

**STATUTORY BACKGROUND TO THE NATIONAL CAPITAL PLAN AMENDMENT
PROCESS**

Australian Capital Territory (Planning and Land Management) Act 1988

Section 6(b) of the *Australian Capital Territory (Planning and Land Management) Act 1988* (the Act) requires the National Capital Authority to keep the National Capital Plan (the Plan) under constant review and to propose amendments to it when necessary.

Subsection 14 of the Act provides that the National Capital Authority shall prepare Draft Amendments to the Plan in accordance with provisions in the Act.

Subsection 15(1) of the Act provides that the Authority shall submit a copy of the Draft Amendment to the Territory planning authority; publish a notice in the Commonwealth Gazette and in the principal daily newspaper circulating in the Territory that the Draft Amendment has been prepared and released for public consultation.

Subsection 15(2) provides that the Authority shall consult with the Territory planning authority about the Draft Amendment and have regard to any views expressed by it and by the public. The Authority may alter the Draft Amendment accordingly. When the Authority fulfils the requirements of section 15 it shall, according to section 18 of the Act, submit the Draft Amendment to the Minister for approval, together with a report on its consultation under section 15.

Subsection 19(1) of the Act outlines the Minister's powers with respect to Draft Amendments to the National Capital Plan.

Subsection 19(1) provides that the Minister may approve the Draft Amendment without alteration; may refer the Draft Amendment to the Authority with directions to either conduct further consultations or provide the Authority with suggested alterations.

Subsection 19(2) provides that if the Territory planning authority objects to any aspect of the Draft Amendment the Minister shall not act under subsection 19(1) except after consultation with the Executive (Executive is defined in the *Australian Capital Territory (Self-Government) Act 1988* as the Australian Capital Territory Executive established by section 36 of that Act).

Under subsection 20 of the Act, if the Minister chooses to refer the Draft Amendment to the Authority, the Authority shall reconsider the Draft Amendment; have any further consultations directed by the Minister and such other consultations as the Authority thinks necessary; consider any suggestions made by the Minister; alter the Draft Amendment if it thinks fit; and re-submit the Draft Amendment to the Minister for approval.

Subsection 21(1) provides that where the Minister approves the Draft Amendment a notice of approval will be published in the Commonwealth Gazette, which specifies where copies of the Amendment may be bought or inspected.

Under subsection 21(2) the Amendment takes effect upon publication of the Notice of Approval.

Subsection 22 provides that the Amendment must be laid before each House of Parliament within six (6) sitting days after Gazettal. The document is tabled as a disallowable instrument. Under The provisions of the *Legislative Instruments Act 2003* each House has fifteen (15) sitting days in which it may move a motion for disallowing all or part of the Amendment. If a resolution disallowing all or part of the Amendment is passed then that whole or part of the Amendment ceases to have effect.