaffected by other approvals etc**

- (1) To remove any doubt, the planning and land authority or an official is not prevented from exercising a function in relation to a matter only because any of the following have been issued in relation to the matter:

- (a) a development approval;
 - (b) a certificate of compliance;
 - (c) a certificate of occupancy under the *Building Act 2004*.
- (2) In this section:
- function*—see section 406 (1).
- official*—see section 406 (1).

120**Proposed new clause 414A****Page 309, line 5—**

insert

414A Construction of outdated references

- (1) In any Act, instrument made under an Act or document, a reference to the *Land (Planning and Environment) Act 1991* is, in relation to anything to which this Act applies, a reference to this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (2) In any Act, instrument made under an Act or document, a reference to a provision of the *Land (Planning and Environment) Act 1991* is, in relation to anything to which this Act applies, a reference to the corresponding provision of this Act.
- (3) In any Act, instrument made under an Act or document, a reference to anything that is no longer applicable because of the repeal of the *Land (Planning and Environment) Act 1991*, and for which there is a corresponding thing under this Act, is taken to be a reference to the thing under this Act, if the context allows and if otherwise appropriate.

121**Clause 417 (2) (c)****Page 310, line 5—**

omit clause 417 (2) (c), substitute

- (c) the keeping of a list of consultants under section 207;

122**Proposed new clause 417 (2) (g)****Page 310, line 8—**

insert

- (g) procedures for carrying out the authority's functions under chapter 11 (Controlled activities) and chapter 12 (Enforcement).

123**Clause 420 (1)****Page 312, line 3—***after*

enactment of

*insert*the *Building Legislation Amendment Act 2007*,

124**Clause 422****Page 312, line 14—***omit clause 422, substitute***422 Expiry—ch 15**

This chapter, other than section 433A (Transitional—application for development approval if lease and development condition under repealed Act) and section 457 (Plans of management), expires 2 years after commencement day.

125**Clause 423 (1)****Page 313, line 4—***after*

territory plan

insert

proposed to be made for section 45 (Territory plan)

126**Proposed new clause 424 (1) (e)****Page 314, line 6—***insert*

- (e) after commencement of this section—
- (i) publishes the proposed territory plan; and
 - (ii) gives public notice that written comments may be made on the proposed territory plan within the period of not less than 15 working days or, if another period is prescribed by regulation, the period prescribed; and
 - (iii) considers any comments provided in accordance with the notice.
-

127**Proposed new clauses 428A and 428B****Page 319, line 7—***insert***428A Transitional—draft plan variation submitted to Minister under repealed Act**

- (1) This section applies if, before commencement day—
 - (a) the actions mentioned in section 428 (1) (a) to (d) apply in relation to a plan variation under the repealed Act, section 15 (Preparation of plan variations); and
 - (b) the planning and land authority consults with, and considers any advice given by, the environment protection authority; and
 - (c) the authority prepares a notice (the *consultation notice*) under the repealed Act, section 19 (Public consultation—notification) in relation to the draft plan variation; and
 - (d) the consultation notice complies with the repealed Act, section 19A (Public consultation—notice of interim effect etc); and
 - (e) the authority complies with the repealed Act, section 19B (Public consultation—availability of draft plan variation etc) and section 21 (Public inspection of comments) in relation to the draft plan variation; and
 - (f) either—
 - (i) the draft plan variation is revised under the repealed Act, section 22 (Revision, deferral or withdrawal of draft plan variations); or
 - (ii) the draft plan variation is not revised; and
 - (g) the draft plan variation is submitted to the Minister in accordance with the repealed Act, section 24 (1) (Submission of draft plan variation to Minister); and
 - (h) under the repealed Act, section 24 (2), the planning and land authority gives the Executive a written report about the authority's consultation with the national capital authority; and
 - (i) the authority complies with the public notification requirements under the repealed Act, section 24 (3) to (6) in relation to the documents mentioned in the repealed Act, section 24 (1); and
 - (j) the authority gives the Minister a written report about the authority's consultation with the environment protection authority; and

- (k) the draft plan variation has not been referred to the appropriate committee of the Legislative Assembly under the repealed Act, section 25 (Consideration by Legislative Assembly committee).
- (2) Each of the following applies in relation to the draft plan variation:
- (a) the draft plan variation is taken to be a draft plan variation under this Act;
 - (b) the planning and land authority is taken to have complied with this Act, section 60 (Consultation etc about draft plan variations being prepared) in relation to the draft plan variation;
 - (c) the draft plan variation is taken to have been publicly notified under this Act, section 62 (Public consultation—notification);
 - (d) the consultation notice is taken to be a consultation notice under section 62 that complies with the requirements of this Act, section 63 (Public consultation—notice of interim effect etc);
 - (e) if the draft plan variation was revised under the repealed Act, section 22 (Revision, deferral or withdrawal of draft plan variations)—the draft plan variation is taken to have been revised under this Act, section 67 (Revision and withdrawal of draft plan variations);
 - (f) the draft plan variation is taken to have been given to the Minister under this Act, section 68 (Draft plan variations to be given to Minister etc);
 - (g) the planning and land authority is taken to have complied with this Act, section 69 (Public notice of documents given to Minister);
 - (h) if the consultation notice states that the draft plan variation has interim effect—the draft plan variation has interim effect in accordance with the consultation notice and this Act, section 71 (Effect of draft plan variations given to Minister).

428B Transitional—draft plan variation referred to Legislative Assembly committee under repealed Act

- (1) This section applies if, before commencement day—
- (a) the actions mentioned in section 428 (1) (a) to (d) apply in relation to a plan variation under the repealed Act, section 15 (Preparation of plan variations); and
 - (b) the planning and land authority consults with, and considers any advice given by, the environment protection authority; and

- (c) the authority prepares a notice (the *consultation notice*) under the repealed Act, section 19 (Public consultation—notification) in relation to the draft plan variation; and
 - (d) the consultation notice complies with the repealed Act, section 19A (Public consultation—notice of interim effect etc); and
 - (e) the authority complies with the repealed Act, section 19B (Public consultation—availability of draft plan variation etc) and section 21 (Public inspection of comments) in relation to the draft plan variation; and
 - (f) either—
 - (i) the draft plan variation is revised under the repealed Act, section 22 (Revision, deferral or withdrawal of draft plan variations); or
 - (ii) the draft plan variation is not revised; and
 - (g) the draft plan variation is submitted to the Minister in accordance with the repealed Act, section 24 (1) (Submission of draft plan variation to Minister); and
 - (h) under the repealed Act, section 24 (2), the planning and land authority gives the Executive a written report about the authority's consultation with the national capital authority; and
 - (i) the authority complies with the public notification requirements under the repealed Act, section 24 (3) to (6) in relation to the documents mentioned in the repealed Act, section 24 (1); and
 - (j) the authority gives the Minister a written report about the authority's consultation with the environment protection authority; and
 - (k) the draft plan variation is referred to the appropriate committee of the Legislative Assembly under the repealed Act, section 25 (Consideration by Legislative Assembly committee); and
 - (l) the Legislative Assembly committee has not reported on the draft plan variation.
- (2) Each of the following applies in relation to the draft plan variation:
- (a) the draft plan variation is taken to be a draft plan variation under this Act;
 - (b) the planning and land authority is taken to have complied with this Act, section 60 (Consultation etc about draft plan variations being prepared) in relation to the draft plan variation;

- (c) the draft plan variation is taken to have been publicly notified under this Act, section 62 (Public consultation—notification);
- (d) the consultation notice is taken to be a consultation notice under section 62 that complies with the requirements of this Act, section 63 (Public consultation—notice of interim effect etc);
- (e) if the draft plan variation was revised under the repealed Act, section 22 (Revision, deferral or withdrawal of draft plan variations)—the draft plan variation is taken to have been revised under this Act, section 67 (Revision and withdrawal of draft plan variations);
- (f) the draft plan variation is taken to have been given to the Minister under this Act, section 68 (Draft plan variations to be given to Minister etc);
- (g) the planning and land authority is taken to have complied with this Act, section 69 (Public notice of documents given to Minister);
- (h) if the consultation notice states that the draft plan variation has interim effect—the draft plan variation has interim effect in accordance with the consultation notice and this Act, section 71 (Effect of draft plan variations given to Minister);
- (i) the Minister is taken to have referred the draft plan variation to the appropriate committee of the Legislative Assembly under this Act, section 72 (Consideration of draft plan variations by Legislative Assembly committee);
- (j) the Minister must not taken action under this Act, section 75 (Minister’s powers in relation to draft plan variations) in relation to the draft plan variation.

128

Proposed new part 15.2A
Page 319, line 7—

insert

Part 15.2A Transitional—planning strategy

428C Transitional—planning strategy

- (1) The following documents are taken to make up the planning strategy under section 104:
 - (a) *The Canberra Spatial Plan* published by the planning and land authority in March 2004;

- (b) *The Sustainable Transport Plan* published by the planning and land authority in April 2004.
- (2) Despite section 105 (Public availability of planning strategy), the plans mentioned in subsection (1) need not be notified under the Legislation Act.

129**Clause 430 (2)****Page 320, line 15—***after*

repealed Act

insert

(including the territory plan and any other instruments under the repealed Act)

130**Proposed new clause 430A****Page 320, line 18—***insert***430A Transitional—applications for review not finally decided**

- (1) This section applies if, before commencement day—
- (a) an application was made to the AAT for review of a decision of the Minister, or the planning and land authority, under the repealed Act; and
 - (b) the application had not been finally decided.
- (2) To remove any doubt, the repealed Act (including the territory plan and any other instruments under the repealed Act) continues to apply for the purposes of deciding the application.
- (3) To remove any doubt, this section is additional to, and does not limit, the Legislation Act, section 84 (Saving of operation of repealed and amended laws).

131**Clause 431****Page 320, line 19—***[oppose the clause]***132****Proposed new clause 433A****Page 323, line 12—***insert*

433A Transitional—application for development approval if lease and development condition under repealed Act

- (1) This section applies to a development application if the application is—
 - (a) not in the code track; and
 - (b) for development on land comprised in a lease to which a lease and development condition under the repealed Act applied immediately before commencement day.
- (2) If the territory plan requires the lease and development condition to be considered in making a decision under section 158 (Deciding development applications) in relation to the development application, the planning and land authority, or Minister, must consider the condition in making the decision.
- (3) This section expires 5 years after the day it commences.

133**Clause 435 (4)****Page 325, line 7—***omit clause 435 (4), substitute*

- (4) However, this section does not apply to a use of land, or a building or structure on the land, if the use—
 - (a) is an authorised use under section 132A (Exempt development—authorised use); but
 - (b) is an exception to section 132A (1) because section 132A (2) or (3) apply in relation to the land.

134**Clause 436****Page 325, line 8—***[oppose the clause]***135****Clause 437****Page 326, line 20—***[oppose the clause]***136****Clause 438****Page 327, line 9—***[oppose the clause]***137****Proposed new clause 457****Page 338, line 22—***insert*

457 Plans of management

- (1) This section applies to a plan of management under the repealed Act in force immediately before commencement day.
- (2) The plan of management is taken to be a plan of management under this Act.
- (3) This Act applies in relation to the plan of management—
 - (a) as if a reference in the plan to the *Land (Planning and Environment) Act 1991* or the Land Act were a reference to this Act; and
 - (b) as if a reference to schedule 1 of the *Land (Planning and Environment) Act 1991* or the Land Act were a reference to this Act, Schedule 2; and
 - (c) as if a reference to section 197 of the *Land (Planning and Environment) Act 1991* or the Land Act were a reference to this Act, section 314 (Preparation of plans of management); and
 - (d) as if a reference to part 4 of the *Land (Planning and Environment) Act 1991* or the Land Act were a reference to this Act, chapter 8 (Environmental impact statements and inquiries); and
 - (e) with any necessary change and any change prescribed by regulation.
- (4) This section is not a section to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) This section expires on 1 January 2012.

138**Schedule 1, item 3, column 2, paragraphs (a) and (b)****Page 340—***omit paragraphs (a) and (b), substitute*

- (a) is subject to a rule and does not comply with the rule; or
- (b) is not subject to a rule

139**Schedule 1, item 4, column 2****Page 340—***omit item 4, column 2, substitute*

decision under s 158 to approve a development application in the merit track, whether subject to a condition or otherwise if—

- (a) the application was required to be notified under s 150 and s 152, whether or not it was also required to be notified under s 151; and
- (b) the application is not exempted by regulation.

140
Schedule 1, item 12, column 4
Page 345—

omit column 4, substitute

an entity if—

- (a) the entity made a representation under s 153 about the proposal or had a reasonable excuse for not making a representation; and
- (b) the approval of the development application may cause the entity to suffer material detriment

141
Schedule 1, item 15, column 2
Page 346—

omit

direct grant

substitute

direct sale

142
Schedule 1, item 19, column 2
Page 347—

omit item 19, column 2, substitute

decision under s 249 or s 250 that a lease is, or is not, a concessional lease

143
Schedule 1, item 1, column 2, paragraph (a)
Page 355—

omit paragraph (a), substitute

- (a) a provision of a lease; or

144
Schedule 1, item 3, column 2
Page 355—

omit item 3, column 2, substitute

undertaking a development for which development approval is required—

- (a) without development approval; or
 - (b) other than in accordance with the development approval
-

145**Schedule 2, proposed new item 10
Page 357—***insert*

10	heritage area	1	to conserve natural and cultural heritage places and objects, including Aboriginal places and objects
		2	to provide for public use of the area for recreation, education and research as appropriate, and having proper regard to natural and cultural values

146**Schedule 3, part 4.3, item 5
Page 365—***omit item 5, substitute*

5	proposal with the potential to have a significant impact on—	
	(a)	a domestic water supply catchment; or
	(b)	a water use purpose mentioned in the territory plan (water use and catchment general code); or
	(c)	a prescribed environmental value mentioned in the territory plan, (water use catchment general code) of a natural waterway or aquifer

147**Dictionary, definition of *code requirements*
Page 368, line 13—***omit***148****Dictionary, proposed new definition of *criteria*
Page 369, line 14—***insert**criteria*, in relation to a code, means the criteria in the code.**149****Dictionary, proposed new definition of *exempt development*
Page 371, line 29—***insert**exempt development*—see section 132.**150****Dictionary, definition of *merit criteria*
Page 373, line 23—***omit*

151**Dictionary, definition of *nominal rent lease*****Page 374, line 6—**

omit the definition, substitute

nominal rent lease means a lease for nominal rent.

152**Dictionary, definition of *prohibited*, paragraph (a)****Page 375, line 2—**

substitute

- (a) a development is *prohibited* if the development is prohibited under the relevant development table or under section 133 (2); and
-

153**Dictionary, proposed new definition of *prohibition notice*****Page 375, line 5—**

insert

prohibition notice—see section 370 (1).

154**Dictionary, proposed new definition of *public consultation period*****Page 375, line 17—**

insert

public consultation period means—

- (a) for a development application—see section 153A; or
(b) for a draft EIS—see section 211A.
-

155**Dictionary, definition of *relevant code requirements*****Page 376, line 11—**

omit

156**Dictionary, proposed new definition of *relevant rules*****Page 376, line 14—**

insert

relevant rules, for a development proposal, means the rules that apply to the proposal in each relevant code.

157**Dictionary, proposed new definition of *rules*****Page 376, line 25—**

insert

rules, in relation to a code, means the rules set out in the code.

158**Dictionary, proposed new definition of *structure*****Page 377, line 14—***insert*

structure includes a fence, retaining wall, swimming pool, ornamental pond, mast, antenna, aerial, road, footpath, driveway, carpark, culvert or service conduit or cable.

159**Dictionary, proposed new definition of *use*****Page 378, line 5—***insert*

use land, or a building or structure on the land—see section 7A.

160**Dictionary, definition of *variation*****Page 378, line 6—***omit the definition, substitute****variation*—**

- (a) of a lease—
- (i) includes the surrender of the lease and the grant of a new lease to the same lessee, subject to different provisions, over land that—
 - (A) is all or part of the land comprised in the surrendered lease; and
 - (B) is not in an area identified in the territory plan as a future urban area; and
 - (ii) without limiting subparagraph (i), includes the surrender of a concessional lease and the grant of a new lease to the same lessee as a market value lease; and
 - (iii) includes the consolidation or subdivision of the lease within the meaning of section 226; but
 - (iv) does not include the surrender of the lease and the grant of a further lease under section 246 (Grant of further leases); and
- (b) of a plan of management, for chapter 10 (Management of public land)—see section 307 (Definitions—ch 10).

Note The terms ‘vary’ a lease and ‘lease variation’ have meanings corresponding to ‘variation of a lease’ (see Legislation Act, s 157 (Defined terms—other parts of speech and grammatical forms)).

Schedule 2

PLANNING AND DEVELOPMENT BILL 2006

Amendments circulated by Mr Seselja

2

Clause 134

Page 95, line 16—

[oppose the clause]

3

Clause 160 (3) (i)

Page 122, line 11—

omit

4

Clause 165 (1) (c)

Page 127, line 10—

omit

5

Clause 179 (1) (c)

Page 138, line 1—

omit

6

Clause 181

Page 140, line 3—

[oppose the clause]

7

Clause 182

Page 141, line 23—

[oppose the clause]

8

Clause 193 (7)

Page 151, line 15—

omit

or section 198

9

Clause 194 (4), note

Page 152, line 17—

omit

134 and s

10**Clause 194 (6)****Page 152, line 19—***omit clause 194 (6), substitute*

- (6) To remove any doubt, this section does not apply to development that is lawful because of section 195 or section 197.

11**Clause 197 heading****Page 154, line 1—***omit the heading, substitute***197 Development lawful when begun**

12**Clause 197 (1) (a)****Page 154, line 3—***omit*

, other than a development that is continuing a use,

13**Clause 198****Page 154, line 10—***[oppose the clause]*

14**Clause 240 (1), note****Page 182, line 6—***omit*

15**Clause 246 (2)****Page 187, line 20—***after*

of the land

*insert*for the same purpose

16**Clause 247****Page 188, line 13—***[oppose the clause]*

 17

Clause 256
Page 194, line 14—

[oppose the clause]

18

Clause 299 (c)
Page 226, line 1—

omit

19

Clause 400, definition of *eligible entity*
Page 298, line 13—

omit the definition, substitute

eligible entity, for a reviewable decision—

- (a) means an entity mentioned in schedule 1, column 4 in relation to the decision; and
 - (b) includes any entity declared to be an eligible entity for the decision under section 403A.
-

20

Proposed new clause 403A
Page 299, line 24—

insert

403A Ministerial declaration of standing

- (1) The Minister may declare that an entity is an eligible entity for a reviewable decision by the Minister under section 158 (Deciding development applications) on a stated development application.
- (2) However, the Minister must not make a declaration under subsection (1) in relation to an entity for a reviewable decision unless satisfied that it is in the public interest for the entity to have a right to apply to the AAT for review of the decision.
- (3) A declaration in relation to an entity for a reviewable decision may be made—
 - (a) in anticipation of the decision; or
 - (b) at the same time as the decision; or
 - (c) within 2 working days after the day the decision is made.
- (4) The Minister must give a copy of the declaration to—
 - (a) the planning and land authority; and
 - (b) the entity declared to be an eligible entity.
- (5) A declaration is a notifiable instrument.

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

21**Clause 411 (1), definition of *material detriment*****Page 307, line 18—**

omit the definition, substitute

material detriment, in relation to land—an entity suffers *material detriment* in relation to land because of a decision if the decision has, or is likely to have, an adverse impact on the entity's use or enjoyment of the land.

22**Clause 150 (4) (a)****Page 113, line 7—**

omit

Schedule 3

PLANNING AND DEVELOPMENT BILL 2006

Amendments circulated by Mr Seselja to the Government amendments

2

Amendment 32

Proposed new clause 132, definition of *exempt development*, paragraph (b)—

omit

3

Amendment 32

Proposed new clause 132A—

omit

4

Amendment 32

Proposed new clause 134—

omit

5

Amendment 46—

[oppose the amendment]

6

Amendment 62

Clause 179 (3), proposed new note—

omit

, s 180, s 181 or s 182

substitute

or s 180

7

Amendment 64

Clause 180 (2), proposed new note—

omit

, this section, s 181 or s 182

substitute

or this section

8**Amendment 71****Proposed new clause 182A (1) (c) and (d)—***omit*

9**Amendment 133—***[oppose the amendment]*

10**Amendment 159—***[oppose the amendment]*

Schedule 4

PLANNING AND DEVELOPMENT BILL 2006

Amendment circulated by Mr Seselja

1

Proposed new clause 411 (3)

Page 308, line 6—

insert

- (3) Also, an entity does not suffer *material detriment* in relation to land because of a decision if the decision is made—
- (a) before the entity is formed; or
 - (b) before the matter to which the decision relates is included in the entity's objects or purposes.
-

Schedule 5**PLANNING AND DEVELOPMENT BILL 2006**

Amendment circulated by Dr Foskey

1

Clause 281, definition of *improvement*

Page 213, line 4—

omit the definition, substitute

any earthworks, planting or other work that affects the landscape of the land that is reasonably undertaken for rural purposes.

Schedule 6**PLANNING AND DEVELOPMENT (CONSEQUENTIAL AMENDMENTS) BILL 2006**

Amendments circulated by the Minister for Planning

**1
Section 2
Page 2, line 4—***omit section 2, substitute***2 Commencement**

This Act commences on the commencement of the *Planning and Development Act 2006*, section 419 (Repeals).

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

**2
Schedule 1
Amendment 1.116
Page 43, line 14—***omit amendment 1.116, substitute***[1.116] Section 177 (1) (a) and (b)***substitute*

- (a) the planning and land authority or Minister approves a development application (the *original decision*) under section 158; and
 - (b) application is made under section 185 for reconsideration of the original decision; and
-

**3
Schedule 1
Amendment 1.124
Page 47, line 1—***omit amendment 1.124, substitute***[1.124] Section 227 (1) (c) (iii)***omit*

commissioner for housing under the *Housing Assistance Act 1987*

substitute

housing commissioner under the *Housing Assistance Act 2007*

4**Schedule 1****Amendment 1.125****Proposed new section 233 (1) (d)****Page 47, line 21—**

omit proposed new section 233 (1) (d), substitute

- (d) the grant is to give effect to a lease variation (whether by consolidation, subdivision or otherwise); or
- (e) the grant is in accordance with—
 - (i) section 234 (Direct grant if single person in restricted class); or
 - (ii) section 246 (Grant of further leases).

5**Schedule 1****Amendment 1.144****Page 53, line 1—**

omit

6**Schedule 1****Amendment 1.147****Page 53, line 11—**

omit

7**Schedule 1****Proposed new part 1.35****Page 71, line 18—**

insert

Part 1.35**Utilities (Telecommunications Installations) Act 2001****[1.209] Section 6**

substitute

6 Installations to which Act applies

- (1) This Act applies to the installation of a telecommunications facility on a utility network facility on defined land if the installation is for a reticulated service in accordance with an authorised network plan.
- (2) In this section:

authorised network plan means—

- (a) a plan for a reticulated service authorised by a development approval under the *Planning and Development Act 2006*; or
- (b) the 3GIS ACT Network Plan as in force immediately before the commencement of the *Planning and Development Act 2006*.

installation, of a telecommunications facility, includes—

- (a) the construction or extension of the facility; and
- (b) the attaching or securing of the facility to any part of a utility network facility; and
- (c) placing any part of the facility on, over or under land; and
- (d) any activity that is ancillary or incidental to an activity mentioned in paragraph (a), (b) or (c).

reticulated service—see the *Planning and Development Regulation 2007*, dictionary.

8

Schedule 1

Proposed new part 1.36

Page 71, line 18—

insert

Part 1.36 Water Resources Act 2007

[1.210] Section 28 (6) (b)

substitute

- (b) the taking of rainwater from a rainwater tank that—
 - (i) has been installed in accordance with a development approval under the *Planning and Development Act 2006*, chapter 7 (Development approvals); or
 - (ii) is an exempt development within the meaning of that Act.

[1.211] Section 204

substitute

204 References to Planning and Development Act

- (1) A reference in this Act to the *Planning and Development Act 2006* includes a reference to the *Land (Planning and Environment) Act 1991* (as in force at any time before its repeal).

- (2) A reference in this Act to the *Planning and Development Act 2006*, chapter 7 (Development approvals) includes a reference to the *Land (Planning and Environment) Act 1991*, part 6 (Approvals and orders) (as in force at any time before its repeal).
-

Schedule 7

**PLANNING AND DEVELOPMENT (CONSEQUENTIAL
AMENDMENTS) BILL 2007**

Amendments circulated by Mr Seselja

1
Schedule 1
Amendment 1.83
Page 33, line 2—

omit

2
Schedule 1
Amendment 1.84
Page 33, line 6—

omit

3
Schedule 1
Amendment 1.90
Page 37, line 23—

omit

Schedule 8**BUILDING LEGISLATION AMENDMENT BILL 2007**

Amendments circulated by the Minister for Planning

1

Clause 2

Page 2, line 3—

omit clause 2, substitute

2

Commencement

- (1) This Act (other than schedule 1, part 1.5) commences—
- (a) on a day fixed by the Minister by written notice; or
 - (b) if not earlier commenced, on the commencement of the *Planning and Development Act 2006*, section 419 (Repeals).

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

- (2) Schedule 1, part 1.5 commences on the commencement of the *Planning and Development Act 2006*, part 11.2 (Complaints about controlled activities).
- (3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

2

Schedule 1

Amendment 1.11

Proposed new section 19D (1) (c)

Page 9, line 14—

after

months

insert

or longer

 3

Schedule 1
Amendment 1.11
Proposed new section 19D (4)
Page 10, line 11—

omit proposed new section 19D (4), substitute

- (4) An appointment that ends under subsection (1) (c) ends—
- (a) for a suspension for a single period of 3 months—on the day after the end of the 3-month period; or
 - (b) for a suspension for a single period of longer than 3 months—on the day after the end of the first 3 months of the period.

 4

Schedule 1
Amendment 1.11
Proposed new section 19E
Page 10, line 12—

insert

19E Appointment of certifier after appointment ends under s 19D (1) (e)

- (1) This section applies if an eligible entity's appointment as certifier for building work on land (the *first appointment*) ends under section 19D (1) (e).
 - (2) The owner of the land may appoint the entity as certifier for the building work (the *second appointment*).
 - (3) If the certifier is an eligible entity during all of the relevant period, the second appointment is taken—
 - (a) to begin on the day after the day the first appointment ends; and
 - (b) to be a continuation of the first appointment, not a new appointment.
 - (4) However, for section 19D (1) (e), the second appointment is taken to be the last appointment if no appointment has been made after it.
 - (5) In this section:

relevant period means the period that—

 - (a) begins on the day after the day the first appointment ends; and
 - (b) ends on the day before the day the second appointment is made.
-

5**Schedule 1****Proposed new amendment 1.11A****Page 10, line 12—***insert***[1.11A] Section 20 (2) (c)***omit*

section 19

substitute

section 19D (Ending appointments)

6**Schedule 1****Amendment 1.14****Proposed new section 24 (1) (b) (ii)****Page 12, line 3—***after*

ends

insert

under section 19D (1) (a) or (b)

7**Schedule 1****Amendment 1.17****Proposed new section 27 (1) (b)****Page 18, line 24—***omit proposed new section 27 (1) (b), substitute*

(b) if—

- (i) a regulation prescribes that an entity's advice on the application must be sought—the entity's advice has been sought; or
 - (ii) a regulation prescribes that an entity must be consulted about the application—the entity has been consulted; or
 - (iii) a regulation prescribes that an entity's consent to, or approval of, the application is required—the entity has consented to, or approved, the application; or
 - (iv) a consent or approval prescribed by regulation contains a condition that must be complied with—the certifier is satisfied on reasonable grounds that the condition has been complied with; and
-

8

Schedule 1**Amendment 1.23****Proposed new section 30 (1), example****Page 24, line 2—***omit the example, substitute***Example**

Under the *Planning and Development Act 2006*, s 240 leased land must not be used for a purpose other than a purpose authorised by the lease. A lease provides that the leased land may be used only for a single dwelling.

If an application for building work on the land contains plans for 2 dwellings in a single building, carrying out the site work will result in a contravention of the lease and therefore the *Planning and Development Act 2006*. Accordingly, a certifier must not issue the building approval.

If an application for building work on the land indicates that 1 room is to be used for a home office, and part of the lounge room is to contain a bar area, the building may still be used as a dwelling and a certifier could issue building approval, even though conducting a home business may require development approval.

9

Schedule 1**Amendment 1.23****Proposed new section 30A (3) (b)****Page 25, line 26—***omit proposed new section 30A (3) (b), substitute*

- (b) if an entity's advice must be sought on an application to a certifier for building approval—the advice the entity may give;
- (c) anything else in relation to the advice.

10

Schedule 1**Amendment 1.34****Proposed new section 36A (1) (a)****Page 31, line 12—***omit proposed new section 36A (1) (a), substitute*

- (a) an entity's advice on an application for building approval has been sought as prescribed by regulation; and

Note See s 30A (3) (When building approvals not to be issued—advice on referral).

11

Schedule 1**Amendment 1.34****Proposed new section 36A (2)****Page 31, line 23—***omit*

under section 27 (1) (b)

12
Schedule 1**Amendment 1.34****Proposed new section 36A (6), example****Page 33, line 19—***omit*

under s 27 (1) (b)

substitute

as prescribed by regulation (see s 30A (3))

13
Schedule 1**Amendment 1.36****Proposed new section 43 (2) (b) (ii)****Page 36, line 1—***omit proposed new section 43 (2) (b) (ii), substitute*

(ii) any condition of the following:

(A) an advice mentioned in section 27 (1) (b) (i);

(B) an approval or consent mentioned in section 27 (1) (b) (iii).

14
Schedule 1**Amendment 1.36****Proposed new section 44 (2) (a) (iii)****Page 37, line 3—***omit proposed new section 44 (2) (a) (iii), substitute*

(iii) states the date that the noncompliance came to the certifier's attention; or

15
Schedule 1**Proposed new amendment 1.38A****Page 38, line 26—***insert***[1.38A] Section 48 (2) (a)***substitute*

(a) if advice mentioned in section 27 (1) (b) was sought—

(i) written evidence of the advice; or

(ii) if the advice was not given within the time prescribed by regulation for giving it—a written statement by the certifier to the effect that the certifier is satisfied the advice was not given within the time;

Note See s 36A (Requirement to give advice in relation to proposed building work).

- (aa) if consultation mentioned in section 27 (1) (b) was required—
- (i) written evidence of the response to the consultation; or
 - (ii) if there has been no response to the consultation within the time prescribed by regulation for giving a response—a written statement by the certifier to the effect that the certifier is satisfied no response was given within the time;
- (ab) if a consent or approval mentioned in section 27 (1) (b) was required to be obtained—written evidence of the consent or approval;
- (ac) if compliance with a condition of a consent or approval prescribed by regulation was required—a written statement by the certifier to the effect that the certifier is satisfied on reasonable grounds that the condition has been complied with;

16**Schedule 1****Amendment 1.39****Proposed new section 48 (2) (b)****Page 39, line 4—**

omit

section 43 (2) (a) (i)

substitute

section 43 (2) (a)

17**Schedule 1****Amendment 1.41****Proposed new section 48 (2) (h)****Page 39, line 21—**

omit

the section

substitute

section 69 (1), (2) or (3)

18**Schedule 1****Proposed new amendments 1.41A and 1.41B****Page 39, line 23—**

insert

[1.41A] New section 48 (2) (hb)*insert*

- (hb) if, in the certifier's view, building work involving the erection of a structure on or attached to land or a building has been completed in accordance with the prescribed requirements under division 5.1 for the building work—
written advice that the registrar would be justified in issuing a certificate for the building work under section 72;

[1.41B] New section 48 (4A)*insert*

- (4A) If the certifier is required to give the constructions occupations registrar written evidence of something under this section—
- (a) the registrar may ask for further information relevant to the thing in relation to anything not dealt with, or not adequately dealt with, in the written evidence; and
 - (b) the certifier must give the registrar the further information not later than 7 days after the day the registrar asked for it.

19**Schedule 1****Amendment 1.42****Proposed new section 50 (1) (c) (ii)****Page 40, line 14—***omit*

5

substitute

21

20**Schedule 1****Amendment 1.42****Proposed new section 50 (3) (b) and (c)****Page 41, line 1—***omit proposed new section 50 (3) (b) and (c), substitute*

- (b) the certifier gives the building licensee in charge of the building work written notice that—
- (i) the work does not comply with section 42; and
 - (ii) includes directions that are reasonable and appropriate for achieving compliance; and
 - (iii) states the date that the noncompliance came to the certifier's attention; and
- (c) the certifier is satisfied on reasonable grounds that—

- (i) the building licensee in charge of the building work has done what is reasonable and appropriate to achieve compliance (even if what is done is not in accordance with the directions in the notice); and
- (ii) the licensee achieved compliance within 14 days after the date mentioned in paragraph (b) (iii).

21**Schedule 1****Amendment 1.47****Proposed new section 53 (5)****Page 49, line 10—**

omit proposed new section 53 (5), substitute

- (5) To remove any doubt, the ending of a stop notice ends the suspension of any building approval suspended because of the stop notice.

Note A stop notice automatically suspends a building approval (see s (2A)).

22**Schedule 1****Amendment 1.48****Section 54 (2), proposed new note 1****Page 49, line 17—**

omit section 54 (2), proposed new note 1, substitute

Note 1 A stop notice suspends a building approval in relation to all or stated building work under the approval (see s 53 (2A)). This means that building work that contravenes this Act unless done in accordance with a building approval contravenes this Act if a stop notice has suspended the approval.

23**Schedule 1****Amendment 1.49****Proposed new section 57 (4)****Page 50, line 3—**

omit proposed new section 57 (4), substitute

- (4) To remove any doubt, the cancellation of a stop notice ends the suspension of any building approval suspended because of the stop notice.

Note A stop notice automatically suspends a building approval (see s 53 (2A)).

24**Schedule 1****Amendment 1.51****Proposed new section 60 (2)****Page 50, line 25—**

omit

section 43 (2) (a) (i)

substitute

section 43 (2) (a)

25**Schedule 1****Proposed new amendments 1.58A and 1.58B****Page 54, line 24—**

insert

[1.58A] New section 70A

insert

70A Completion of building work involving demolition

- (1) This section applies if—
 - (a) building work involving the demolition of a building appears to have been completed; and
 - (b) the certifier for the building work is satisfied on reasonable grounds that the work has been completed in accordance with the prescribed requirements for the work.
- (2) Within 7 days after the day the certifier is satisfied, the certifier must give the construction occupations registrar written advice that the registrar would be justified in issuing a certificate for the building work under section 71.

[1.58B] Section 71 (1)

substitute

- (1) This section applies if—
 - (a) building work involving the demolition of a building has been completed in accordance with the prescribed requirements for the building work; and
 - (b) the certifier for the building work gives the construction occupations registrar the written advice mentioned in section 70A.
-

26**Schedule 1****Proposed new amendment 1.63A****Page 55, line 18—***insert***[1.63A] Section 142 (2)***substitute*

- (2) Also, a building action in relation to building work may not be brought more than 10 years after—
- (a) if an entity has given a notice under section 24 (2) that the entity's appointment as certifier for the building work has ended—the day the entity gave the notice; or
 - (b) if an entity's appointment as certifier for the building work has ended under section 19D and the entity need not give notice under section 24 (2)—the day the entity's appointment ended.

27**Schedule 1****Amendments 1.64 and 1.65****Page 55, line 19—***omit amendments 1.64 and 1.65, substitute***[1.64] Section 146***substitute***146 Review by AAT**

- (1) Application may be made to the AAT for the review of a reviewable decision.
- (2) The AAT must not, in relation to a proposed building, or a building as proposed to be altered, forming part of a development—
- (a) vary a decision to issue a stop notice under section 53 (Stop notices) or a notice under section 58 (2) or (4) (Further notices relating to stop notices) or section 62 (1) (Notice to carry out building work), or substitute a decision for a decision it has set aside, in a way that would be contrary to a development approval for the development; or
 - (b) vary a decision to issue a notice under section 58 (4), or substitute a decision for a decision it has set aside, unless there is a development approval for the development.

- (3) If the construction occupations registrar or another entity makes a reviewable decision, the registrar or other entity must give written notice of the decision to the relevant entity in relation to the decision.
- (4) A notice under subsection (3) must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (5) A regulation may prescribe—
- (a) what decisions are reviewable decisions; and
 - (b) the relevant entity for each reviewable decision.

28**Schedule 1****Amendment 1.67****Proposed new section 152 (2) (c)****Page 56, line 15—**

omit proposed new section 152 (2) (c), substitute

- (c) the following:
- (i) when an entity must be consulted about, consent to, or approve, an application for building approval;
 - (ii) anything else in relation to the consultation, consent or approval.

29**Schedule 1****Amendment 1.68****Dictionary, definition of *certifier*, proposed new paragraph (a)****Page 56, line 20—**

omit proposed new paragraph (a), substitute

- (a) for building work—means an entity appointed to act as certifier under section 19 (Appointment of certifiers—work not begun), section 19A (Appointment of certifiers—work begun) or government certifier under section 20 (Appointment of government certifiers) for the work; but

30**Schedule 1****Proposed new amendment 1.74A****Page 57, line 23—**

insert

[1.74A] Dictionary, definition of *minor maintenance work*

omit

31
Schedule 1
Amendment 1.80
Page 60, line 3—

omit amendment 1.80, substitute

[1.80] New section 33A

insert

33A Rectification orders—exercise of registrar’s powers

- (1) To remove any doubt, the registrar is not prevented from having a belief on reasonable grounds, or being satisfied, about a matter mentioned in this part in relation to a construction service only because the registrar, the planning and land authority, a certifier or another entity has—
 - (a) given a certificate, or approval under—
 - (i) this Act or an operational Act in relation to the construction service; or
 - (ii) the *Planning and Development Act 2006* in relation to the place where, or the territory lease under which, the construction service was provided; or
 - (b) otherwise endorsed the construction service under this Act, an operational Act or the *Planning and Development Act 2006*.
- (2) In this section:
Planning and Development Act 2006 includes the *Land (Planning and Environment) Act 1991* (as in force at any time before its repeal).
- (3) Subsection (2) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (4) Subsections (2) and (3) and this subsection expire 3 months after the day this subsection commences.

32
Schedule 1
Amendment 1.81
Proposed new section 36 (3)
Page 60, line 18—

omit proposed new section 36 (3), substitute

- (3) However, the registrar need not consider whether the registrar, planning and land authority, a certifier or other entity has—
 - (a) given a certificate, or approval under—
 - (i) this Act or an operational Act in relation to the construction service; or

- (ii) the *Planning and Development Act 2006* in relation to the place where, or the territory lease under which, the construction service was provided; or
 - (b) otherwise endorsed the construction service under this Act, an operational Act or the *Planning and Development Act 2006*.
- (4) In this section:
- Planning and Development Act 2006* includes the *Land (Planning and Environment) Act 1991* (as in force at any time before its repeal).
- (5) Subsection (4) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (6) Subsections (4) and (5) and this subsection expire 3 months after the day this subsection commences.

33

Schedule 1**Proposed new amendment 1.81A****Page 60, line 26—***insert***[1.81A] Section 56 (2) (b)***omit*

section 19 (Appointment of certifiers)

substitute

section 19 (Appointment of certifiers—work not begun) or section 19A (Appointment of certifiers—work begun)

34

Schedule 1**Amendment 1.87****Proposed new section 123 (3)****Page 62, line 11—***omit*

development

substitute

land