



Australian Capital Territory

# **Land (Planning and Environment) Act 1991**

**A1991-100**

**Republication No 22 (RI)**

**Effective: 1 November 2004 – 8 March 2005**

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Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Land (Planning and Environment) Act 1991* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 November 2004. It also includes any amendment, repeal or expiry affecting the republished law to 1 November 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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- authorised republications to which the *Legislation Act 2001* applies
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The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Land (Planning and Environment) Act 1991

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Australian Capital Territory

# Land (Planning and Environment) Act 1991

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An Act relating to the use of land in the Territory, and for related purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Land (Planning and Environment) Act 1991*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition ‘*order*, for part 6 (Approvals and orders)—see section 222.’ means that the expression ‘order’ is defined in that section and the definition applies to this Act, part 6.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

### 4 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1* *Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 258 (Contravening orders)
- s 259B (Contravening direction to carry out rectification work)
- s 259D (1) (Obstructing etc authorised people)

- s 260A (Contravening prohibition notices)
- s 264 (2) (Identity cards).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2* *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2                                  Planning

### Division 2.1                          Preliminary

#### **U** 5                                  Definitions for pt 2

In this part:

*background papers*, in relation to a draft plan variation or a plan variation means—

- (a) an explanatory statement; and
  - (b) a copy of—
    - (i) any relevant direction of the Minister; and
- Note*      The Minister may give directions under this Act, s 26 and s 94 (1) (b) and the *Planning and Land Act 2002*, s 12 (1) (b).
- (ii) any submission of the conservator referred to in section 16, including any preliminary draft plan of management (prepared under subdivision 5.7.4) accompanying such a submission; and
  - (iii) any interim heritage places register referred to in section 17; and
  - (iv) any relevant environmental report; and
  - (v) the report of any relevant inquiry; and
  - (vi) the report of any other inquiry relating to the variation; and
- (c) a statement, by the planning and land authority, of the reasons for any inconsistency between the draft plan and—
  - (i) a relevant direction of the Minister; or

- (ii) a submission of the conservator mentioned in paragraph (b) (ii); or
- (iii) an interim heritage places register submitted to the authority; or
  - Note* Sections 17 and 63 provide for the submission by the heritage council of an interim heritage places register.
- (iv) a recommendation in a report mentioned in paragraph (b) (iv), (v) or (vi); and
- (d) for a draft plan variation of the kind referred to in section 17 (3)—a copy of any written response of the heritage council submitted in accordance with section 17 (4), together with a statement by the planning and land authority commenting on that response; and
- (e) any other documents—
  - (i) considered by the authority to be necessary or useful in explaining the draft plan variation; and
  - (ii) designated by the authority in writing as background papers.

**consultation notice**—see section 19 (Public consultation—notification).

**development**, in relation to land, means—

- (a) the erection, alteration or demolition of a building on that land; or
- (b) the carrying on of work on that land; or
- (c) the use or change of use of that land; or
- (d) the use or change of use of a building or works on that land; or
- (e) the subdivision or consolidation of that land; or
- (f) the display of signs or advertising material on that land.

***draft plan variation***—

- (a) means a draft plan variation prepared by the planning and land authority under section 15 (Preparation of plan variations) and—
  - (i) if section 19C (Draft plan variations that do not affect rights) does not apply—notified under section 19 (Public consultation—notification); or
  - (ii) if section 19C applies—notified in the legislation register under section 19C (2); and
- (b) for a draft plan variation that has been revised under section 22 (1) (a) or 27—includes the draft plan variation as revised.

***environmental report*** means—

- (a) a preliminary assessment under division 4.2; or
- (b) a report under section 128; or
- (c) an assessment.

***land*** includes water.

***national capital plan*** means the plan approved under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), section 19.

*Note* A reference to an instrument under a law includes a reference to the instrument as amended from time to time (see Legislation Act, s 102)

***variation***, in relation to the plan, includes the revocation of the plan and its substitution with a new plan.

## Division 2.2 Territory plan—object and effect

### **U** 7 Object

- (1) The object of the plan shall be to ensure, in a manner not inconsistent with the national capital plan, that the planning and

development of the ACT provides the people of the ACT with an ecologically sustainable, healthy, attractive, safe and efficient environment in which to live, work and have their recreation.

- (2) The plan shall set out the planning principles and policies for giving effect to its object.
- (3) For giving effect to the object of the plan and the principles and policies referred to in subsection (2), the plan may—
  - (a) set out specific objectives and policies; and
  - (b) specify purposes for which land may be used; and
  - (d) incorporate a register of heritage places known as the heritage places register; and
  - (e) identify land for subdivision 2.3.4, specifying in addition the principles and policies for its development; and
  - (f) for division 5.7—identify an area of land as public land and reserve it for a purpose specified in section 193; and
  - (g) provide for other matters relevant to the exercise of the powers of the Territory, the Executive or a Territory authority under a Territory law, or the administrative review of the exercise of those powers; and
  - (h) provide for other matters that are necessary or convenient.

## **8 Effect of plan**

The Territory, the Executive, a Minister or a Territory authority shall not do any act, or approve the doing of any act, that is inconsistent with the plan.

## **U 9 Effect of draft plan variation**

- (1) This section applies to a draft plan variation if a consultation notice states that it applies.

- (2) The Territory, the Executive, a Minister or a Territory authority must not, during the defined period or a period stated in the consultation notice, whichever is shorter, do or approve the doing of anything that—
- (a) would be inconsistent with the plan if it were varied in accordance with the draft variation; or
  - (b) is inconsistent with the plan.
- (3) Subsection (2) is subject to section 11 (Draft heritage places register and variations—lack of effect).
- (4) If a draft plan variation to which this section applies is deferred under section 22 (1) (b) or section 27 (a), this section does not apply in relation to that draft variation during the period of its deferral.
- (5) In this section:

*defined period* means the period beginning on the day when the draft plan variation is notified under the Legislation Act (see section 19 (Public consultation—notification)) and ending at the end of the day before—

- (a) the date the draft variation comes into effect; or
- (b) the date the corresponding plan variation is rejected by the Legislative Assembly; or
- (c) the date the draft variation, or the corresponding plan variation, is withdrawn under section 22 (1) (c), section 27 (a) or section 30A (3) (b);

as the case requires.

*draft plan variation* includes a provision of a draft plan variation.

## **U 10 Effect of interim heritage places register**

- (1) If an interim heritage places register that has been submitted to the planning and land authority under section 63 is not submitted to the



Minister in a draft plan variation before the expiration of the applicable period, it ceases to have effect on the expiration of that period.

- (2) For this section, the applicable period in relation to an interim heritage places register is the period of 4 months beginning on the day when the register is submitted to the planning and land authority pursuant to section 63 or such longer period beginning on that day as the Minister, by writing, allows.
- (3) If an interim heritage places register that has been submitted to the planning and land authority under section 63 is not submitted to the Minister in a draft plan variation before the expiration of the applicable period, the authority shall, within 28 days after the expiration of that period, submit a written statement to the Minister setting out the reasons why the authority did not include the register in a draft plan variation.

**U** 11 **Draft heritage places register and variations—lack of effect**

- (1) A draft heritage places register, or a draft variation to the heritage places register, notified under section 19 as a draft plan variation, or as part of a draft plan variation, has no effect.
- (2) Subsection (1) does not apply in relation to an interim heritage places register.

**12 Plan not to have retrospective effect**

If, immediately before the plan comes into effect under this Act, it would be lawful to use any land in a particular way in the exercise of a right derived from an estate in that land, the plan does not prevent the use of that land in that way during the term of the estate.

## **Division 2.3 Territory plan—continuation and variation**

### **Subdivision 2.3.1 Territory plan**

#### **13 Continuation of plan**

The plan established under the *Interim Planning Act 1990*, part 3, being that plan as in effect under that Act immediately before the commencement of this section, continues in effect under this Act as the Territory plan and may be varied in accordance with this part.

### **Subdivision 2.3.2 Preparation of variations of Territory plan**

#### **14 Application of sdiv 2.3.2**

This subdivision does not apply in relation to a variation to the plan under subdivision 2.3.4.

#### **15 Preparation of plan variations**

- (1) The planning and land authority may prepare variations to the plan.
- (2) A plan variation may be prepared in separate stages or parts.

#### **16 Consultation with conservator**

In preparing a draft plan variation, the planning and land authority shall—

- (a) consider any recommendation or submission made by the conservator in relation to the draft variation, including any preliminary draft plan of management under subdivision 5.7.4 accompanying the recommendation or submission; and
- (b) if the draft variation is to identify or affect public land—consult with the conservator, unless the draft gives effect to a recommendation of the conservator under section 192.

**U 17 Heritage**

- (1) If the heritage council submits an interim heritage places register to the planning and land authority under section 63, the authority shall consider the interim register and, if it agrees with any of the proposals in the interim register—
  - (a) if it agrees with all the proposals—include the interim register in a draft plan variation; or
  - (b) if it does not agree with all the proposals—prepare a draft heritage places register, or a draft variation to the heritage places register, that contains the proposals with which it agrees and include the draft register, or the draft variation of the register, prepared by the authority in a draft plan variation.
- (2) A draft heritage places register, or a draft variation to the heritage places register, included in a draft plan variation is not to include any provision that would have the effect of including in the heritage places register any entry in addition to the entries—
  - (a) proposed, in any relevant interim heritage places register, for inclusion in the heritage places register; or
  - (b) for a draft variation to the heritage places register—included in that register.
- (3) If the planning and land authority—
  - (a) prepares a draft variation to the heritage places register in the absence of a relevant interim heritage places register; or
  - (b) prepares a draft heritage places register, or a draft variation to that register, that is different from any relevant interim heritage places register;

the authority must give written notice to the heritage council no later than 28 days before the day (the *intended notification day*), stated in the notice, when the authority intends to notify the relevant draft

plan variation under the Legislation Act (see section 19 (Public consultation—notification)).

*Note* For how documents may be given, see Legislation Act, pt 19.5.

- (4) In preparing a draft plan variation mentioned in subsection (3), the planning and land authority must consider any written response given by the heritage council within 7 days before the intended notification day.

- (5) In this section:

*relevant interim heritage places register* means an interim heritage places register that has effect under part 3, as revised under that part.

## **18 Environmental reports and inquiries**

- (1) In preparing a draft plan variation, the planning and land authority shall consider—
- (a) any relevant environmental report; and
  - (b) the report of any relevant inquiry; and
  - (c) any relevant report required to be prepared by the plan.
- (2) The Minister may direct that an assessment be made, or establish a panel to conduct an inquiry, about any aspect of a draft plan variation or a proposed draft plan variation.
- (3) The Minister may initiate action under subsection (2) or act on written request by the planning and land authority.

## **19 Public consultation—notification**

- (1) Before submitting a draft plan variation to the Minister, the planning and land authority must prepare a notice (a *consultation notice*)—
- (a) stating that copies of the draft plan variation and the background papers are available for public inspection and purchase during a stated period of not less than 15 business days at stated places; and

- (b) inviting interested people to give written comments about the draft variation to the authority at a stated address during a stated period of not less than 15 business days; and
  - (c) stating that copies of written comments about the draft variation, given in response to the invitation in paragraph (b) or otherwise, or received from the national capital authority, will be made available for public inspection for a period of 15 business days after the end of the period mentioned in paragraph (b), at stated places; and
  - (d) complying with section 19A (as applicable).
- (2) The planning and land authority may, in writing (by an *extension notice*), extend or further extend the consultation period mentioned in subsection (1) (a) or (b).
- (3) An extension notice may be given after the end of the period to be extended.
- (4) The following are notifiable instruments:
- (a) the consultation notice;
  - (b) any extension notice.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (5) The planning and land authority must also publish the consultation notice and any extension notice in a daily newspaper.
- (6) This section does not apply in relation to a draft plan variation that has been revised by the planning and land authority in accordance with a direction under section 26 (1) (b) (Minister's powers).

**U 19A Public consultation—notice of interim effect etc**

- (1) A consultation notice must state—
- (a) whether or not section 9 (Effect of draft plan variation) applies in relation to the draft variation; and

- (b) either—
  - (i) if the draft variation would vary the heritage places register—that section 11 (Draft heritage places register and variations—lack of effect) applies; or
  - (ii) if the draft variation would not vary the heritage places register—that section 11 does not apply.
- (2) A consultation notice that states that section 9 applies must also state—
  - (a) for section 9 (2) (b), a period not longer than 1 year that is the maximum period during which the draft variation is to have interim effect; and
  - (b) the effect of section 9.
- (3) A consultation notice that states that section 11 applies must state the effect of that section.

**19B Public consultation—availability of draft plan variation etc**

- (1) The planning and land authority must make copies of the draft plan variation and the background papers mentioned in a consultation notice available for public inspection and purchase during office hours during the period, and at the places, stated in the notice.
- (2) If, in the planning and land authority's opinion, it would not be in the public interest for part of the draft plan variation or of any background paper to be published, the authority must exclude that part from each copy of the document made available under subsection (1).
- (3) If part of the draft plan variation or a background paper is excluded from the copies of the document made available for public inspection or purchase under subsection (1), each copy of the document must include a statement to the effect that an unspecified part of the document has been excluded in the public interest.

**19C Draft plan variations that do not affect rights**

- (1) This section applies if the planning and land authority is satisfied that a draft plan variation—
  - (a) would, if approved, not affect adversely anybody's rights; or
  - (b) has as its only object the correction of a formal error in the plan.
- (2) The draft plan variation is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.
- (3) Section 19 and section 19B do not apply to the draft plan variation, but the planning and land authority must take reasonable steps to inform itself about public attitudes to the draft plan variation.

**20 Consultation with national capital authority**

Before giving a draft plan variation to the Minister, the planning and land authority must consult with the national capital authority.

**21 Public inspection of comments**

- (1) The planning and land authority must make copies of any comments mentioned in section 19 (1) (c) available for public inspection during office hours during the period, and at the places, mentioned in the consultation notice under section 19 that refers to the relevant draft plan variation.
- (2) The planning and land authority may omit from the copy of a comment made available under subsection (1) information that would identify the person who had made the comment if—
  - (a) the person has asked that the information be omitted; and
  - (b) the authority is reasonably satisfied that it would not be in the public interest for the information to be published.

## 22 Revision, deferral or withdrawal of draft plan variations

- (1) After the expiration of the period specified in the notice under section 19 (1) (b) the planning and land authority may, in writing—
  - (a) revise the draft plan variation; or
  - (b) defer until a specified date, or until the occurrence of a specified event, the submission of the draft plan variation to the Minister; or
  - (c) withdraw the draft plan variation.
- (2) A deferral or withdrawal of a draft plan variation must include a statement of the effect of section 9 (Effect of draft plan variation) in relation to the deferral or withdrawal.
- (3) A deferral or withdrawal of a draft plan variation is a notifiable instrument.

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

- (4) The planning and land authority must also publish a deferral or withdrawal of a draft plan variation in a daily newspaper on the same day, or as soon as practicable after the day, the deferral or withdrawal is notified under the Legislation Act.
- (5) In revising, deferring or withdrawing a draft plan variation under subsection (1), the planning and land authority shall consider written comments about the draft variation received from any person or the national capital authority.
- (6) In addition to its power under subsection (1), the planning and land authority may, at any time before the submission or resubmission of a draft plan variation to the Minister, revise the draft variation to correct any formal error.
- (7) If the planning and land authority defers a draft plan variation, on the day stated in the deferral, or as soon as practicable after the event mentioned in the deferral, the authority must prepare a notice stating—



- (a) that the draft plan variation is revived; and
  - (b) the effect of section 9 in relation to the revival.
- (8) The notice under subsection (7) is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (9) The planning and land authority must also publish the notice in a daily newspaper as soon as practicable after preparing it.

### **Subdivision 2.3.3 Minister approval and consideration by Legislative Assembly**

#### **23 Application of sdiv 2.3.3**

This subdivision does not apply in relation to a plan variation under subdivision 2.3.4.

#### **U 24 Submission of draft plan variation to Minister**

- (1) After the expiration of the period specified in the notice under section 19 (1) (b), the planning and land authority shall submit a draft plan variation (as revised, if at all, under section 22) to the Minister for approval, together with—
- (a) the background papers; and
  - (b) a written report setting out the issues raised in any written comments concerning the draft variation submitted under the invitation in the notice under section 19 (1) or otherwise; and
  - (c) a written report about its consultation with the public and the national capital authority; and
  - (d) a written report about any consultation between the authority and the heritage council relating to the draft variation that specifies any difference between the views of the authority and the heritage council in relation to any site of heritage significance; and

- (e) a copy of any written comments submitted to the authority by the national capital authority or the heritage council in relation to the draft variation.
- (2) The planning and land authority must give the Executive a written report about the authority's consultation with the national capital authority.
- (3) The planning and land authority must prepare a written notice stating that the documents mentioned in subsection (1) are available for public inspection.
- (4) The notice is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (5) The planning and land authority must also publish the notice in a daily newspaper.
- (6) The planning and land authority must make copies of the documents mentioned in subsection (1) available for public inspection during office hours during the period, and at the places, stated in the notice.

## **25 Consideration by Legislative Assembly committee**

The Minister shall, within 28 days of receiving a draft plan variation under section 24, refer—

- (a) the draft plan variation; and
- (b) the documents referred to in section 24 (1) that relate to the draft plan variation;

to an appropriate committee of the Legislative Assembly together with a request that the committee report on the draft plan to the Legislative Assembly.

## **26 Minister's powers**

- (1) On receipt of a draft plan variation submitted or resubmitted for approval, the Minister must—

- (a) approve the draft variation in the form in which it is submitted or resubmitted; or
  - (b) return the draft variation to the planning and land authority together with any or all of the following written directions:
    - (i) to conduct further specified consultation;
    - (ii) to consider any relevant environmental report, the report of any relevant inquiry, or any other relevant report;
    - (iii) to consider any revision suggested by the Minister;
    - (iv) to revise the draft variation in a specified way;
    - (v) to defer, in writing, the resubmission of the draft variation to the Minister until a specified date or the occurrence of a specified event;
    - (vi) to withdraw the draft variation in writing.
  - (2) Before taking action under subsection (1), the Minister must consider any recommendation made by a committee of the Legislative Assembly in relation to the draft variation, or related documents, referred to the committee under section 25.
  - (3) A deferral or withdrawal directed under subsection (1) (b) (v) or (vi) shall state the effect of section 9 in relation to the deferral or withdrawal of the draft plan variation.
  - (4) The following are notifiable instruments:
    - (a) a direction under subsection (1) (b);
    - (b) a deferral directed under subsection (1) (b) (v);
    - (c) a withdrawal directed under subsection (1) (b) (vi).
- Note* A notifiable instrument must be notified under the Legislation Act.
- (5) The authority must also publish a deferral or withdrawal directed under subsection (1) (b) (v) or (vi) in a daily newspaper on the same

day, or as soon as practicable after, the deferral or withdrawal is notified under the Legislation Act.

- (6) After approving a draft plan variation under subsection (1) (a), the Minister may, before the draft variation is presented to the Legislative Assembly, revoke the approval and return the draft variation to the planning and land authority under subsection (1) (b).

## **27 Return of draft plan variation to authority**

- (1) This section applies if the Minister returns a draft plan variation to the authority with directions under section 26 (1) (b).
- (2) The authority must comply with each direction.
- (3) If a direction is given under section 26 (1) (b) (i), (ii) or (iii), the authority may revise the draft variation and resubmit it to the Minister for approval together with a written report about the authority's compliance with the Minister's direction and any further revision of the draft variation under section 22 (6).
- (4) If a direction is given under section 26 (1) (b) (iv), the authority must resubmit the draft variation (as revised) together with a written report about any further revision of the draft variation under section 22 (6).

## **28 Notice of revival of deferred draft plan variation**

- (1) If the planning and land authority defers a draft plan variation as directed under section 26 (1) (b) (v) (Minister's powers), on the day stated in the deferral, or as soon as practicable after the event mentioned in the deferral, the authority must—
  - (a) prepare a notice stating—
    - (i) that the draft plan variation is revived; and
    - (ii) the effect of section 9 (Effect of draft plan variation) in relation to the revival; and

- (iii) the effect of any revision under section 22 (6) (Revision, deferral or withdrawal of draft plan variations); and
  - (b) resubmit the draft variation to the Minister; and
  - (c) advise the Legislative Assembly.
- (2) A notice under subsection (1) (a) is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (3) The planning and land authority must also publish the notice in a daily newspaper.

## **29 Consideration of plan variation by Legislative Assembly**

- (1) A plan variation must be presented to the Legislative Assembly within 5 sitting days after the day it is approved by the Minister, together with copies of the following documents in relation to the variation:
- (a) the background papers;
  - (b) the summaries and reports mentioned in section 24 (1) (b), (c) and (d);
  - (c) any direction under section 26 (1) (b);
  - (d) any report mentioned in section 26 (1) (b) (ii);
  - (e) any report mentioned in section 27 (c).
- (2) Subsection (1) is subject to section 26 (6) (Minister's powers).
- (3) If a plan variation is not presented to the Legislative Assembly in accordance with subsection (1), it does not come into effect.
- (4) The Legislative Assembly may, on a motion of which notice has been given within 5 sitting days after a plan variation has been presented to it, by resolution reject the variation or any provision of it.

(5) If, at the end of 5 sitting days after notice of a motion to reject a plan variation or a provision of a plan variation has been given in the Legislative Assembly (being notice given within 5 sitting days after the variation was presented to the Legislative Assembly)—

- (a) the notice has not been called on; or
- (b) the motion has been called on and moved and has not been withdrawn or otherwise disposed of;

the plan variation or provision specified in the motion is taken to have been rejected by the Legislative Assembly.

(6) If, before the end of 5 sitting days after a notice of motion to disallow a plan variation or a provision of a plan variation has been given in the Legislative Assembly (being notice given within 5 sitting days after the variation was presented to the Legislative Assembly)—

- (a) the Legislative Assembly is dissolved or expires; and
- (b) at the time of dissolution or expiry—
  - (i) the notice has not been withdrawn and the motion has not been called on; or
  - (ii) the motion has been called on and moved and has not been withdrawn or otherwise disposed of;

the plan variation is taken, for subsections (4) and (5), to have been presented to the Legislative Assembly on the first sitting day of the Legislative Assembly after the next general election of members of the Assembly.

- (7) If, at the end of 5 sitting days after a plan variation is presented to the Legislative Assembly, the Assembly has not passed a resolution rejecting the variation or any provision of it and is not, under subsection (5), taken to have rejected the variation or any provision of it, the Minister must, in writing, fix a day when the plan variation is to commence.

*Note* An instrument under this subsection is a **commencement notice** (see Legislation Act, s 11). A commencement notice must be notified under the Legislation Act.

- (8) The planning and land authority must publish in a daily newspaper details of—
- (a) the commencement notice under subsection (7); and
  - (b) where copies of the plan variation may be inspected or purchased.
- (9) The planning and land authority must make copies of the plan variation available for inspection or purchase during office hours at the places, and during the period, published in the newspaper under subsection (8) (b).
- (10) A plan variation notified under subsection (7) commences on the day fixed by the notice.

### **30 Rejection of plan variation by Legislative Assembly**

- (1) This section applies if a plan variation is completely rejected under section 29 (4) (Consideration of plan variation by Legislative Assembly), or taken to be completely rejected under section 29 (5).
- (2) The plan variation does not come into force if this section applies.
- (3) The planning and land authority must prepare a notice stating that the plan variation has been rejected.
- (4) The notice is a notifiable instrument.

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

- (5) The planning and land authority must also publish the notice in a daily newspaper.

### **30A Partial rejection of plan variation by Legislative Assembly**

- (1) This section applies if a plan variation is partly rejected under section 29 (4) (Consideration of plan variation by Legislative Assembly), or taken to be partly rejected under section 29 (5).
- (2) A provision of a plan variation does not come into force if—
- (a) it is rejected by the Legislative Assembly under section 29 (4) or (5); or
  - (b) it is withdrawn under subsection (3) (b).
- (3) The Minister must, in relation to each provision of the plan that is not rejected under section 29 (4) or (5), in writing—
- (a) fix a day when the provision (an *approved provision*) is to commence; or
  - (b) withdraw the provision.

*Note* An instrument under par (a) is a *commencement notice* (see Legislation Act, s 11). A commencement notice must be notified under the Legislation Act.

- (4) A withdrawal under subsection (3) (b) is a notifiable instrument.

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

### **30B Partial rejection of plan variation—newspaper publication etc**

- (1) The planning and land authority must publish in a daily newspaper details of—
- (a) a commencement notice under section 30A (3) (a) for a provision (an *approved provision*); or
  - (b) a withdrawal notice under section 30A (3) (b).



- (2) The details of a commencement notice published under subsection (1) (a) for an approved provision must include details of where, and for what period, copies of the provision may be inspected or purchased.
- (3) The planning and land authority must make copies of each approved provision available for inspection or purchase during office hours at the place or places, and during the period, mentioned in subsection (2).

### **Subdivision 2.3.4 Plan variations—defined land**

#### **31 Definition for sdiv 2.3.4**

In this subdivision:

*defined land* means land identified in the plan pursuant to section 7 (3) (e).

#### **32 Plan variations in relation to defined land**

- (1) On approval of the subdivision of a parcel or part of a parcel of defined land, the planning and land authority shall, in writing, vary the plan to specify the purposes for which that land may be used.
- (2) A variation of the plan under subsection (1) in relation to a parcel, or part of a parcel, of land shall include a map of that parcel or part showing the purposes for which identified parts of that land may be used.
- (3) A variation of the plan under subsection (1) is to be consistent with—
  - (a) the relevant subdivision and any conditions subject to which that subdivision is approved; and
  - (b) the principles and policies specified in the plan for the development of the relevant defined land.

- (4) A variation of the plan under subsection (1) is a notifiable instrument.

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

- (5) A variation of the plan under subsection (1) has the effect of the parcel, or part of a parcel, of land which is subdivided ceasing to be defined land.
- (6) Within 7 days after a variation of the plan under subsection (1) is notified under the Legislation Act, the planning and land authority must publish a notice in a daily newspaper that—
- (a) specifies the variation made to the plan; and
  - (b) includes a copy of the map that was included in the variation; and
  - (c) specifies when the variation to the plan took effect or is to take effect.

## **Division 2.5                      Miscellaneous**

### **51                      Challenge to validity of provisions of plan**

The validity of a provision of the plan shall not be questioned in any legal proceedings except those commenced within 3 months after the date of the commencement of the provision or of a variation of the provision.

**U** **Part 3** **Heritage**

**U** **Division 3.1** **Preliminary**

**U** **52** **Definitions for pt 3**

In this part:

*Aboriginal object* means—

- (a) a natural or manufactured object; or
- (b) human remains not buried in accordance with a law of the Territory, a State or another Territory;

that is, or are, of significance in Aboriginal tradition.

*Aboriginal place* means a place that is of significance in Aboriginal tradition.

*Aboriginal tradition* means the traditions, observances, customs or beliefs of the people who inhabited Australia before European colonisation, and include traditions, observances, customs and beliefs that have evolved or developed from that tradition since European colonisation.

*conservation* includes preservation, protection, maintenance, restoration and enhancement.

*heritage object* means a natural or manufactured object, including an Aboriginal object, of heritage significance in relation to the ACT.

*heritage place* means a place in the ACT of heritage significance.

***interim heritage places register*** means a proposed heritage places register, or an interim variation to the heritage places register, notified under the Legislation Act (see section 60 (Public notification)), as revised, if at all, under section 62 (Revision of interim register).

*Note* The heritage places register means the register of heritage places incorporated in the plan (see dict, def ***heritage places register***).

***interim variation***, in relation to the heritage places register, means a proposed variation to that register notified under the Legislation Act (see section 60 (Public notification)).

***relevant Aboriginal organisation***, in relation to a proposed action by the Territory, the Executive, the Minister or a Territory authority, means an organisation or association (whether corporated or unincorporated)—

- (a) comprised substantially of Aboriginal persons; and
- (b) having among its principal objects the conservation of Aboriginal tradition in the Territory; and
- (c) that the person or body proposing the action believes on reasonable grounds to have an object or interest directly relevant to, or directly affected by, that action.

***restricted information***, in relation to an Aboriginal place, means information that is the subject of a declaration under section 82 (1).

***variation*** includes revocation and substitution.

**U** 53

**Compliance with requirements for consultation or notification**

If the Executive, the Minister or the heritage council is required under this part to consult or notify an entity, the requirement is taken to be complied with if the Executive, the Minister or the heritage council takes all reasonable steps to consult or notify the entity.

**U** **Division 3.2** **Heritage places register**

**U** **54** **Content of heritage places register**

The heritage places register must—

- (a) identify heritage places, specifying any that are Aboriginal places; and
- (b) identify—
  - (i) each structure or group of structures; or
  - (ii) each object or group of objects, specifying any that are Aboriginal objects; or
  - (iii) each landform or group of landforms; or
  - (iv) each plant or group of plants; or
  - (v) each animal habitat; or
  - (vi) each other feature (whether manufactured or natural);that is located on each identified heritage place and that is intrinsic to the heritage significance of the place; and
- (c) include a statement of the heritage significance of each identified heritage place; and
- (d) specify requirements for the conservation of the heritage significance of each identified heritage place, including any requirements for the conservation of features identified as intrinsic to that heritage significance; and
- (e) specify any restricted information in the register in relation to an Aboriginal place referred to in the register.

**U** Division 3.3 Interim heritage places registers

**U** Subdivision 3.3.1 Effect

**U** 55 Effect of interim registers

- (1) If there is no heritage places register, during the defined period an interim heritage places register has effect as if it were the heritage places register.
- (2) If an interim heritage places register is in the form of an interim variation to the heritage places register, during the defined period the Territory, the Executive, a Minister or a Territory authority shall not do any act, or approve the doing of any act, that—
  - (a) would be inconsistent with the heritage places register if it were varied in accordance with the interim variation; or
  - (b) is inconsistent with the heritage places register.

- (3) In this section:

*defined period* means the period beginning on the day the interim heritage places register is notified (other than in a newspaper) as required by section 60 (Public notification) and ending at the end of the earlier of—

- (a) the day before the heritage places register prepared in consideration of the interim register commences under section 29 (7) (Consideration of plan variation by Legislative Assembly) or section 30A (5) (Partial rejection of plan variation by Legislative Assembly); or
- (b) the last day of the period specified in the notification of the interim register as required by section 60 (1) (b).

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**U** **Subdivision 3.3.2 Preparation, notification and submission of registers**

**U** **56 Criteria for preparation**

In preparing an interim heritage places register, the heritage council shall—

- (a) assess the heritage significance of a place in accordance with the criteria specified in schedule 2; and
- (b) consider the need to take measures that are prudent and feasible to conserve the heritage significance of each heritage place.

**U** **57 Ministerial directions and declarations under div 3.5**

- (1) If the Minister issues a direction under section 69 (1) (a) or section 73 (1) (a) to the heritage council to notify an interim heritage places register in relation to a place, the heritage council shall comply with that direction.
- (2) While a declaration of the Minister under section 69 (1) (b) or section 73 (1) (b) is in force, the heritage council shall not notify an interim heritage places register that would have the effect of listing that place on the heritage places register.

**U** **58 Public consultation**

- (1) In preparing an interim heritage places register, the heritage council shall—
  - (a) obtain the information about the public attitude to its proposals that the heritage council considers appropriate; and
  - (b) consider that information.
- (2) Before notifying an interim heritage places register under section 60, the heritage council shall consult with, and consider the views of, any person whose interests, in the opinion of the heritage

council based on reasonable grounds, would be affected by its proposals.

- (3) This section does not apply if section 57 (1) applies.

**U 59 Application for inclusion of places in interim register**

- (1) A person may apply in writing to the heritage council for the inclusion of a provision in an interim heritage places register that would have the effect of including an entry in relation to that place on the heritage places register.
- (2) An application shall be accompanied by a statement of the reasons why the applicant considers that the place should be included on the heritage places register.
- (3) On application in accordance with this section, the heritage council may, in consideration of the matters referred to in section 56—
- (a) include a provision in an interim heritage places register that would have the effect of including an entry in relation to the relevant place in the heritage places register; or
- (b) refuse to approve the application.
- (4) This section is not to be read as limiting the power of the heritage council to prepare interim heritage places registers.

**U 60 Public notification**

- (1) After preparing an interim heritage places register, the heritage council must prepare a written notice—
- (a) stating that copies of the interim register are available for public inspection at specified places; and
- (b) specifying, for section 55, the maximum period during which the interim register, or each part of it, is to have effect under that section; and



- (c) including—
- (i) a statement of the effect of section 55; and
  - (ii) a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, a person whose interests in relation to land are affected may apply to the administrative appeals tribunal for a review of a decision of the heritage council to include a provision in the interim register.

- (2) A notice under subsection (1) is a notifiable instrument.

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

- (3) The heritage council must also publish the notice under subsection (1) in a daily newspaper.
- (4) The heritage council shall make copies of the interim register available for public inspection during office hours at the places specified in the notice under subsection (1).
- (5) A copy of an interim register made available for public inspection under subsection (4) shall not include any restricted information in relation to an Aboriginal place.
- (6) The validity of a decision of the heritage council to include a provision in an interim heritage places register is not affected by a failure to comply with subsection (1) (a) or (c), (4) or (5).

**U 61 Notification of lessees and occupiers**

- (1) As soon as practicable after an interim heritage places register is notified (other than in a newspaper) as required by section 60 (Public notification), the heritage council shall give each lessee, and each occupier, of land affected by a decision of the heritage council to include a provision in the interim register a notice—
- (a) specifying that provision; and

- (b) specifying, and identifying as such, any relevant restricted information about Aboriginal places on that land; and
- (c) including the statements referred to in section 60 (1) (c) in relation to the interim register; and
- (d) including a statement of the effect of section 84 in relation to the publication of restricted information.

*Note* For how documents may be given, see Legislation Act, pt 19.5.

- (2) The validity of a decision of the heritage council to include a provision in an interim heritage places register is not affected by a failure to comply with subsection (1).

**U 62 Revision of interim register**

- (1) After the notification of an interim heritage places register under section 60, the heritage council may, in writing, revise the interim register—
  - (a) to correct a formal error; or
  - (b) except if section 57 (1) applies—to provide for the removal of a provision of the interim register that would have had the effect of including an entry in the heritage places register.

- (2) A revision under subsection (1) is a notifiable instrument.

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

- (3) The heritage council shall publish a copy of a revision under subsection (1) in a daily newspaper.
- (4) A revision under subsection (1) (b) shall include—
  - (a) a statement that copies of the interim register, as revised, are available for public inspection at specified places; and
  - (b) a statement of the effect of section 55 in relation to the interim register as revised; and

- (c) a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, a person whose interests in relation to land are affected may apply to the administrative appeals tribunal for a review of the heritage council's decision to revise a provision of the interim register.
- (5) The heritage council shall make copies of the interim register, as revised, available for public inspection during office hours at the places specified in the revision under subsection (4).
- (6) If subsection (1) (b) applies, the heritage council shall give each lessee, and each occupier, of land affected by the decision of the heritage council to revise the interim register a notice—
- (a) specifying the revision; and
  - (b) including the statements referred to in subsection (4).

*Note* For how documents may be given, see Legislation Act, pt 19.5.

- (7) The validity of a decision of the heritage council to revise a provision of an interim heritage places register under subsection (1) (b) is not affected by a failure to comply with subsection (3), (4), (5) or (6).

**U 63**      **Submission of interim register to planning and land authority**

- (1) For section 17, the heritage council shall submit an interim heritage places register to the planning and land authority in accordance with this section.
- (2) The heritage council shall submit an interim heritage places register to the planning and land authority after the end of 28 days after the interim register is notified (other than in a newspaper) as required by section 60 (Public notification), except if there is an application for review of a decision referred to in section 282A (1) (a) or (3) (b) in relation to the interim register.

- (3) If there is an application for review of a decision referred to in section 282A (1) (a) or (3) (b) in relation to an interim heritage places register, the heritage council shall—
- (a) in relation to those provisions of the interim register that are not the subject of such an application—submit those provisions to the planning and land authority after the end of 28 days after the interim register is notified (other than in a newspaper) as required by section 60 (Public notification); and
  - (b) in relation to each provision of the interim register that is the subject of such an application—if appropriate, submit that provision to the authority, as varied (if at all) to reflect the administrative appeals tribunal’s decision, after the resolution of the application.
- (4) If there is an application under section 282A (AAT Review of decisions) for the review of a decision of the heritage council to refuse to approve an application under section 59 for the inclusion of a provision in an interim heritage places register—
- (a) subsection (1) applies notwithstanding the application for review; and
  - (b) if the application for review is successful—the heritage council shall submit that provision to the planning and land authority in the form approved by the administrative appeals tribunal in its decision.
- (5) If there is an application under section 282A (AAT Review of decisions) for the review of a decision of the heritage council to revise an interim heritage places register to remove a provision—
- (a) subsection (1) applies notwithstanding the application; and
  - (b) if the application is successful—the heritage council shall submit that provision to the planning and land authority as reinstated in the interim register in accordance with the decision of the administrative appeals tribunal.

**U** **Division 3.4**                      **Acquisition of heritage places and objects**

**U** **64**                      **Acquisition**

- (1) The Minister may, on behalf of the Territory, acquire a place listed on the heritage places register if the Minister is satisfied that—
  - (a) the place has substantial heritage significance; and
  - (b) acquisition is the most prudent and feasible means to ensure the conservation of the heritage significance; and
  - (c) it is in the public interest for the Territory to acquire the place.
- (2) If subsection (1) applies in relation to a place, the Minister may acquire an object identified in the heritage places register as intrinsic to the heritage significance of that place.
- (3) The Minister shall acquire a place or an object under this section on just terms.
- (4) The Minister shall not acquire a place or an object under this section without first consulting with, and considering the views of—
  - (a) the lessee and the occupier of the place; and
  - (b) if an object is to be acquired—the owner and the possessor of the object; and
  - (c) the heritage council; and
  - (d) any relevant Aboriginal organisation;about the proposed acquisition.

**U** Division 3.5 Aboriginal heritage

**U** Subdivision 3.5.1 Preliminary

**U** 66 Definitions for div 3.5

In this division:

*registered*, in relation to a place, means a place for which—

- (a) there is an entry in the heritage places register; or
- (b) there is a provision in an interim heritage places register that has the effect of including an entry for the place in the heritage places register.

*registration*, in relation to a place, means—

- (a) making an entry for the place in a heritage places register; or
- (b) including a provision in an interim heritage places register that has the effect of including an entry for the place in a heritage places register.

*unregistered*, in relation to a place, means a place that is not a registered place.

**U** Subdivision 3.5.2 Reporting discoveries of unregistered Aboriginal places

**U** 67 Reports

- (1) A person who discovers a place that he or she believes on reasonable grounds to be an unregistered Aboriginal place shall, within 7 days, report that discovery to the Minister in accordance with subsection (2).
- (2) A report under subsection (1) shall—
  - (a) be in writing; and

- (b) specify the name and address of—
  - (i) the person giving the report; and
  - (ii) the lessee and each occupier of the land where the place is located (if the identity of those persons is known to the person giving the report); and
- (c) specify the nature and location of the discovery.
- (3) A person shall not, without reasonable excuse, fail to comply with subsection (1).

Maximum penalty: 5 penalty units.
- (4) This section does not apply in relation to a person who—
  - (a) in accordance with Aboriginal tradition, has traditional affiliations with the land where the place is located; or
  - (b) believes on reasonable grounds that a declaration under section 69 (1) (b) or section 73 (1) (b) (that the place is not to be registered) is in force; or
  - (c) believes on reasonable grounds that the place has previously been registered.
- (5) Notwithstanding subsection (4) (a), a person who, in accordance with Aboriginal tradition, has traditional affiliations with particular land may, for this subdivision, report the discovery of an Aboriginal place on that land in accordance with subsection (1).

**U 68 Aboriginal heritage discoveries—consideration of reports**

- (1) On receiving a report of a discovery under section 67, the Minister shall—
  - (a) if the place is registered, or has previously been registered—give the lessee and the occupier of the land where the place was discovered written notice of the details of that registration, including any relevant restricted information, together with a

statement of the effect of that registration (if it is still in force);  
or

- (b) if the place has never been registered—direct the heritage council to report to the Minister within 21 days about the heritage significance of the place or object.

*Note* For how documents may be given, see Legislation Act, pt 19.5.

- (2) The heritage council shall—
- (a) prepare a report for submission to the Minister in compliance with a direction under subsection (1) (b); and
- (b) in preparing that report, consult with, and consider the views of—
- (i) the lessee and the occupier of the place; and
- (ii) the person who reported the discovery; and
- (iii) any relevant Aboriginal organisation.

**U 69 Aboriginal heritage discoveries—Ministerial directions and declarations**

- (1) Within 14 days after receiving a report from the heritage council under section 68, the Minister must, in writing—
- (a) direct the heritage council to notify an interim heritage places register under section 60 that would have the effect of registering the place on particular terms; or
- (b) declare that the place is not to be registered, and give written notice of the declaration to—
- (i) the lessee and the occupier of the land where the place was discovered; and
- (ii) the person who reported the discovery; and
- (iii) any relevant Aboriginal organisation.



- (2) Before making a decision under subsection (1), the Minister shall consult with the people mentioned in subsection (1) (b).
- (3) In making a decision under subsection (1), the Minister shall—
  - (a) after taking into account the report of the heritage council—consider whether the place is of sufficient heritage significance to be registered; and
  - (b) after taking into account the views of the people consulted under subsection (2), consider the effect of registration on their interests.
- (4) If the Minister makes a decision under subsection (1) (a), section 60 and section 61 apply in relation to a decision of the Minister under subsection (1) (a) as if the references in those sections to a decision of the heritage council to include a provision in an interim heritage places register were references to that decision of the Minister.
- (5) The following are notifiable instruments:
  - (a) a direction under subsection (1) (a);
  - (b) a declaration under subsection (1) (b).

*Note* A notifiable instrument must be notified under the Legislation Act.
- (6) A direction or declaration must be notified under the Legislation Act within 14 days after it is made.

### **U Subdivision 3.5.3 Protection of unregistered Aboriginal heritage**

#### **U 70 Damaging unregistered Aboriginal places**

A person shall not without reasonable excuse, disturb, damage or destroy or cause or permit to be disturbed, damaged or destroyed an unregistered Aboriginal place, unless—

- (a) that place has previously been registered; and

(b) that registration has been cancelled.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**U 71 Orders for protection of unregistered Aboriginal places—  
application of pt 6**

- (1) In this section:  
*order* means an order referred to in subsection (2).
- (2) The Minister may make an order under division 6.3 in relation to the disturbance, damage or destruction of an unregistered Aboriginal place except if—
  - (a) a declaration under section 69 (1) (b) or section 73 (1) (b) is in force in relation to that place; or
  - (b) the place has previously been registered.
- (3) For division 6.3 in its application to an order, the disturbance, damage or destruction referred to in subsection (2) is to be taken to be a controlled activity.
- (4) In deciding whether to make an order, the Minister shall consider whether the relevant controlled activity is likely to affect adversely the heritage significance of the place.
- (5) An order—
  - (a) shall specify the grounds on which the order is made; and
  - (b) may direct any person against whom it is made—
    - (i) to stop disturbing, damaging or destroying an unregistered Aboriginal place; or
    - (ii) not to begin disturbing, damaging or destroying such a place.

- (6) An order shall remain in force for the period, not longer than 35 days, specified in the order.
- (7) Section 257 (Content of orders) does not apply to an order made for this section.

**U 72 Orders—reports by heritage council**

- (1) If the Minister makes an order for section 71, he or she shall direct the heritage council to report within 21 days about the heritage significance of the relevant place.
- (2) The heritage council shall—
  - (a) prepare a report for submission to the Minister in compliance with a direction under subsection (1); and
  - (b) in preparing that report, consult with, and consider the views of—
    - (i) the lessee and the occupier of the place; and
    - (ii) the person who reported the discovery; and
    - (iii) any relevant Aboriginal organisation.

**U 73 Orders—Ministerial directions and declarations**

- (1) Within 14 days after receiving a report from the heritage council under section 72, the Minister must, in writing—
  - (a) direct the heritage council to notify an interim heritage places register under section 60 that would have the effect of registering the place on particular terms; or
  - (b) declare that the place is not to be registered, and give written notice of the declaration to—
    - (i) the lessee and the occupier of the land where the place was discovered; and
    - (ii) any relevant Aboriginal organisation.

- (2) Before making a decision under subsection (1), the Minister shall consult with the persons referred to in subsection (1) (b).
- (3) In making a decision under subsection (1), the Minister shall—
  - (a) taking into account the report of the heritage council, consider whether the place is of sufficient heritage significance to be registered; and
  - (b) taking into account the views of the people consulted under subsection (2), consider the effect of registration on their interests; and
  - (c) taking into account that report and those views, consider whether there is any prudent and feasible alternative to the activity in relation to which the order is in force.
- (4) If the Minister makes a decision under subsection (1) (a), section 60 and section 61 apply in relation to a decision of the Minister under subsection (1) (a) as if the references in those sections to a decision of the heritage council to include a provision in an interim heritage places register were references to that decision of the Minister.
- (5) The following are notifiable instruments:
  - (a) a direction under subsection (1) (a);
  - (b) a declaration under subsection (1) (b).

*Note* A notifiable instrument must be notified under the Legislation Act.
- (6) A direction or declaration must be notified under the Legislation Act within 14 days after it is made.

### **U** Subdivision 3.5.4 Compensation claims

#### **U** 74 Definitions for sdiv 3.5.4

In this subdivision:

**compensation** means compensation under section 78.

**U 75 Application of sdiv 3.5.4**

This subdivision applies if—

- (a) a person reports the discovery of an unregistered place in accordance with section 67; or
- (b) an order referred to in section 71 (2) is made in relation to a place; or
- (c) a place is registered in an interim heritage places register under a direction under section 69 (1) (a) or section 73 (1) (a) following a report or order mentioned in paragraph (a) or (b); or
- (d) a place is registered in the heritage places register because of its registration in an interim heritage places register under a direction under section 69 (1) (a) or section 73 (1) (a).

**U 76 Right to compensation**

- (1) In a circumstance in which this subdivision applies, on application in accordance with subsection (4) the Minister shall, on behalf of the Territory, compensate the applicant for loss or damage—
  - (a) directly attributable to that circumstance; and
  - (b) that arises out of any contractual or statutory obligations incurred by the applicant before the occurrence of that circumstance.
- (2) If this subdivision applies in relation to more than 1 circumstance relating to the same land—
  - (a) the Minister may compensate the applicant under subsection (1) for the combined loss or damage directly attributable to that combination of circumstances; and
  - (b) such compensation is only payable for loss or damage in relation to contractual or statutory obligations incurred by the

applicant before the occurrence of the earliest of those circumstances.

- (3) If an order referred to in section 71 is made against a person, no compensation is payable to that person for any loss or damage attributable to that order being made, or to any subsequent registration of the relevant place, that arises out of an obligation incurred by the applicant if, at the time the obligation was incurred, the applicant believed that the relevant place was an Aboriginal place.
- (4) An application for compensation shall be made within 1 year of the date of occurrence of the latest of the relevant circumstances because of which this subdivision applies.
- (5) If this subdivision applies, no amount for damages or compensation is payable to any person only because of the circumstances of that application, except under this subdivision.

**U 77 Loss for which compensation is recoverable**

- (1) Compensation is only payable for loss or damage attributable to the application of this subdivision that—
  - (a) is capable of being assessed by way of a liquidated amount; and
  - (b) takes into account any opportunity for recovery of taxes or diminution of tax liabilities; and
  - (c) is not otherwise capable of recovery or mitigation, or further recovery or mitigation.
- (2) Loss for which compensation is payable includes—
  - (a) expenditure incurred in the preparation of plans for the purposes of any work in relation to which the compensation is sought; and

- (b) any other expenditure necessarily preparatory to carrying out that work; and
  - (c) the cost of acquisition of any land or object, including any incidental costs.
- (3) Loss for which compensation is payable does not include—
- (a) any capital costs or capital depreciation except for expenditure or costs referred to in subsection (2); or
  - (b) any amount in relation to the prospective use of the land in relation to which this subdivision applies, except if—
    - (i) that land is registered in the heritage places register; and
    - (ii) that use is consistent with the requirements of the register.

**U 78 Amount of compensation**

- (1) Subject to section 77, if the Minister decides that compensation should be paid to an applicant, the Territory shall pay the applicant the amount determined by the Minister by written notice to the applicant.
- (2) If an applicant, by written notice to the Minister, disputes the amount of compensation determined under subsection (1), the Minister may, by written notice to the applicant, revise that determination in accordance with a determination—
  - (a) of a valuer appointed by agreement between the Minister and the applicant; or
  - (b) arrived at by another method agreed between the Minister and the applicant.

**U 79 Consultation with applicants**

Before giving an applicant for compensation a notice in accordance with section 282A (1) (b), the Minister shall—

- (a) consult with the applicant; and
  - (b) consider the views of the applicant;
- about the Minister's proposed decision.

**U 80 Notice of decisions about compensation**

- (1) If the Minister decides to grant an applicant compensation, he or she shall notify the applicant within 60 days after receiving the application.
- (2) Notice in accordance with section 282A (1) (b) shall be given within 60 days of receiving the application to which the notice relates.

**U Subdivision 3.5.5 Consultation in relation to registers**

**U 81 Consultation with Aboriginal organisations**

- (1) This section applies if the heritage council is preparing an interim heritage places register, or a revision of such a register, that relates to an Aboriginal place.
- (2) If this section applies, the heritage council shall consult with, and consider the views of, any relevant Aboriginal organisation about the effect of the interim register or revision on Aboriginal tradition.
- (3) In this section:

*Aboriginal place* includes a place that the heritage council at one time considered to be an Aboriginal place, but that the heritage council no longer considers to be an Aboriginal place.

**U Subdivision 3.5.6 Restricted information**

**U 82 Restricted information**

- (1) If, in the Minister's opinion, the public disclosure of particular information about the location or nature of an Aboriginal place would be likely to have a significant adverse effect on—



- (a) Aboriginal tradition; or
- (b) the heritage significance of the place;
- the Minister shall, in writing, declare that information to be restricted information for this Act.
- (2) The Minister shall not make a declaration under subsection (1) without first consulting with, and considering the views of—
- (a) the heritage council; and
- (b) any relevant Aboriginal organisation;
- about the relevant information.
- (3) The Minister shall give a copy of a declaration under subsection (1) to—
- (a) the lessee and the occupier of any land in relation to which the declaration is given; and
- (b) the heritage council; and
- (c) any relevant Aboriginal organisation.
- Note* For how documents may be given, see Legislation Act, pt 19.5.
- (4) A copy of a declaration given under subsection (3) (a) to the lessee or occupier of any land must be accompanied by a notice under section 282A (1) (Review of decisions).
- (5) The validity of a decision of the Minister to make a declaration under subsection (1) is not affected by a failure to comply with subsections (2), (3) and (4).

**U 83**      **Publication of restricted information by public officials**

- (1) The Territory, the Executive, a Minister or a Territory authority shall not publish or cause to be published any restricted information about an Aboriginal place except—
- (a) for this part or part 2; or

- (b) in accordance with subsection (2); or
  - (c) in accordance with the prescribed procedures.
- (2) For subsection (1) (b), restricted information may be published if the person or body responsible for its publication is satisfied on reasonable grounds that the publication would not have a significant adverse effect on—
- (a) Aboriginal tradition; or
  - (b) the heritage significance of the relevant place.

**U 84 Publication of restricted information generally**

- (1) A person (other than a person referred to in section 83 (1)) shall not, without reasonable excuse, publish or cause to be published restricted information about an Aboriginal place except—
- (a) in accordance with an approval under subsection (2); and
  - (b) if that publication is accompanied by a written statement in the form referred to in section 82 (4) (a).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) On application in accordance with subsection (3), the heritage council shall, by written notice to the applicant, approve the publication of restricted information about an Aboriginal place if it is satisfied on reasonable grounds that the publication would not have a significant adverse effect on—
- (a) Aboriginal tradition; or
  - (b) the heritage significance of the relevant place.
- (3) An application under subsection (2) shall be in writing specifying—
- (a) the nature of the restricted information; and
  - (b) the reason for the proposed publication; and

- (c) the nature of the proposed publication, including the person, persons or class of persons to whom or to which it is directed.

**U 85 Access to restricted information**

- (1) On application in accordance with subsection (2) by—
- (a) a lessee or an occupier of land; or
  - (b) if an interest in relation to land is being offered for sale—a person who is considering purchasing that interest;
- the heritage council shall publish to that person any restricted information relevant to the conservation and use of that land.
- (2) An application shall be in writing accompanied by a written declaration—
- (a) for subsection (1) (a)—specifying the capacity in which the applicant is applying; or
  - (b) for subsection (1) (b)—specifying the interest being offered for sale, and stating that the applicant is considering the purchase of that interest.
- (3) If the heritage council publishes restricted information to a person under subsection (1), the council shall give the person a written statement explaining the effect of the Minister's declaration that information is restricted information for this Act.

**U Division 3.6 Public access to heritage information**

**U Subdivision 3.6.1 Information about administrative action**

**U 87 Application of sdiv 3.6.1**

This subdivision applies in relation to the following documents:

- (a) reports under section 67;

- (b) declarations under section 69 (1) (b), while the declarations are in force;
- (c) orders referred to in section 71, while the orders are in force;
- (d) declarations under section 73 (1) (b), while the declarations are in force.

**U 88 Searching administrative records**

- (1) A person may, during office hours, inspect a document to which this subdivision applies, excluding any part of the document that—
    - (a) contains restricted information; or
    - (b) contains information that is the subject of a declaration under subsection (3).
  - (2) On application by a person, the Minister shall give the person a copy of a document to which this subdivision applies, or any part of such document, excluding any part of the document that—
    - (a) contains restricted information; or
    - (b) contains information that is the subject of a declaration under subsection (3).
- Note* A fee may be determined under s 287 for this subsection.
- (3) The Minister may, by written notice to the applicant, declare that a document to which this subdivision applies, or a specified part of such a document, is not to be available for public inspection under subsection (1) or (2).
  - (4) The Minister shall only make a declaration under subsection (3) if he or she is satisfied that—
    - (a) information in the relevant application or part—
      - (i) relates to the personal or business affairs of a person; and
      - (ii) was supplied to the Minister in confidence; and

- (b) the publication of that information would not be in the public interest.

**U** **Subdivision 3.6.2 Access to heritage registers**

**U** **89 Searching heritage registers**

- (1) Anyone may, during office hours, inspect the heritage places register or interim heritage places register, other than any part that contains restricted information.
- (2) On application, the heritage council must give the applicant a copy of, or of any part of, the heritage places register or interim heritage places register, other than a part that contains restricted information.

*Note* A fee may be determined under s 287 for this subsection and subsection (3).

- (3) On application to the heritage council in relation to a place mentioned in subsection (4), the heritage council must give the applicant a certificate stating—
- (a) whether a declaration in relation to the place is in force under section 69 (1) (a) or section 73 (1) (a); or
- (b) whether the place has previously been so listed, or proposed to be so listed.
- (4) Subsection (3) applies to a place that—
- (a) is not listed in the heritage places register or an interim heritage places register; and
- (b) is not, in an interim heritage places register, proposed to be listed in the corresponding heritage places register.

**U** **Division 3.7 Australian Capital Territory Heritage Council**

**U** **90 Definitions for div 3.7**

In this division:

*chairperson* means the chairperson of the heritage council appointed under section 99 (1).

*deputy chairperson* means the deputy chairperson of the heritage council appointed under section 99 (1).

*expert member* means a member appointed under section 96 (1).

*heritage objects register*—see the *Heritage Objects Act 1991*, section 4.

*member* means a member of the heritage council.

*permanent member* means a member mentioned in section 92 (a), and includes a deputy of a permanent member appointed under section 95 (1).

*secretary* means the secretary to the heritage council appointed under section 99 (2).

**U** **91 Establishment of heritage council**

The Australian Capital Territory Heritage Council is established.

**U** **92 Constitution**

The heritage council consists of—

- (a) the planning and land authority and the conservator as permanent members; and
- (b) not more than 9 expert members.

**U 93**      **Functions of heritage council**

The heritage council has the following functions:

- (a) to advise the Minister about—
  - (i) the criteria for this part and the *Heritage Objects Act 1991* for deciding the heritage significance of places and objects; and
  - (ii) incentives for the conservation of the heritage significance of heritage places and heritage objects; and
  - (iii) the promotion of public awareness of heritage places and heritage objects; and
  - (iv) other matters about heritage significance in the ACT;
- (b) at the request of a Territory authority, to advise the authority about the matters mentioned in paragraph (a) as they relate to the exercise of the authority's functions under this Act or another Territory law;
- (c) to prepare an initial interim heritage places register and an initial interim heritage objects register and, subsequently, to prepare interim variations to the heritage places register and the heritage objects register;
- (d) any other function given to it under this Act or another Territory law.

*Note*      A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def of *entity*).

**U 94**      **Ministerial directions**

- (1) The Minister may give the heritage council written directions—
  - (a) about the policy and objectives it should pursue in the exercise of its functions; or

(b) to review the heritage places register or the heritage objects register in consideration of any stated matters.

(2) A direction is a notifiable instrument.

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

(3) A direction must be notified under the Legislation Act within 14 days after the day it is made.

### **U 95 Deputies of permanent members**

(1) The Minister may appoint a person to be the deputy of a permanent member.

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

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

(2) If a permanent member is absent from a heritage council meeting, the member's deputy may exercise the member's functions.

### **U 96 Appointment of expert members**

(1) The Minister may appoint a person to be an expert member of the heritage council.

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

(2) In making appointments under subsection (1), the Minister must endeavour to ensure that the following disciplines and areas of expertise are represented among the people appointed:

- (a) archaeology;
- (b) Aboriginal tradition;



- (c) local history;
- (d) town planning;
- (e) engineering;
- (f) architectural history and conservation;
- (g) landscape architecture;
- (h) the natural environment and its conservation;
- (i) archivism;
- (j) librarianship;
- (k) preservation of Australian material culture;
- (l) knowledge of objects in an Australian context.

**U 97**      **Term of appointment of expert members**

An expert member must not be appointed for a term longer than 3 years.

*Note*      A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

**U 98**      **Conditions of appointment of expert members generally**

An expert member holds office on the conditions decided by the Minister.

**U 99**      **Chairperson, deputy chairperson and secretary**

- (1) The Minister must appoint members of the heritage council as the chairperson and the deputy chairperson of the heritage council.
- (2) The Minister must appoint a public servant as the secretary to the heritage council.
- (3) However, a member must not be appointed as the secretary.

**U 100 Leave of absence**

The Minister may give a member leave of absence on conditions about remuneration and other matters decided by the Minister.

**U 101 Disclosure of interests**

- (1) A member who has a direct or indirect financial interest in a matter being considered or about to be considered by the heritage council must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a heritage council meeting.
- (2) A disclosure must be recorded in the minutes of the meeting and, unless the Minister otherwise decides, the member must not—
  - (a) be present during any deliberation of the heritage council about the matter; or
  - (b) take part in any decision of the heritage council about the matter.

**U 102 Ending of appointments**

- (1) The Minister may end the appointment of a member for misbehaviour or physical or mental incapacity.
- (2) The Minister must end the appointment of a member if the member—
  - (a) is absent from 3 consecutive meetings of the committee, except on leave granted under section 100 (Leave of absence); or
  - (b) contravenes section 101 (Disclosure of interests) without reasonable excuse.

*Note* A person's appointment also ends if the person resigns (see Legislation Act, s 210).

**U 103**      **Calling meetings**

- (1) The chairperson, or if the chairperson cannot do so, the deputy chairperson—
  - (a) may at any time call a meeting of the heritage council; and
  - (b) must call a meeting of the heritage council if asked by the Minister.
- (2) The person who calls a meeting of the heritage council must, at least 5 days before the day of the meeting, give the other members written notice of—
  - (a) the date, time and place of the meeting; and
  - (b) the matters to be considered at the meeting.

**U 104**      **Procedure at meetings**

- (1) The chairperson presides at all heritage council meetings at which the chairperson is present.
- (2) If the chairperson is absent, the deputy chairperson presides.
- (3) If both the chairperson and deputy chairperson are absent from a meeting, the member chosen by the member's present presides.
- (4) The presiding member may give directions about the procedure to be followed in relation to the meeting.
- (5) Business may be carried out at a meeting only if a majority of members are present.
- (6) At a meeting each member has a vote on each question to be decided.
- (7) However, a permanent member must not vote on a question that relates to an interim heritage places register.

- (8) A question is to be decided by a majority of the votes of the members present and voting, but, if the votes are equal the member presiding has a casting vote.
- (9) The heritage council must keep minutes of its meetings.

**U 105 Delegation to secretary**

The heritage council may delegate the council's functions under this Act to the secretary.

*Note* For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

## **Part 4**                      **Environmental assessments and inquiries**

### **Division 4.1**              **Preliminary**

*Note*      The Environment Minister may delegate a function of the Environment Minister under this part to the planning and land authority (see Legislation Act, s 254A).

#### **111**              **Definitions for pt 4**

In this part:

***defined decision*** means a decision of the Territory, the Executive, a Minister or a Territory authority about a proposal, being a proposal in relation to which a Minister is empowered under part 2, part 5 or part 6, an Act other than this Act or a subordinate law—

- (a) to direct that an assessment be made; or
- (b) to establish a panel to conduct an inquiry.

***environmental impact***, in relation to a proposal that is the subject of a defined decision, includes the following potential effects of the proposal (if carried out), either by itself or in combination with the potential effects of another such proposal:

- (a) environmental effect on a community;
- (b) physical, biological or cultural transformation of an area;
- (c) environmental effect on the social system or the ecosystems of an area;
- (d) change to the aesthetic, recreational, scientific or other environmental qualities, or values, of an area;

- (e) environmental effect on any premises or land or the surroundings of any premises or land, that has heritage significance;
- (f) the endangering, or further endangering, of a community or an area;
- (g) the endangering, or further endangering, of any species of fauna or flora;
- (h) long-term environmental effects including those with potential to place demands on the social system;
- (i) curtailing of the range of beneficial uses of the environment;
- (j) pollution;
- (k) problems associated with the disposal of waste;
- (l) increased demands on natural resources that are, or are likely to be, in short supply;
- (m) change to the values or lifestyles of particular groups and communities or to existing social relationships;
- (n) socioeconomic effect.

***environmental impact statement*** means an environmental impact statement prepared in accordance with division 4.3.

***land*** includes water.

***panel*** means a panel established to conduct an inquiry.

***preliminary assessment*** means an assessment made under division 4.2.

***proponent***, in relation to a defined decision, means the person designated as the proponent under section 112.

***public environment report*** means a public environment report prepared in accordance with division 4.3.

*relevant Minister*, means the Minister responsible for the administration of the Act or subordinate law under which—

- (a) in relation to an assessment or inquiry—that assessment or inquiry is authorised to be made or conducted; or
- (b) in relation to a defined decision—the relevant decision is authorised to be made.

## **112 Proponents**

- (1) For this part, the relevant Minister in relation to a defined decision may, in writing, designate a person or Territory authority as the proponent in relation to the decision.
- (2) The relevant Minister shall designate, as the proponent in relation to a defined decision, the person or Territory authority whose interests would be most directly affected by the decision, unless, in the opinion of that Minister, the public interest requires otherwise.

## **Division 4.2 Preliminary assessments**

### **113 Directions**

The relevant Minister in relation to a defined decision, or the Environment Minister, may, by written notice to the relevant proponent within 28 days after the day when the decision that a preliminary assessment be required is made, direct the proponent to prepare a preliminary assessment of the environmental impact of the relevant proposal.

### **114 Mandatory preliminary assessments**

If a defined decision is of a class prescribed by the plan, the relevant Minister shall, within the period referred to in section 113, issue a notice under that section in relation to the relevant proposal.

**115 Content**

A preliminary assessment shall consist of the matters specified in schedule 3.

**116 Submission to Minister**

- (1) On notice under section 113, the proponent shall submit a preliminary assessment to the Environment Minister in accordance with the notice.

*Note* A fee may be determined under s 287 for this subsection.

- (2) If the Environment Minister is not the relevant Minister in relation to a preliminary assessment, the Environment Minister shall forward the preliminary assessment to the relevant Minister.

**117 Public inspection**

- (1) After a preliminary assessment is submitted to the Environment Minister under section 116, the Environment Minister must prepare a written notice stating that copies of the preliminary assessment are available for public inspection during a specified period of not less than 15 business days at specified places.
- (2) The Environment Minister may, in writing, extend or further extend the period stated in the notice.
- (3) The power under subsection (2) may be exercised after the end of the period to be extended.
- (4) The following are notifiable instruments:
  - (a) a notice under subsection (1);
  - (b) an extension or further extension under subsection (2).

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

- (5) The planning and land authority must also publish a notice under subsection (1), or an extension or further extension under subsection (2), in a daily newspaper.



- (6) The Environment Minister shall, at the places, and within the period, specified in a notice under subsection (1)—
- (a) make copies of the preliminary assessment mentioned in the notice available for public inspection; and
  - (b) give a copy of the preliminary assessment to any person on request.

*Note* A fee may be determined under s 287 for par (b).

- (7) The Environment Minister shall send a copy of the preliminary assessment mentioned in the notice under subsection (1), without charge, to the Conservation Council of the South-East Region and Canberra (Inc.).

## **118 Exclusion of material**

- (1) If, in the opinion of the Environment Minister based on reasonable grounds—
- (a) a part of a preliminary assessment contains information related to the personal or business affairs of a person, being information—
    - (i) supplied to the proponent or the Minister in confidence; or
    - (ii) the publication of which would reveal a trade secret; or
    - (iii) the disclosure of which would, or would reasonably be expected to, adversely affect a person in relation to the lawful business affairs of that person; and
  - (b) it would not be in the public interest for that part to be published;

the Environment Minister shall exclude that part from each copy of the preliminary assessment made available to the public or for public inspection.

- (2) If a part of a preliminary assessment is excluded from the copies of that assessment made available to the public or for public inspection, each copy shall include a statement to the effect that an unspecified part of the assessment has been excluded for the purpose of protecting the confidentiality of information included in that part.

## **Division 4.3 Assessments**

### **Subdivision 4.3.1 Form and content**

#### **119 Form**

Unless otherwise specified in the Act or subordinate law under which it is directed, an assessment consists of—

- (a) a public environment report; or
- (b) an environmental impact statement;

about the proposal that is the subject of a defined decision, together with the report under section 131 evaluating that public environment report or environmental impact statement.

#### **120 Content of public environment reports and environmental impact statements**

Public environment reports and environmental impact statements are each to include the matters that are—

- (a) prescribed; and
- (b) directed under section 123.

### **Subdivision 4.3.2 Direction of assessments**

#### **121 Decisions to direct assessments**

- (1) The relevant Minister may direct that an assessment be made of the proposal if, in the opinion of the relevant Minister based on

reasonable grounds, the environmental impact of the proposal would be of sufficient significance.

- (2) A direction may only be given within the prescribed time after a proponent submits a preliminary assessment to the Environment Minister or such further time as the Minister administering this Act allows.
- (3) In making a decision under subsection (1), the relevant Minister shall consider—
  - (a) the preliminary assessment; and
  - (b) the report of any meeting called under section 128; and
  - (c) whether any aspect of the environmental impact of that proposal is, or could be, the subject of—
    - (i) an inquiry or another assessment; or
    - (ii) any environmental assessment action taken by or on behalf of the Commonwealth, a State or the Northern Territory.
- (4) This section does not apply if a Minister is required under an Act or subordinate law to direct that an assessment be made.

## **122 Environment Minister's power to direct assessments**

If a Minister other than the Environment Minister has the power under an Act or subordinate law to direct that an assessment be made, the Environment Minister also has that power.

## **123 Directions**

- (1) A direction by a Minister that an assessment be made in relation to a defined decision shall be in writing given to the proponent.
- (2) Within 14 days after a direction by a Minister under subsection (1) that an assessment is to be made in relation to a defined decision,

the Minister shall give the proponent detailed directions specifying the following:

- (a) the form of the assessment;
  - (b) the matters to be included in the public environment report or the environmental impact statement (as the case requires) and the relative emphasis to be given to each such matter;
  - (c) subject to section 124 or section 125 and section 126, as the case requires—how the report or statement is to be prepared;
  - (d) if, in the opinion of the Environment Minister based on reasonable grounds, the environmental impact of a proposal that is the subject of another defined decision is relevant to the environmental impact of the relevant proposal—sufficient details of the firstmentioned proposal to enable the proponent to assess the potential combined effects of the proposals.
- (3) The Environment Minister shall, in consultation with the relevant Minister, determine the matters to be specified under subsection (2).
- (4) If a Minister gives detailed directions for an assessment under subsection (2), that Minister must prepare a written notice that sets out—
- (a) the name of the proponent; and
  - (b) the matters specified in the directions; and
  - (c) the name of any consultant nominated by the Minister under subsection (7) to assist in the preparation of the assessment.
- (5) The notice is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (6) The Minister who prepared the notice must also publish it in a daily newspaper.
- (7) A Minister who directs that an assessment be made may, under subsection (2) (c), direct the proponent in relation to an assessment

to engage the services of a consultant specified by the Minister in accordance with the prescribed criteria to assist the proponent in the preparation of the assessment.

### **Subdivision 4.3.3 Preparation, evaluation and consideration by Legislative Assembly**

#### **124 Public environment reports—preparation**

- (1) The Environment Minister may, in writing, direct the proponent in relation to a public environment report—
  - (a) to undertake the consultation in relation to the preparation of the report that is specified; and
  - (b) after any such consultation—to make the report available, in a specified way and form, for public inspection, with the notice of that availability that is specified.
- (2) The proponent in relation to a public environment report shall comply with a direction under subsection (1).
- (3) This section does not apply in relation to the preparation of a public environment report for the purposes of an assessment that will be—
  - (a) a background paper within the meaning of part 2; or
  - (b) notified together with a draft plan of management under division 5.7.

#### **125 Environmental impact statements—consultation and public inspection**

- (1) The proponent in relation to an environmental impact statement must prepare a written notice approved in writing by the Environment Minister—
  - (a) stating that copies of the draft environmental impact statement are available for public inspection and purchase from the proponent at specified places and times; and

(b) inviting interested persons to submit written comments about the draft to the proponent at a specified address and within a period of 20 business days or the longer period directed in writing by the relevant Minister.

(2) The notice approved by the Environment Minister is a notifiable instrument.

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

(3) The proponent must also publish the notice approved by the Environment Minister in a daily newspaper.

(4) The proponent in relation to an environmental impact statement shall make copies of the draft statement available for inspection and purchase at the places and times specified in the notice under subsection (1).

(5) A proponent shall not sell a copy of a draft environmental impact statement that he or she has made available for purchase under subsection (4) at a price that exceeds a price fixed by the Environment Minister as the maximum price for the sale of a copy of the statement.

(6) In fixing a maximum price at which a proponent may sell a copy of a draft environmental impact statement, the Environment Minister shall fix a price that will reimburse the proponent for the cost of producing the copy but not for the expense incurred by the proponent in preparing the draft statement.

(7) A notice under section 282A (3) (AAT Review of decisions) must include particulars of the calculation of the amount fixed as the maximum price that the proponent may charge for a copy of the draft environmental impact statement.

(8) This section does not apply in relation to the preparation of an environmental impact statement for the purposes of an assessment which will be—

(a) a background paper within the meaning of part 2; or

- (b) notified together with a draft plan of management under division 5.7.

**126 Environmental impact statements—consideration of relevant comments and reports**

The proponent in relation to an environmental impact statement shall, in preparing the statement, consider any written comments from any person or Territory authority, and any reports, related to the environmental impact of the relevant proposal.

**127 Submission of reports and statements to Environment Minister**

The proponent shall submit the relevant public environment report or environmental impact statement to the Environment Minister, together with—

- (a) a written report about the proponent's consultation in relation to the report or statement; and
- (b) a copy of each written comment about the report or statement received by the proponent; and
- (c) a copy of each report referred to in section 126 that is not available to the public.

**128 Consultation**

- (1) The Environment Minister may, by giving reasonable notice to—
- (a) the proponent of a proposal that has an environmental impact;
  - (b) any other person that the Environment Minister believes on reasonable grounds to have an interest directly affected by the proposal; and
  - (c) any other person that the Environment Minister considers appropriate;
- call a meeting of such persons for the purposes of—

- (d) clarifying the proposal or concerns relating to the proposal; or
  - (e) clarifying the report of a panel established to conduct an inquiry into the proposal; or
  - (f) discussing any ways in which the proposal could be modified to reduce or eliminate any potential adverse environmental impact.
- (2) The Environment Minister shall give a written report to each participant in the meeting stating—
- (a) the outcome of the meeting; and
  - (b) any recommendations that the Environment Minister intends to include in his or her report under section 131 as a result of the meeting.
- (3) If a meeting recommends that a proposal be varied, the Environment Minister shall make copies of the report prepared in relation to the meeting for subsection (2) available for public inspection at times and places determined, in writing, by the Environment Minister.
- (4) The determination is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (5) The Environment Minister must also publish the determination in a daily newspaper.

## **129 Further information**

- (1) Within the prescribed period after the submission of a public environment report or an environmental impact statement to the Environment Minister, that Minister may, by written notice to the proponent, direct the proponent to provide further specified information in relation to the proposal, report or statement.
- (2) On notice under subsection (1), the proponent shall, in writing, provide the specified information to the Environment Minister.



**130 Further revision**

- (1) Within the prescribed period after the submission of a public environment report or an environmental impact statement to the Environment Minister, that Minister may, by written notice to the proponent, request the proponent to revise the report or statement in consideration of specified matters.
- (2) On notice under subsection (1), the proponent may revise the report or statement in consideration of the specified matters.
- (3) The proponent shall—
  - (a) if the report or statement is revised—resubmit the revised report or statement to the Environment Minister; or
  - (b) if the report or statement is not revised—submit a written report to the Environment Minister stating the reasons why the proponent has not revised the report or statement.

**131 Evaluation by Environment Minister**

- (1) Unless subsection (2) applies, within the prescribed period after the submission of a public environment report or environmental impact statement to the Environment Minister, he or she shall prepare a written report evaluating it.
- (2) If the Environment Minister gives a notice to a proponent under section 130 (1), that Minister shall prepare a written report evaluating a public environment report or statement within the prescribed period after the proponent—
  - (a) resubmits the report or statement under section 130 (3) (a); or
  - (b) submits a report under section 130 (3) (b);as the case requires.

- (3) A report under subsection (1) shall include—
- (a) a statement about whether, in the opinion of the Environment Minister, the public environment report or environmental impact statement has been prepared in accordance with this division, and with the relevant directions under this division; and
  - (b) any comment by that Minister about the environmental impact of the relevant proposal; and
  - (c) if that Minister has called a meeting under section 128—the report of that meeting referred to in section 128 (2); and
  - (d) any recommendation of that Minister about the conditions subject to which the proposal should be approved.

**132 Presentation to Legislative Assembly and public inspection**

- (1) Within 6 sitting days after the completion of a report referred to in section 131, the relevant Minister shall present to the Legislative Assembly a copy of—
- (a) the relevant assessment; and
  - (b) any notice given by the Environment Minister under section 129 or section 130; and
  - (c) any report, comment or written information submitted to the Environment Minister under section 127, section 129 or section 130.
- (2) After an assessment is finished, the relevant Minister must make copies of the assessment, together with copies of any documents mentioned in subsection (1) (c), available to the public during office hours at places stated in a written notice prepared by the relevant Minister.

- (3) The notice under subsection (2) is a notifiable instrument.

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

- (4) The relevant Minister must also publish the notice under subsection (2) in a daily newspaper.

### **133 Exclusion of material**

- (1) If, in the relevant Minister's opinion, based on reasonable grounds—

(a) a part of an assessment contains information related to the personal or business affairs of a person, being information—

(i) supplied to the proponent or that Minister in confidence;  
or

(ii) the publication of which would reveal a trade secret; and

(b) it would not be in the public interest for that part to be published;

the relevant Minister must exclude that part from the copy of the assessment presented to the Legislative Assembly, and from any copy of the assessment made available to the public or for public inspection.

- (2) If a part of an assessment is excluded from the copies of that assessment made available to the public or for public inspection, each copy shall include a statement to the effect that an unspecified part of the assessment has been excluded for the purpose of protecting the confidentiality of information included in that part.

### **134 Exemptions**

- (1) The Environment Minister may, in writing (by an *exemption*)—

(a) exempt a specified defined decision, or defined decisions of a specified class, from being the subject of an assessment directed under any Act or subordinate law; or

(b) declare that specified provisions of this division are not to apply in relation to a specified assessment, or to assessments of a specified class.

(2) An exemption is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(3) The Legislation Act, chapter 7 (Presentation, amendment and disallowance of subordinate laws and disallowable instruments) applies to an exemption as if each reference in that chapter to 6 sitting days were a reference to 5 sitting days.

(4) Subject to any disallowance under the Legislation Act, chapter 7, the exemption commences—

(a) on the day after the 5th sitting day after the day it is presented to the Legislative Assembly under that chapter; or

(b) if the exemption provides for a later date or time of commencement—on that date or at that time.

(5) The Environment Minister shall notify an exemption in a daily newspaper.

(6) The validity of an exemption is not affected by a failure to comply with subsection (5).

## **Division 4.4 Inquiries**

### **Subdivision 4.4.1 Establishment of panels and terms of reference**

#### **135 Constitution**

(1) If the relevant Minister in relation to a defined decision decides to establish a panel to inquire into the proposal that is the subject of that decision he or she shall, in writing, appoint a person or persons to constitute a panel to conduct the inquiry.

- (2) The relevant Minister shall nominate 1 member (or, in the case of a panel constituted by 1 member, that member) of the panel as the presiding member.

**136 Combined inquiries**

If 2 or more proposals, being the subject of 2 or more defined decisions, would in the opinion of the Environment Minister have substantially interconnected effects, he or she may, under section 135, with the consent of the relevant Minister in relation to each decision, establish a panel to conduct an inquiry into the potential combined effect of those proposals.

**138 Terms of reference**

- (1) The relevant Minister shall, in writing, determine the terms of reference of an inquiry.
- (2) The terms of reference of an inquiry—
- (a) shall—
    - (i) specify the defined decision; and
    - (ii) require the panel to assess the potential costs and benefits to the community and to the Territory of the proposal that is the subject of that decision; and
    - (iii) specify a reasonable period within which the panel is to report; and
  - (b) may require the panel—
    - (i) to investigate specified aspects of that proposal; or
    - (ii) to consider any specified report.
- (3) The relevant Minister may, at the request of a panel, or on his or her own initiative, in writing, vary the terms of reference of the relevant inquiry.

- (4) A variation of terms of reference is a notifiable instrument.

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

### **139 Notification**

- (1) The relevant Minister for an inquiry must, in writing, determine—
- (a) the members of the panel, and the presiding member; and
  - (b) the terms of reference of the inquiry; and
  - (c) the period within which the panel is to report; and
  - (d) the other matters that Minister considers necessary.

- (2) A determination is a notifiable instrument.

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

### **Subdivision 4.4.2 Inquiry reports**

#### **140 Inquiry reports**

A panel shall report its findings and recommendations in writing to the relevant Minister in accordance with the terms of reference determined under section 138.

#### **141 Presentation to Legislative Assembly and public inspection**

- (1) The relevant Minister must present a copy of the report of a panel's findings and recommendations to the Legislative Assembly within 6 sitting days after the day the Minister receives the report.
- (2) After a report is completed, the relevant Minister must make copies of the report available to the public during office hours at places stated in a written notice prepared by the relevant Minister.
- (3) The notice is a notifiable instrument.

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

- (4) The relevant Minister must also publish the notice in a daily newspaper.

#### **142 Exclusion of material**

- (1) If, in the panel's opinion based on reasonable grounds and expressed in its report—
- (a) a part of a report contains information related to the personal or business affairs of a person, being information—
    - (i) supplied to the panel in confidence; or
    - (ii) the publication of which would reveal a trade secret; and
  - (b) it would not be in the public interest for that part to be published;

the relevant Minister may exclude that part from the copy of the report presented to the Legislative Assembly, and from any copy made available to the public or for public inspection.

- (2) If a part of a report is excluded under subsection (1), each copy of the report presented to the Legislative Assembly or made available to the public or for public inspection shall include a statement to the effect that an unspecified part of the report has been excluded for the purpose of protecting the confidentiality of information included in that part.

### **Subdivision 4.4.3 Procedures and powers**

#### **143 Definitions for sdiv 4.4.3**

In this subdivision:

*authorised person* means—

- (a) a panel member; or
- (b) a person assisting a panel member in a way authorised in writing by the member.

*occupier*, of a place, includes—

- (a) a person believed, on reasonable grounds, to be an occupier of the place; and
- (b) a person apparently in charge of the place.

*place* includes premises, land, vehicle, aircraft or vessel.

#### **144 Notice of inquiry hearings**

- (1) At a reasonable time before the beginning of an inquiry, the presiding member of a panel must prepare a notice stating—
  - (a) the subject matter of the inquiry; and
  - (b) the time when, and place where, the inquiry is to begin.
- (2) The notice is a notifiable instrument.

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

- (3) The presiding member must also publish the notice in a daily newspaper.

#### **145 Public hearings**

- (1) A panel shall conduct its inquiry in public, except as provided by subsection (2).
- (2) A panel may—
  - (a) direct that the inquiry or any part of it be held in private, and give directions about who may be present during any private hearing; or
  - (b) give directions prohibiting or restricting the publication of evidence given before the inquiry, or of matters contained in documents lodged with the inquiry; or
  - (c) give directions prohibiting or restricting the disclosure to any specified person of such evidence or such matters.



- (3) In making a direction under subsection (2), a panel shall consider—
- (a) the principle that it is desirable that the inquiry should be held in public, and that evidence given before the inquiry, and documents lodged with the inquiry, should be available to interested persons and to the public; and
  - (b) in the circumstances, whether confidentiality is required for the relevant proceedings, evidence or matter.
- (4) A panel may issue a direction under subsection (2) for a special hearing under section 147.

#### **146 General procedure**

- (1) At a hearing of an inquiry, the panel—
- (a) shall not conduct the hearing in an unduly formal way; and
  - (b) is not bound by the rules of evidence, and may inform itself—
    - (i) in any way it considers appropriate; and
    - (ii) without notice to any person who has made a submission to the inquiry; and
  - (c) may take evidence on oath, or affirmation, administered by a member of the panel; and
- Note* For the taking of an oath or the making of an affirmation, see the *Oaths and Affirmations Act 1984*.
- (d) may prohibit or regulate cross-examination; and
  - (e) subject to this subdivision, may otherwise determine its own procedures.
- (2) Unless otherwise required by the panel, a person may make a submission to an inquiry orally or in writing or partly orally and partly in writing.
- (3) The panel may adjourn an inquiry from time to time and from place to place (whether within or outside the ACT).

**147 Special hearings—consultation with interested persons**

- (1) A panel may hold a special hearing of the inquiry to consult with—
  - (a) the proponent; and
  - (b) any other person that the panel believes on reasonable grounds to have an interest directly affected by the proposal; and
  - (c) any other person the panel considers appropriate;for the purposes of—
  - (d) clarifying the proposal; and
  - (e) discussing ways in which the proposal could be modified to reduce or eliminate any potential environmental impact.
- (2) The panel shall give each person referred to in subsection (1) reasonable written notice of the special hearing.

*Note* For how documents may be given, see Legislation Act, pt 19.5.

- (3) The panel shall conduct a special hearing in an informal way.
- (4) The panel shall include in the report of an inquiry a report stating—
  - (a) the outcome of the special hearing; and
  - (b) any influence the special hearing has had on the panel's recommendations in relation to the proposal.

**148 Assessments for purpose of inquiries**

- (1) For the purposes of an inquiry, the relevant Minister may, at the written request of the panel, or on his or her own initiative, direct that an assessment be made of the environmental impact of any aspect of the proposal that is the subject of the relevant defined decision.
- (2) An assessment under subsection (1) consists of a public environment report or an environmental impact statement, but does not include a report of the Environment Minister under section 131

evaluating the public environment report or environmental impact statement.

- (3) Sections 127, 128, 129 and 130 apply to an assessment under subsection (1) as if the references to the Environment Minister in those sections were references to the relevant Minister.
- (4) Section 131 does not apply in relation to an assessment under subsection (1).
- (5) For section 132 (1), the relevant Minister must present a copy of an assessment under subsection (1), together with any notice, report, comment or information mentioned in section 132 (1) (b) or (c), to the Legislative Assembly within 6 sitting days after—
  - (a) receiving the assessment under section 127; or
  - (b) if he or she issues a notice under section 129, but does not issue a notice under section 130—receiving the relevant information under section 129 (2); or
  - (c) if he or she issues a notice under section 130—receiving the assessment or report under section 130 (3).

#### **149 Witnesses—summons to appear**

- (1) The presiding member of a panel may, by writing, summon a person to attend a hearing of the inquiry at a specified time and place to give evidence and to produce the books and documents that are—
  - (a) relevant to any matter at issue in the inquiry; and
  - (b) specified in the summons.

- (2) A person served with a summons under subsection (1) shall not, without reasonable excuse, fail to comply with the summons.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) The Territory shall pay a witness summoned to appear at an inquiry the allowances that are prescribed.

### **150**      **Victimisation of witnesses**

- (1) A person shall not—

- (a) use violence to or inflict injury on; or
- (b) cause or procure violence, damage, loss or disadvantage to; or
- (c) cause or procure the punishment of;

a person on account of the person's giving, or proposing to give, evidence to an inquiry.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) An employer shall not—

- (a) dismiss an employee from his or her employment, or prejudice an employee in his or her employment, on account of the employee's giving, or proposing to give, evidence to an inquiry; or
- (b) threaten so to dismiss, or so to prejudice, an employee on account of the employee's proposing to give evidence to an inquiry.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) For subsection (2) (a), in proceedings for an offence against subsection (2), if it is established that an employer dismissed an employee from his or her employment, or prejudiced an employee in

his or her employment, after the employee gave, or proposed to give, evidence to an inquiry, it is to be presumed that that dismissal or prejudice was because of the employee's giving, or proposing to give, evidence at the inquiry, but that presumption is rebuttable.

- (4) For subsection (2) (b), in proceedings for an offence against subsection (2), if it is established that an employer threatened to dismiss an employee from his or her employment, or to prejudice an employee in his or her employment, after the employee proposed to give evidence to an inquiry, it is to be presumed that that threat was because of the employee's proposal, but that presumption is rebuttable.

#### **151 Inspection of books and documents**

- (1) An authorised person may inspect any book or document given in evidence to the inquiry, and may make copies of, or copy extracts from, such a book or document.
- (2) A book or document given in evidence to an inquiry may be kept by the panel for the reasonable period the panel considers appropriate.
- (3) A panel shall allow the owner of a book or document kept by the panel reasonable access to the book or document.

#### **152 Power of entry**

- (1) For an inquiry, an authorised person may enter any place—
- (a) with the consent of the occupier; or
- (b) under a warrant issued under section 153.
- (2) Before seeking the consent of the occupier of a place for subsection (1), an authorised person shall—
- (a) if the authorised person is a panel member—produce written evidence of his or her appointment; and

- (b) if the authorised person is the assistant of a panel member—  
produce written evidence of his or her authority; and
  - (c) inform the occupier that he or she may refuse to give consent.
- (3) If an authorised person obtains the consent of the occupier to enter a place under subsection (1), the authorised person shall ask the occupier to sign a written acknowledgment—
  - (a) that the occupier has been informed that he or she may refuse to so consent; and
  - (b) that the occupier has consented; and
  - (c) of the day and time when the occupier consented.
- (4) If it is material, in any proceedings, for a court to be satisfied that an occupier has consented to the entry of premises by an authorised person under subsection (1) and an acknowledgment in accordance with subsection (3) signed by the occupier is not produced in evidence, it shall be presumed that the occupier did not consent, but that presumption is rebuttable.

### **153 Search warrants**

- (1) If a panel member believes on reasonable grounds that it is necessary, for the inquiry, for an authorised person to enter and inspect any place and to search for and inspect anything or any kind of thing, within the next following 28 days the member may—
  - (a) lay before a magistrate an information on oath setting out those grounds; and
  - (b) apply for the issue of a warrant to search the place for such a thing or things, and to inspect it or them.
- (2) On application under subsection (1), the magistrate may issue a warrant authorising the authorised person named in the warrant, with the assistance and by the force that is necessary and reasonable—

- (a) to enter the place; and
  - (b) to search for any specified thing or anything of a specified kind; and
  - (c) to inspect any such thing.
- (3) A magistrate shall not issue a warrant unless—
- (a) the applicant or another person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires about the grounds on which the issue of the warrant is sought; and
  - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (4) A warrant shall—
- (a) specify the inquiry in relation to which the entry, search and inspection are authorised; and
  - (b) state the purpose for which it is issued; and
  - (c) specify particular hours during which the entry is authorised, or state that the entry is authorised at any time of the day or night; and
  - (d) include a description of the things, or kinds of things, in relation to which any power under section 154 may be exercised; and
  - (e) specify a date not later than 28 days after the date of issue of the warrant when the warrant ceases to have effect.

## **154 Powers of search and inspection**

- (1) Subject to the terms of any warrant issued under section 153, if an authorised person enters a place in accordance with section 152, he or she may, for the purposes of the inquiry—
- (a) inspect the place; or

- (b) search for and inspect anything; or
  - (c) require the occupier to give the authorised person the assistance that is reasonable to enable the authorised person to exercise his or her powers under this section.
- (2) A person shall not, without reasonable excuse, contravene a requirement made of the person under subsection (1) (c).

Maximum penalty: 50 penalty units.

## **156 Contempt**

A person shall not, without reasonable excuse—

- (a) contravene a direction lawfully given by a panel member; or
- (b) disturb a panel member in the exercise of the member's functions; or
- (c) interrupt a hearing of an inquiry; or
- (d) use insulting language, or act in an insulting way, towards a panel member; or
- (e) create a disturbance, or participate in the creation or continuation of a disturbance, in or near a place where a hearing of an inquiry is taking place; or
- (f) do any other act or thing that would, if the panel were a court of record, constitute a contempt of that court.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## **157 Protection of panel members and witnesses**

- (1) A panel member has, in the exercise of the member's functions, the same protection and immunity as a judge of the Supreme Court.



- (2) Subject to this division, a person giving evidence to an inquiry has the same protection, and is subject to the same liabilities, in any civil or criminal proceedings as a witness in proceedings in the Supreme Court.

## Part 5 Land administration

### Division 5.1 Preliminary

#### 159 Definitions for pt 5

In this part:

***building and development provision***, in relation to a lease, means a provision of the lease that requires the lessee to carry out specified works on the land comprised in the lease or on any unleased Territory land.

***consolidation*** means the surrender of 2 or more leases held by the same lessee and the grant of a new lease or leases to that lessee for the purpose of consolidating the parcels of land comprised in the surrendered leases.

***lease*** means a lease (other than a sublease)—

- (a) granted under this Act; or
- (b) that is taken under section 289 (Status of leases and licences) to have been granted under this Act; or
- (c) granted or arising under the *Unit Titles Act 2001*.

***lessee*** means the person who is the proprietor of a lease, whether or not he or she is the registered proprietor of the lease, and whether or not the lease was granted to him or her or the lease passed to him or her by assignment, transfer, devolution or operation of law.

***market value***, of a lease, means the amount that could be expected to be paid for the lease on the open market if it were sold by a willing but not anxious seller to a willing but not anxious buyer.

***nominal rent lease*** means a lease of Territory land for nominal rent.

**provision**, of a lease, includes a provision incorporated in the lease by reference and any other provision to which the lease is subject.

**public car park** means a road related area within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*, section 42 (Regulations about parking) that is available for use by the public for parking without the payment of money.

**registered lease** means a lease registered in the register kept under the *Land Titles Act 1925*.

**registered proprietor**, in relation to a lease, means the person who is registered under the *Land Titles Act 1925* as proprietor of the lease.

**rental lease** means a lease of Territory land for rent in excess of nominal rent.

**residential lease** means a lease of Territory land granted for residential purposes only.

**rural lease** means a lease of Territory land granted for rural purposes or purposes including rural purposes.

**subdivision** means the surrender of 1 lease, or the surrender of more than 1 lease, held by the same lessee, and the grant of new leases to that lessee for the purpose of subdividing the parcel or parcels of land comprised in the surrendered lease or leases, but does not include the subdivision of land under the *Unit Titles Act 2001*.

**sublease** means a sublease of a parcel of land, or part of a parcel of land, subject to a lease, or of a building, or a part of a building, on a parcel of land subject to a lease.

**sublessee** means the person who is the proprietor of a sublease, whether the sublease was granted to him or her or the sublease has passed to him or her by assignment, transfer, devolution or operation of law.

**160 Application of pt 5**

- (1) This part applies to the grant of an interest in Territory land by the planning and land authority on behalf of the Executive.
- (2) This part does not apply to a transfer by the Territory of a registered lease of which the Territory is the registered proprietor.

**Division 5.2 Leases**

**160A Effect qualified**

This division has effect subject to division 5.4 (Restrictions on rural leases).

**160B Planning and land authority may grant leases**

- (1) The planning and land authority is authorised to grant, on behalf of the Executive, leases that the Executive may grant on behalf of the Commonwealth.
- (2) In this section:  
*lease* means a lease of Territory land.

**161 Granting of leases**

- (1) The planning and land authority may grant a lease by—
  - (a) auction; or
  - (b) tender; or
  - (c) ballot; or
  - (d) direct grant.

*Note* A fee may be determined under s 287 for this section.
- (2) A lease granted under this section may include provisions—
  - (a) requiring the lessee to develop the land comprised in the lease, or any unleased Territory land, in a specified way; or

- (b) requiring the lessee to give security for the performance of any of his or her obligations under the lease.
- (3) The planning and land authority may restrict the persons eligible for the grant of a lease under subsection (1) (a), (b) or (c) by specifying, in the relevant notice of auction, tender or ballot, a class of persons eligible or ineligible for the grant of a lease under the auction, tender or ballot.
- (4) If, under a restriction imposed under subsection (3), only 1 person is eligible for the grant of a lease under subsection (1) (a), (b) or (c), the planning and land authority may grant a lease to that person under subsection (1) (d) without auctioning the lease, calling tenders or conducting a ballot (as the case may be).
- (5) A lease granted under subsection (1) (d) shall be granted subject to the provisions that are agreed between the planning and land authority and the applicant for the lease.
- (6) The planning and land authority shall not grant a lease of Territory land under subsection (1) (d) otherwise than in accordance with criteria specified under subsection (7).
- (7) The Executive may, for this section, in writing—
- (a) specify criteria for the granting of leases under subsection (1) (d); or
- (b) amend or revoke criteria so specified.
- (8) An instrument under subsection (7) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## **163 Leases to community organisations**

- (1) In this section:

**community organisation** means a body corporate that—

- (a) has as its principal purpose the provision of a service, or a form of assistance, to persons living or working in the ACT; and
  - (b) is not carried on for the pecuniary profit or gain of its members; and
  - (c) does not hold a club licence under the *Liquor Act 1975*.
- (2) The planning and land authority may grant a lease of Territory land to a community organisation without charge or for a charge that is less than the market value of the lease.
- (3) The planning and land authority shall not grant a lease under this section otherwise than in accordance with criteria for the granting of leases to community organisations specified under subsection (4).
- (4) The Executive may, for this section, in writing—
- (a) specify criteria for the granting of leases to community organisations; or
  - (b) amend or revoke criteria so specified.
- (5) An instrument under subsection (4) is a disallowable instrument.
- Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.
- (6) A community organisation shall not transfer a lease granted under this section and a purported transfer of such a lease shall be of no effect.
- (7) This section does not limit the power of the planning and land authority to grant a lease of Territory land to a community organisation otherwise than under this section.

## 164 Special leases

- (1) The planning and land authority may grant a lease of Territory land for a charge that is less than the market value of the lease if the

authority is satisfied it is desirable and in the public interest to do so to facilitate—

- (a) the economic development of the ACT; or
  - (b) the development of business in the ACT.
- (2) The planning and land authority shall not grant a lease of Territory land under this section otherwise than in accordance with criteria for the granting of special leases specified under subsection (3).
- (3) The Executive may, for this section, in writing—
- (a) specify criteria for the granting of special leases; or
  - (b) amend or revoke criteria so specified.
- (4) An instrument under subsection (3) is a disallowable instrument.
- Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.
- (5) The lessee under a lease to which this section applies shall not, for a period of 5 years after the day when the lease is granted—
- (a) assign or transfer the lease; or
  - (b) sublet the land comprised in the lease or any part of it; or
  - (c) part with possession of the land comprised in the lease or any part of it;

without having obtained the written consent of the planning and land authority and any assignment, transfer, sublease, agreement or arrangement made or entered into in contravention of this subsection shall be of no effect.

- (6) The planning and land authority shall not consent to the lessee under a lease to which this section applies—
- (a) assigning or transferring the lease; or
  - (b) subletting the land comprised in the lease or any part of it; or

- (c) parting with possession of the land comprised in the lease or any part of it;

unless it is satisfied that the person to whom it is proposed that the lease should be assigned or transferred, the person to whom it is proposed that a sublease should be granted or the person to whom it is proposed that possession of the land should be given, as the case may be, is a person who satisfies the criteria of eligibility specified under subsection (2) in relation to the class of leases in which the lease is included.

**166 Inquiries and assessments in relation to granting of leases**

If it is proposed that a lease of Territory land be granted, the Minister may—

- (a) establish a panel to conduct an inquiry into whether the proposed lease should be granted; or
- (b) direct that an assessment be made into the possible environmental impact of a decision to grant the lease.

**166A Grants of leases after inquiries or assessments**

- (1) This section applies if the Minister, under section 166, establishes a panel to conduct an inquiry, or directs that an assessment be made, in relation to the proposed grant of a lease.
- (2) The Minister must—
- (a) consider the report of the panel or the assessment; and
- (b) review the provisions of the proposed lease taking the report or assessment into account; and
- (c) direct the planning and land authority—
- (i) to grant the proposed lease; or



- (ii) to grant the proposed lease as varied in accordance with the direction; or
  - (iii) to refuse to grant the proposed lease.
- (3) The planning and land authority may grant the proposed lease only in accordance with a direction of the Minister under subsection (2) (c).

**167 Eligibility for certain classes of leases**

- (1) The Executive may, in writing—
- (a) declare a specified class of leases to be leases to which this section applies; or
  - (b) specify, in relation to a class of leases declared under paragraph (a) to be leases to which this section applies, criteria for determining whether a person is eligible to hold the land comprised in a lease included in that class; or
  - (c) amend or revoke a declaration under paragraph (a) or criteria specified under paragraph (b).
- (2) An instrument under subsection (1) is a disallowable instrument.
- Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.
- (3) The planning and land authority shall not grant a lease to which this section applies to a person who does not satisfy the criteria specified under subsection (1) (b) in relation to the class of leases in which the lease is included.
- (4) The validity of a lease to which this section applies is not to be taken to be affected by a failure to comply with subsection (3).
- (5) The lessee under a lease to which this section applies, or any other person having an interest in such a lease, shall not—
- (a) assign or transfer the lease; or

- (b) sublet the land comprised in the lease or any part of it; or
- (c) part with possession of the land comprised in the lease or any part of it;

without having obtained the written consent of the planning and land authority and any assignment, transfer, sublease, agreement or arrangement made or entered into in contravention of this subsection shall be of no effect.

- (6) The planning and land authority shall not consent to the lessee under a lease to which this section applies, or to any other person having an interest in such a lease—
  - (a) assigning or transferring the lease; or
  - (b) subletting the land comprised in the lease or any part of it; or
  - (c) parting with possession of the land comprised in the lease or any part of it;

unless it is satisfied that the person to whom it is proposed that the lease should be assigned or transferred, the person to whom it is proposed that a sublease should be granted or the person to whom it is proposed that possession of the land should be given, as the case may be, is a person who satisfies the criteria of eligibility specified under subsection (1) (b) in relation to the class of leases in which the lease is included.

### **168 Authority need not grant lease**

- (1) The planning and land authority need not grant a lease of Territory land to an applicant, even if applications for the lease have been invited.
- (2) If applications for a lease have been invited subject to conditions, the planning and land authority may, without granting a lease, invite fresh applications for the lease subject to the same or other conditions.

**169 Payment for leases**

- (1) Subject to subsection (2), the planning and land authority shall not grant a lease of Territory land otherwise than for payment of an amount that is not less than the market value of the lease.
- (2) Subsection (1) does not apply in relation to—
  - (a) a lease granted for a rent that is the full market rental value of the lease; or
  - (b) a lease granted under section 161 (1) (d), 163, 164, 171, 171A or 172.

**170 Failure to accept and execute lease**

- (1) Subject to subsection (2), if a person who is entitled to the grant of a lease of Territory land under this part fails to—
  - (a) accept and execute the lease; or
  - (b) pay any amount that he or she is required to pay before being granted the lease;within the prescribed period, the planning and land authority may, by instrument served on the person, terminate his or her right to the grant of the lease.
- (2) An instrument under subsection (1) shall—
  - (a) specify the ground on which it is given; and
  - (b) state that it takes effect on the day 28 days after the day it is served.
- (3) An instrument under subsection (1) may be served on a person by—
  - (a) delivering it to the person personally; or
  - (b) sending it to the person by post; or

- (c) if the residential address of the person is not known to the planning and land authority—publishing a copy of the instrument in a daily newspaper.
- (4) An instrument under subsection (1) shall take effect on the day 28 days after the day it is served.
- (5) A person whose right to the grant of a lease has been terminated under this section shall not have any claim for compensation in relation to the termination of the right or for the recovery of any money paid to the planning and land authority in relation to the grant of the lease.

**171 Grant of further residential leases**

- (1) This section applies if—
  - (a) the holder of a residential lease of land applies to the planning and land authority for the grant of a further residential lease of the land; and
  - (b) neither the Territory nor the Commonwealth needs the land for a public purpose; and
  - (c) the lessee pays the fee worked out under the determination under subsection (3); and
  - (d) the lessee surrenders the existing lease.
- (2) The planning and land authority must grant the lessee a further residential lease of the land for a term not longer than 99 years to begin on the day after the day the existing lease is surrendered.
- (3) The Minister may make a determination, in writing, for subsection (1) (c).
- (4) If the term of a further lease granted under subsection (2) is not longer than the term of the existing lease, the fee payable under subsection (1) (c) must not be more than the cost of granting the lease.

- (5) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

### **171A Grant of further rural leases**

- (1) If—
- (a) the holder of a rural lease applies to the planning and land authority for the grant of a further rural lease of the same land; and
  - (b) neither the Territory nor the Commonwealth requires the land for a public purpose; and
  - (c) all rent due under the existing lease is paid; and
  - (d) the lessee pays the determined fee; and
  - (e) the lessee surrenders the existing lease;

the authority must grant the lessee a further rural lease of that land for a term not exceeding the maximum set out in the determination under subsection (2), and subject to any conditions set out in that determination, to begin on the day immediately following the date of surrender of the existing lease.

- (2) The Minister may make a determination, in writing, for subsection (1).
- (3) A determination under subsection (2) may—
- (a) include a condition that a lessee pays, for the grant of a further lease—
    - (i) an amount stated in, or worked out in accordance with, the determination (an ***amount condition***); or
    - (ii) the market value of the lease; and
  - (b) provide that an amount condition ceases to apply to a lessee if the lessee—

- (i) has not applied for the grant of a further rural lease under subsection (1) within the period stated in the determination for applying for such a grant; and
  - (ii) has not accepted in writing an offer for the grant of such a lease within the period stated in the determination for accepting such an offer.
- (4) A provision mentioned in subsection (3) (b) may apply to an amount condition of a determination made before or after the commencement of that subsection.
- (5) If the national capital authority has set a maximum term for a rural lease of land in a designated area, a determination under subsection (2) relating to the land must not set a term for a further rural lease of the land that is longer than the maximum term.
- (6) In subsection (5):  
*designated area*—see the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), section 4.
- (7) If the term of a further lease granted under subsection (1) does not exceed the term of the existing lease, the fee payable under subsection (1) (d) shall not exceed the cost of granting the lease.
- (8) A determination under subsection (2) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## **172 Grant of further leases for purposes other than residential or rural**

- (1) This section applies if—
  - (a) the holder of a lease of Territory land other than a residential lease or a rural lease applies to the planning and land authority for the grant of a further lease of the land for the same purposes; and

- (b) neither the Territory nor the Commonwealth needs the land for a public purpose; and
  - (c) all rent due under the existing lease is paid; and
  - (d) the lessee pays the fee worked out under the determination under subsection (3); and
  - (e) the lessee surrenders the existing lease.
- (2) The planning and land authority must grant the lessee a further lease of the land for the same purposes for a term not longer than 99 years to begin on the day after the day the existing lease is surrendered.
  - (3) The Minister may make a determination, in writing, for subsection (1) (d).
  - (4) If the term of a further lease granted under subsection (2) is not longer than the term of the existing lease, the fee payable under subsection (1) (d) must not be more than the cost of granting the lease.
  - (5) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

### **172A Grant of further lease—unit titles**

- (1) The planning and land authority may grant a further lease of a unit, or the common property, under a units plan only on an application by the owners corporation.
- (2) The planning and land authority may grant a further lease of a unit, or the common property, under a units plan only if—
  - (a) the authority grants further leases for all the units and the common property; and
  - (b) the further leases are all granted for the same term.

- (3) An application must be supported by an ordinary resolution of the owners corporation.
- (4) A certificate under the *Unit Titles Act 2001*, section 109 about the resolution must be attached to the application.
- (5) In this section:

*further lease* means a lease under section 171, section 171A or section 172.

*units plan*—see the *Unit Titles Act 2001*, section 7.

#### **172B Grant of further lease—community title**

- (1) The planning and land authority may grant a further lease of a lot in a community title scheme only on an application by the body corporate of the scheme.
- (2) The planning and land authority may grant a further lease of a lot in a community title scheme only if—
  - (a) the authority grants further leases for all the lots in the scheme; and
  - (b) the further leases are all granted for the same term.
- (3) An application must be supported by an ordinary resolution of the body corporate.
- (4) An application must have attached to it a certificate under the seal of the body corporate that states that at a general meeting of the body corporate held on a stated day a resolution was passed for subsection (3) in the terms set out in the certificate.

#### **172C No right to use, flow and control of water**

A lease or further lease of Territory land granted under this division after the commencement of this section shall not be taken to confer a right to the use, flow and control of water (including water containing impurities) under the land the subject of the lease.



## **173 Lessee's rights in relation to improvements**

- (1) In this section:

*improvement*, in relation to land, means—

- (a) a building or a structure on the land; or
- (b) in relation to land held under a rural lease—
  - (i) a building or structure on or under the land; or
  - (ii) any improvement to the land reasonably undertaken for rural purposes.

*lessee*, for a lease that has been surrendered or ended, or the term of that has ended, means the person who was the lessee under the lease at the time of the surrender or ending.

*undertaken*, in relation to an improvement that is a building or structure, means the construction, erection or installation of the building or structure.

- (2) This section applies only to the following improvements to land:
- (a) an improvement undertaken in a way consistent with the law of the Territory, and with any lease over the land, except—
    - (i) an improvement undertaken by the Territory or the Commonwealth (subject to paragraph (b)); or
    - (ii) an improvement acquired by the Territory or the Commonwealth (subject to paragraph (c));
  - (b) an improvement undertaken by the Territory or the Commonwealth, if the Territory or the Commonwealth has received, or is entitled to receive, payment for that improvement;
  - (c) an improvement acquired by the Territory or the Commonwealth, if the Territory or the Commonwealth has

received, or is entitled to receive, payment for the improvement.

- (3) If, on the expiry of the term of a lease of Territory land on which there are improvements to which this section applies, the lessee is granted a further lease of that land or any part of it, he or she shall not be liable to make any payment to the planning and land authority for the improvements on the land or part of the land.
- (4) Subject to subsections (5) and (12), if, on the expiry of the term of a lease of Territory land on which there are improvements to which this section applies, the lessee is not granted a further lease of the land, or is granted a lease of part only of the land, the planning and land authority shall be liable to pay the lessee—
  - (a) if no further lease of the land is granted to the lessee—the amount determined by the planning and land authority to be the value of the improvements on the land; or
  - (b) if a further lease of part only of the land is granted to the lessee—the amount determined by the planning and land authority to be the value of the improvements to which this section applies on the part of the land not so leased.
- (5) Before the end of the term of a lease of Territory land, the planning and land authority may declare that the land comprised in the lease, or part of the land, is available for a further lease.
- (6) If the lessee does not elect to take a further lease of the land, or part of the land, declared to be available within 6 months after the end of the term of the lease, the amount of any expenditure reasonably incurred by the Territory, the planning and land authority or both, in relation to the grant of a lease of the land, or part of the land, to anyone else must be deducted from the amount payable to the lessee under this section.
- (7) Subject to subsections (9), (10) and (12), if a lease is surrendered or ended the provisions of this section relating to the payment to the lessee of the value of the improvements on the land comprised in the

lease on the expiration of the term shall (so far as applicable) apply as if the term of the lease had expired on the day of the surrender or ending.

- (8) Subject to subsections (9) and (12), if, before the expiry of the term of a lease of Territory land, the planning and land authority withdraws all or part of the leased land from the lease under a provision of the lease, the provisions of this section relating to the payment to the lessee of the value of the improvements on the land on the expiry of the term shall (so far as applicable) apply as if the term of the lease had expired on the day of the withdrawal.
- (9) Subsection (7) or (8) applies in relation to a lease only if the lessee has fully complied with the provisions (if any) of the lease relating to the erection of a building on the land comprised in the lease.
- (10) If a lease is surrendered or ended, the planning and land authority may work out the amount of the expenditure reasonably incurred by the Territory, the planning and land authority or both, in relation to—
  - (a) the surrender or ending of the lease; and
  - (b) any grant of a further lease of the land or part of the land.
- (11) The amount worked out under subsection (10) must be deducted from any amount payable under subsection (7) to the lessee of the surrendered or ended lease.
- (12) Subsections (4), (7) and (8) apply in relation to a lease subject to any provisions of the lease that preclude or limit the right of the lessee to payment in relation to improvements on the land comprised in the lease.

## **174 Determination of value of improvements**

- (1) In this section:

**assessment day** means—

- (a) in relation to land a lease of which has expired—the day of expiry; or
- (b) in relation to land a lease of which has been terminated or surrendered—the day of termination or surrender, as the case may be; or
- (c) in relation to land that has been withdrawn from a lease—the day of withdrawal.

**lessee**—see section 173.

**market value**, in relation to improvements on land, means the amount by which the improvements increase the value of the lease of the land, assuming that the lease, together with the improvements, were offered for sale on the open market on the day immediately before the prescribed day on the reasonable terms and conditions that a genuine seller might require.

- (2) If compensation is payable under section 173 in relation to improvements, the planning and land authority shall, as soon as practicable after the assessment day in relation to the land on which the improvements are situated, in writing, determine, in accordance with this section, the market value of the improvements on the land as at the assessment day.
- (3) If compensation is payable under section 173 (4), the planning and land authority shall, in valuing the improvements, assume that a further lease of the land had been granted subject to the same provisions, and for the same term, as the lease that has expired.
- (4) If compensation is payable under section 173 (7), the planning and land authority shall, in valuing the improvements, assume that the lease of the land had not been terminated or surrendered.
- (5) If compensation is payable under section 173 (8), the planning and land authority shall, in valuing the improvements, assume that the

leased land or part of the leased land (as the case may be) had not been withdrawn from the lease.

**175 Use of land for leased purpose**

- (1) Territory land in relation to which a lease has been granted, whether before or after the commencement of this part, shall not be used for any purpose other than a purpose authorised by the lease, subject to this section.
- (2) Notwithstanding the lease of Territory land for residential purposes, such land may also be used—
  - (a) for a home occupation within the meaning of the plan; or
  - (b) for a home business within the meaning of the plan, in accordance with an approval under part 6.
- (3) Notwithstanding the purpose permitted by a lease of Territory land, the land may be used—
  - (a) for a development of a type prescribed by the regulations, in accordance with an approval under part 6; or
  - (b) for any other activity prescribed by the regulations.

**176 Variation of rent**

- (1) If the rent payable under a lease of Territory land is varied in accordance with the provisions of the lease, the planning and land authority shall give the lessee written notice of the variation by post.
- (2) A variation of rent referred to in a notice under subsection (1) shall come into operation on—
  - (a) the day 28 days after the day the notice is given; or
  - (b) if the lease under which the variation is made provides that the variation shall come into operation on a later day—that later day.

### **177 Review of variations of rent**

- (1) If—
- (a) the rent payable under a lease of Territory land is varied in accordance with the provisions of the lease; and
  - (b) the lease does not provide for the submission to arbitration of differences between the parties to the lease regarding variation of the rent;

the lessee may, within 28 days after receiving the notice under section 176 (1) relating to the variation, serve on the planning and land authority a written request that he or she review the variation.

- (2) The making of a request under subsection (1) does not affect the operation of the variation to which the request relates or prevent the taking of action to implement the variation.
- (3) If a request is made under subsection (1) in relation to a variation, the planning and land authority must review the variation and may confirm the variation or set it aside and substitute any other variation the authority considers appropriate.

### **178 Refund on lease surrender or termination**

- (1) This section applies if a lease of Territory land is surrendered or terminated under this Act.
- (2) On application by the person surrendering the lease or the person whose lease has been terminated, the planning and land authority may authorise payment of the amount prescribed under the regulations to the person.

*Note* A fee may be determined under s 287 for this provision.

- (3) The planning and land authority must not authorise the payment of an amount under this section otherwise than in accordance with criteria under subsection (4) for the authorisation of payments.

- (4) The Minister may, in writing, determine criteria for the authorisation of payments under this section.

*Note* The power to make a statutory instrument (including the statement of criteria) includes power to amend or repeal the instrument (see Legislation Act, s 46).

- (5) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## **179 Certificates of compliance**

- (1) Subject to subsection (4), if a building and development provision of a lease of Territory land has been fully complied with, the planning and land authority shall, on application by the lessee, issue a certificate of compliance to the effect that the provision has been so complied with.

*Note* A fee may be determined under s 287 for this subsection.

- (2) Subject to subsection (4), if a building and development provision of a lease of Territory land has been partially complied with, the planning and land authority may issue a certificate of compliance to that effect.

- (3) A certificate of compliance under subsection (2) may be issued subject to a condition (specified in the certificate) that the lessee provide security in a specified form against failure to complete specified outstanding work.

- (4) The planning and land authority must not issue a certificate of compliance in relation to a building and development provision to which a lease under the *Unit Titles Act 2001* is subject unless the other requirements of this section are satisfied and the authority is satisfied—

- (a) for every other lease in relation to the same subdivision under the *Unit Titles Act 2001* that is subject to a building and development provision—that the provision has been complied

with, or a certificate of compliance has been issued under this section in relation to that provision; or

- (b) that the occupier of the unit that is held under the lease will not, as occupier, be substantially inconvenienced by works being carried out, or that are to be carried out, in compliance with a building and development provision to which the lease of the common property or another unit contained in the same subdivision under the *Unit Titles Act 2001* is subject.

**180 Transfer of land subject to building and development provision**

- (1) If a lease of Territory land contains a building and development provision, the lease, or an interest in the lease, is not capable of being assigned or transferred, either at law or in equity unless—
- (a) the lessee has died; or
- (b) the transfer or assignment is made under any of the following orders:
- (i) an order of the Family Court;
- (ii) an order of another court having jurisdiction under the *Family Law Act 1975 (Cwlth)*;
- (iii) an order under the *Domestic Relationships Act 1994*, part 3.2 adjusting the property interests of the parties in a domestic relationship; or
- (c) the transfer or assignment occurs by operation of, or under, bankruptcy or insolvency; or
- (d) the lessee has obtained—
- (i) a certificate of compliance under section 179; or



- (ii) the consent of the planning and land authority under subsection (2) or (3).

*Note* A consent under the *City Area Leases Ordinance 1936* may be taken to be a consent under s (2) (see s 292).

- (2) The planning and land authority may, in writing, consent to a legal or equitable assignment or transfer of a lease, or an interest in a lease, mentioned in subsection (1) if—

- (a) the authority—

- (i) is satisfied that the proposed assignee or transferee intends to comply with the building and development provision; and
- (ii) has been given the security (if any) required by the authority for compliance with the provision by the proposed assignee or transferee; and

- (b) either—

- (i) the authority is satisfied that the lessee cannot, for personal or financial reasons, comply with the building and development provision; or
- (ii) the proposed transferee or assignee (the *homebuyer*) has a contract with the person (the *builder*) proposing to transfer or assign the lease and, under the contract, the builder is required to build a home on the leased land for the homebuyer.

*Note* A fee may be determined under s 287 for this provision.

- (3) The planning and land authority may also, in writing, consent to a transfer of a lease, or an interest in a lease, mentioned in subsection (1) if the proposed transfer is the first sale of an individual lease of undeveloped land by the person who provided the infrastructure on, and subdivided, the holding lease of which the individual lease is a subdivision.

*Note* A fee may be determined under s 287 for this provision.

- (4) In deciding under subsection (2) or (3) whether to consent to an assignment or transfer of a lease, the planning and land authority must take into consideration any matters determined by the Minister, in writing, for the subsection.

- (5) A determination under subsection (4) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## **181 Mortgage of leasehold subject to building and development provision**

If a lease contains a building and development provision, the lease, or an interest in the lease, shall not be capable of being mortgaged unless—

- (a) the lessee has obtained a certificate of compliance under section 179; or
- (b) the mortgage is required by the lessee—
- (i) to enable the lessee to repay money borrowed by him or her for the purpose of acquiring the lease or interest; or
  - (ii) to secure money borrowed by the lessee for the purpose of acquiring the lease or interest; or
  - (iii) to enable the lessee to comply with a building and development provision of the lease.

**182 Land leased to be held as undivided parcel**

- (1) Subject to section 183, the land comprised in a lease of Territory land shall at all times be held and occupied by or under the lessee as 1 undivided parcel.
- (2) Subject to this part, the land comprised in a lease of Territory land may be sublet and the lease and any interest in it may be assigned, transferred or mortgaged.

**183 Power of lessee to sublet part of building or land in certain cases**

- (1) Any part of a building erected on land comprised in a lease of Territory land may, subject to the lease and any sublease of the land, be sublet separately from the remainder of that building.
- (2) If a part of a building is sublet separately from the remainder of the building, any part of the parcel of land where the building is erected may be sublet with the part of the building separately from the remainder of the parcel of land, provided that the part of the parcel of land so sublet adjoins that part of the parcel of land where the building is erected.
- (3) If—
  - (a) a lease of Territory land authorises the use of the land comprised in the lease as a mobile home park; and
  - (b) any part of the land is being used, or intended to be used, for the siting of a mobile home;that part may, subject to the lease and any sublease of the land, be sublet separately from the remainder of the land.
- (4) In subsection (3):

***mobile home*** means a dwelling (whether on wheels or not) capable of being transferred from place to place and re-erected.

*mobile home park* means land used for the purpose of accommodating mobile homes or caravans, and includes a caravan park or camping ground.

## Division 5.3 Variation of leases

### 183A Effect qualified

This division has effect subject to division 5.4 (Restrictions on rural leases).

### 184 Application to surrender and regrant of leases

A reference in this division to the *variation* of a lease includes a reference to the surrender of a lease and the grant of a new lease to the same lessee, subject to different provisions, over land—

- (a) that is the whole or part of the land comprised in the surrendered lease; and
- (b) that is not defined land within the meaning of subdivision 2.3.4;

except if a lease is surrendered and a further lease is granted under section 171, section 171A or section 172.

### 184A Variation of nominal rent lease—change of use charge

- (1) The planning and land authority must not execute a variation of a nominal rent lease unless the lessee has paid the Territory any change of use charge determined by the authority under subsection (2), subject to any remission or increase under section 184C.
- (2) The planning and land authority shall determine the change of use charge for a variation of a nominal rent lease in accordance with the formula—

$$\text{CUC} = (V_1 - V_2) \times 75\%$$

(3) In subsection (2):

*CUC* means the change of use charge payable for the variation of the lease.

$V_1$  means the capital sum that the lease might be expected to realise if—

- (a) the lease were to be varied as proposed; and
- (b) the lease were offered for sale in good faith immediately after the variation on the reasonable terms and conditions that a genuine seller would require; and
- (c) the rent payable throughout the term of the lease were a nominal rent.

$V_2$  means the capital sum that the lease might be expected to realise if—

- (a) the lease were not to be varied during the remainder of its term; and
- (b) the lease were offered for sale in good faith immediately before the variation on the reasonable terms and conditions that a genuine seller would require; and
- (c) the rent payable throughout the term of the lease were a nominal rent.

(4) If the capital value assessed as  $V_1$  under subsection (3) is equal to or less than the capital value assessed as  $V_2$  under that subsection, no change of use charge is payable under subsection (1).

(5) So far as this section applies, because of section 184, to the surrender of a lease and the grant of a new lease—

- (a) the reference in subsection (3), definition of  $V_1$ , paragraph (c) to the term of the lease is a reference to the term of the new lease; and

- (b) the reference in subsection (3), definition of  $V_2$ , paragraph (c) to the term of the lease is a reference to the term of the lease to be surrendered.
- (6) A variation of a lease has no effect if the change of use charge payable under subsection (1) for the variation is not paid.

**184C Change of use charge for variations of nominal rent leases**

- (1) On application by the lessee of a nominal rent lease who applies for a variation of the lease, the planning and land authority must remit a change of use charge under section 184A (Variation of nominal rent lease—change of use charge) in circumstances prescribed under the regulations.
- (2) The planning and land authority must increase a change of use charge under section 184A in circumstances prescribed under the regulations.

**184D Variation of rental leases**

- (1) The planning and land authority shall not execute a variation of a rental lease unless any rent and additional rent payable under the lease up to the day of variation has been paid.
- (2) If the planning and land authority executes a variation of a rental lease, the authority must reappraise the rent payable under the lease, following (to the extent possible) the method provided by the rental provisions of the lease.
- (3) If the planning and land authority executes a variation of a rental lease, the rent payable under the lease is to be adjusted in accordance with the reappraisal under subsection (2) with effect from the date of variation.
- (4) Subsections (2) and (3) do not apply to a variation of a rental lease—

- (a) to reduce the rent payable to a nominal rent; or
- (b) otherwise affecting the rental provisions of the lease.

**185 Advice of rent payable on variation of lease**

If the planning and land authority agrees to a variation of a lease of Territory land, being a lease under which rent or additional rent is payable, it shall—

- (a) calculate the amount that would be payable under the lease for rent and additional rent up to the day when it expects the variation to be executed; and
- (b) give the lessee written notice of—
  - (i) the amount calculated for rent and additional rent under paragraph (a); and
  - (ii) the day up to which the amount payable for rent and additional rent has been calculated; and
  - (iii) the day by which the authority requires payment of the amount specified under subparagraph (i) to enable the variation of the lease to be executed on the day specified under subparagraph (ii).

**186 Variation of lease to pay out rent**

- (1) A lease shall not be varied to reduce the rent payable to a nominal rent unless—
  - (a) the lease is included in a prescribed class of leases; and
  - (b) all amounts payable to the Territory up to the day of variation of the lease for rates and land tax levied in relation to the land comprised in the lease have been paid; and
  - (c) the provisions of the lease requiring the lessee to develop the land comprised in the lease have been complied with up to the day of the variation; and

- (d) the lessee has paid the Territory an amount determined by the planning and land authority by reference to any policy direction made under subsection (2).
- (2) The Minister may, in writing, make policy directions for subsection (1) (d).
- (3) A policy direction under subsection (2) is a disallowable instrument.
- Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.
- (4) If a lease of Territory land is varied to reduce the rent payable to a nominal rent, the lease as varied shall provide that the lessee is to pay a rent of 5 cents per annum if and when that rent is demanded.
- (5) The requirements of this section are in addition to, and not in substitution for, the requirements of the other provisions of this Act relating to the variation of leases.

**186A No variations to extend term**

The planning and land authority shall not execute a variation of a lease of Territory land to extend the term of the lease.

**Division 5.4 Restrictions on rural leases**

**186B Definitions for div 5.4**

In this division:

*dealing*, in relation to a lease, means—

- (a) assigning or transferring the lease; or
- (b) subletting the land comprised in the lease or any part of it; or
- (c) parting with possession of the land comprised in the lease or any part of it.



***discharge amount***—

- (a) in relation to a special Pialligo lease—means an amount determined in accordance with section 186F; or
- (b) in any other case—means an amount determined in accordance with section 186E.

***earlier index number***, for a lease, means the last index number issued before the lease was granted under section 161 or section 171A.

***holding period*** is a period ending—

- (a) in relation to a long lease—10 years after the lease is granted; or
- (b) in relation to a short lease—at the end of  $\frac{1}{3}$  the term of the lease.

***index number***—see section 186G.

***later index number*** means—

- (a) for a special Pialligo lease—the last index number issued before the discharge amount is to be paid; or
- (b) for any other lease—the last index number issued before the last amount is worked out under section 186E.

***long lease*** means a lease for a term of at least 21 years.

***short lease*** means a lease for a term less than 21 years.

***special Pialligo lease*** means a lease comprising land in block 6, 12, 13, 14, 15, 19, 20 or 52 of section 2 of the district of Majura.

**186C Land management agreements**

- (1) The planning and land authority may—
  - (a) grant a rural lease; or

- (b) grant a further rural lease; or
- (c) vary a rural lease; or
- (d) consent to the assignment or transfer of a rural lease;

only if the person to whom the lease is to be granted, assigned or transferred, or the person whose lease is to be varied, (the *relevant person*) has entered into an agreement that complies with this section with the Territory about managing the rural land subject to the lease.

- (2) An agreement complies with this section if it is—
  - (a) in accordance with a form approved by the Minister under section 287A (Approved forms) for this section; and
  - (b) signed by—
    - (i) the conservator; and
    - (ii) the relevant person.
- (3) An agreement may contain a provision allowing the agreement to be varied other than by agreement between the parties.

### **186D Dealings with rural leases**

- (1) This section applies to—
  - (a) a rural lease granted under section 161 (Granting of leases) after 15 December 1999 for consideration less than the market value of the lease; and
  - (b) a lease granted under section 171A (Grant of further rural leases) after 15 December 1999 on the payment of an amount worked out on the application of an amount condition mentioned in section 171A (3) (a).
- (2) However, this section does not apply to a lease mentioned in subsection (1) (b) that was granted on the surrender of a lease for which a discharge amount had been paid.

- (3) A lessee, or other person with an interest in the lease, may deal with a lease to which this section applies within the holding period only with the written consent of the planning and land authority.
- (4) A dealing in relation to a lease made or entered into without consent has no effect.
- (5) The planning and land authority must consent under this section to a dealing if—
- (a) the person to whom—
    - (i) the lease is being assigned or transferred; or
    - (ii) the land comprised in the lease, or part of it, is sublet; or
    - (iii) possession of the land comprised in the lease, or part of it, is being given;is the lessee's domestic partner or child; or
  - (b) the discharge amount has been paid in relation to the lease;
- but may not consent otherwise.
- (6) The validity of a dealing made or entered into with the consent of the planning and land authority under subsection (5) is not affected—
- (a) by a defect or irregularity in relation to the giving of the consent; or
  - (b) because a ground, or all grounds, for the consent had not arisen.
- (7) In this section:  
*child*, of a lessee, includes a child of the lessee's domestic partner.

### **186E Discharge amount**

- (1) The discharge amount for a lease (other than a special Pialligo lease) is the amount determined in accordance with the formula—

$((\text{last amount} - (\text{first amount} \times \frac{\text{later index no}}{\text{earlier index no}})) \times 50\%) + \text{owed amount}$

(2) In this section:

***earlier index no***—see section 186B, definition of ***earlier index number***.

***first amount*** means—

- (a) in relation to a nominal rent lease—the consideration for the lease when granted under section 161 or section 171A; or
- (b) in relation to a short lease—the value of the lease determined when the lease was granted under section 161 or section 171A; or
- (c) in relation to any other lease—any consideration for the lease when granted under section 161 or section 171A plus any amount to be paid under the lease;

other than an amount attributable to lessee-owned improvements to the land comprised in the lease.

***last amount***, in relation to a lease, means—

- (a) the consideration for the dealing with the lease, not including any amount attributable to lessee-owned improvements to the land comprised in the lease; or
- (b) if—
  - (i) there is no consideration; or
  - (ii) the dealing relates to only part of the land comprised in the lease; or
  - (iii) the consideration is less than the market value of the lease;

the market value of the lease, not including any amount attributable to the lessee-owned improvements to the land comprised in the lease.

*later index no*—see section 186B, definition of *later index number*.

*owed amount* means—

- (a) in relation to a long lease—any amount remaining to be paid under the lease, even if the amount is not due; or
- (b) in relation to a short lease—any rent and additional rent payable under the lease up to the day of the dealing with the lease.

#### **186F Discharge amount—special Pialligo leases**

- (1) The discharge amount for a special Pialligo lease granted less than 1 year before the discharge amount is to be paid is an amount equal to the total of the amount paid and the owed amount for the lease.
- (2) The discharge amount for a special Pialligo lease granted at least 1 year before the discharge amount is to be paid is the amount determined in accordance with the formula—

$$\text{amount paid} - \left( \text{cpi adjusted amount} \times \frac{\text{years since grant}}{10} \right) + \text{owed amount}$$

- (3) The cpi adjusted amount in relation to a lease is the amount determined in accordance with the formula—

$$\text{amount paid} \times \frac{\text{later index number}}{\text{earlier index number}}$$

- (4) In this section:

*amount paid* means—

- (a) in relation to a nominal rent lease—the consideration for the lease when granted under section 161 or section 171A; or

- (b) in relation to any other lease—any consideration for the lease when granted under section 161 or section 171A plus any amount to be paid under the lease;

other than an amount attributable to lessee-owned improvements to the land comprised in the lease.

*years since grant*, in relation to a lease, means the number of whole years since the lease was granted under section 161 or section 171A.

*owed amount*, in relation to a lease, means any amount remaining to be paid under the lease, even if the amount is not due.

### **186G Index numbers**

- (1) In this division:

*index number* means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician from time to time.

- (2) However, in determining index numbers for this division—

- (a) if the Australian Statistician revises the calculation of an index number for a reason other than a change in the reference base for the All Groups Consumer Price Index and, as a result of the calculation, publishes an index number for a period in substitution for the previous index number—the later index number is disregarded; and
- (b) if the Australian Statistician changes the reference base for the consumer price index after the lease is granted but before the calculation of the later index number—the earlier index number is the index number that would have been applicable if the new reference base had been in effect when the lease was granted.

**186H No subdivision or consolidation**

The planning and land authority may not consent to the consolidation or subdivision of a lease to which section 186D applies during the holding period.

**Division 5.5 Consolidation and subdivision**

**187AA Effect qualified**

This division has effect subject to division 5.4 (Restrictions on rural leases).

**187 Application—nominal rent leases of Territory land**

This division applies only in relation to the consolidation and subdivision of nominal rent leases.

**187A Consolidation and subdivision—change of use charge**

- (1) The planning and land authority must not execute a consolidation or a subdivision unless the lessee has paid the Territory any change of use charge determined by the authority under subsection (2), subject to any remission or increase under section 187C.
- (2) The planning and land authority shall determine the change of use charge for a consolidation or a subdivision in accordance with the formula—

$$CUC = (V_1 - V_2) \times 75\%$$

- (3) In subsection (2):

*CUC* means the change of use charge payable for the consolidation or subdivision.

*V<sub>1</sub>* means the capital sum that the new lease or leases to be granted under the consolidation or subdivision might be expected to realise if—

- (a) the consolidation or subdivision were to take place as proposed; and
- (b) the new lease or leases were offered for sale in good faith immediately after the variation on the reasonable terms and conditions that a genuine seller would require; and
- (c) the rent payable throughout the term of the new lease or leases were a nominal rent.

$V_2$  means the capital sum that the lease or leases to be surrendered under the consolidation or subdivision might be expected to realise if—

- (a) no consolidation or subdivision were to take place during the remainder of the term of the surrendered lease or leases; and
  - (b) the lease or leases were offered for sale in good faith immediately before the consolidation or subdivision on the reasonable terms and conditions that a genuine seller would require; and
  - (c) the rent payable throughout the term of the lease or leases to be surrendered were a nominal rent.
- (4) If the capital value assessed as  $V_1$  under subsection (3) is equal to or less than the capital value assessed as  $V_2$  under that subsection, no change of use charge is payable under subsection (1).
- (5) A consolidation or subdivision has no effect if the change of use charge payable under subsection (1) for the consolidation or subdivision is not paid.

**187C Change of use charge for consolidations and subdivisions**

- (1) On application by a lessee who applies for a consolidation or subdivision of a lease or leases, the planning and land authority must remit a change of use charge under section 187A



(Consolidation and subdivision—change of use charge) in circumstances prescribed under the regulations.

- (2) The planning and land authority must increase a change of use charge under section 187A in circumstances prescribed under the regulations.

## **Division 5.6            Recovery of land**

### **188            Termination of leases**

- (1) Subject to subsection (6), if a lessee of Territory land contravenes this part or the lease, the planning and land authority may, by written notice served on the lessee by post, terminate the lease.
- (2) A notice under subsection (1) takes effect on the day 14 days after the day it is served.
- (3) The planning and land authority shall serve a copy of a notice of the termination of a lease of Territory land under subsection (1) on—
  - (a) the registrar-general; and
  - (b) any person having an interest in the land, being an interest registered under the *Land Titles Act 1925*;at the same time as, or as soon as practicable after, the notice under subsection (1) is served.
- (4) Subject to subsection (6), if a person who occupies Territory land under a licence from the Commonwealth or the Territory contravenes this part or the licence, the planning and land authority may, by written notice served on the licensee by post, terminate the licence.
- (5) A notice under subsection (4) takes effect on the day 7 days after the day it is served.
- (6) The planning and land authority shall not terminate a lease or a licence under this section unless it has—

- (a) by written notice served on the lessee or licensee by post—
    - (i) informed the lessee or licensee that it is considering terminating the lease or licence; and
    - (ii) specified the grounds on which it is considering taking that action; and
    - (iii) invited the lessee or licensee to notify the authority in writing within 21 days after the date of the notice of any reasons why the lessee or licensee considers that the lease or licence should not be terminated; and
  - (b) taken into account any reasons for not terminating the lease or licence notified to the authority by the lessee or licensee in accordance with the notice served on him or her under paragraph (a).
- (7) The validity of the termination of a lease is not affected by a failure to comply with subsection (3).

## **189 How land may be recovered**

- (1) This section applies if—
  - (a) a person who has been a lessee of Territory land remains in possession of the land after—
    - (i) the term of the lease has ended; or
    - (ii) the lease has been surrendered or ended; or
  - (b) a person who has been a licensee of Territory land remains in possession of the land after—
    - (i) the term of the licence has ended; or
    - (ii) the licence has been surrendered or ended.
- (2) The Executive may, by written notice to the person (the *unlawful occupier*), demand that the unlawful occupier give possession of the

land to the Executive within the reasonable period stated in the demand.

- (3) If a demand is not complied with—
- (a) the Executive may apply to the Magistrates Court for an order that possession of the land be given to the Executive; and
  - (b) the court may issue a warrant authorising a police officer, within 30 days after the day the warrant is issued, to enter the land with the assistance and by the force that is reasonable, and give possession of the land to the Executive.
- (4) The planning and land authority is authorised to do any of the following on behalf of the Executive:
- (a) make a demand under subsection (2);
  - (b) make an application to the Magistrates Court under subsection (3) (a);
  - (c) take possession of land under this section.

- (5) In this section:

*licence* means a licence granted by the Territory, the Commonwealth or the planning and land authority.

## **190 Evidence of ending of lease**

- (1) The planning and land authority may certify in writing that a lease of Territory land mentioned in the certificate has ended.
- (2) A certificate under subsection (1) is evidence of the matter it states.
- (3) A document that purports to be a certificate under subsection (1) is taken to be such a certificate, unless the contrary is proved.

## Division 5.7 Public land

### Subdivision 5.7.1 Preliminary

#### 191 Definitions for div 5.7

In this division:

*plan of management* means a plan of management prepared under subdivision 5.7.4, as varied and in effect from time to time.

*variation*, in relation to a plan of management, includes the revocation of the plan and its substitution with a new plan.

### Subdivision 5.7.2 Public land

#### 192 Recommendations to planning and land authority

The conservator may, in writing, recommend to the planning and land authority that the plan be varied to provide for—

- (a) the identification of an area of land as public land and its reservation for a purpose referred to in section 193; or
- (b) in relation to an area already identified in the plan as public land—
  - (i) the variation of its boundaries to reduce or increase the size or the area, or to alter the shape of the area; or
  - (ii) the variation of the purpose for which it is reserved; or
  - (iii) the cessation of its designation as public land.

### Subdivision 5.7.3 Management of public land

#### **U** 193 Reserved areas

Public land may be reserved by the plan under section 7 (3) (f) for any of the following purposes:

- (a) a wilderness area;
- (b) a national park;
- (c) a nature reserve;
- (d) a special purpose reserve;
- (e) an urban open space;
- (f) a cemetery or burial ground;
- (g) a lake;
- (h) a sport and recreation reserve.

**194 Management**

An area of public land shall be managed in accordance with—

- (a) the management objectives applying to the area; and
- (b) the plan of management (if any) for the area.

**195 Management objectives**

- (1) For section 194, the management objectives for an area of public land reserved for a particular purpose are—
  - (a) objectives specified in schedule 1; and
  - (b) objectives specified by the conservator under subsection (2);in relation to areas of land reserved for that purpose.
- (2) The conservator may, in writing, determine management objectives for an area of public land reserved for a purpose mentioned in schedule 1.

*Note* A power given under an Act to make a statutory instrument (including a determination of management objectives) includes power to amend or repeal the instrument (see Legislation Act, s 46 (1)).

- (3) A determination of management objectives is a disallowable instrument.

*Note 1* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

*Note 2* An amendment or repeal of a determination of management objectives is also a disallowable instrument (see Legislation Act, s 46 (2)).

- (4) If there is an inconsistency between the application of 2 management objectives specified in schedule 1 in relation to an area of public land, the objective appearing later in the schedule is to be read subject to the other objective.

- (5) If there is an inconsistency between the application of a management objective specified in schedule 1 and a management objective specified by the conservator under subsection (2) in relation to an area of public land, the objective specified by the conservator is to be read subject to the other objective.

- (6) In schedule 1:

*natural environment* means all biological, physical and visual elements of the earth and its atmosphere, whether natural or modified.

#### Subdivision 5.7.4 Plans of management

##### 196 Content

A plan of management includes—

- (a) a description of the area of public land to which it applies; and  
(b) how the relevant management objectives referred to in section 195 (1) are to be implemented or promoted in that area.

**197 Preparation**

- (1) The conservator shall prepare a draft plan of management for an area of public land as soon as practicable after the area is identified as such in the plan.
- (2) In preparing a draft plan of management, the conservator shall consider any recommendation submitted by the authority.

**198 Variations**

- (1) The conservator may prepare a draft variation of a plan of management in the same way as a draft plan of management.
- (2) This subdivision applies to a draft variation of a plan of management as if it were a draft plan of management.

**199 Environmental assessments and inquiries**

- (1) At the written request of the conservator, or on his or her own initiative, at any time before a draft plan of management is approved under section 204 (a) the Minister may—
  - (a) direct that an assessment be made; or
  - (b) establish a panel to conduct an inquiry;  
about any aspect of the draft plan.
- (2) In preparing or revising a draft plan of management, the conservator shall consider any relevant assessment or the report of any relevant inquiry.

**200 Public consultation**

- (1) This section applies to a draft plan of management for an area of public land if—
  - (a) no corresponding preliminary draft plan of management for that area has been notified under section 19; or

- (b) if such a preliminary draft has been so notified—the firstmentioned draft plan of management differs significantly from that preliminary draft.
- (2) The conservator shall make copies of a draft plan of management to which this section applies available to an appropriate committee of the Legislative Assembly.
- (3) The conservator shall make copies of a draft plan of management to which this section applies available for public inspection during office hours at the places specified in a written notice prepared by the conservator.
- (4) A notice under subsection (3) shall include a statement inviting persons to submit written comments about the draft plan of management to the conservator at a specified address and within a specified period of not less than 21 days from the date of the notice.
- (5) A notice under subsection (3) is a notifiable instrument.  
*Note* A notifiable instrument must be notified under the Legislation Act.
- (6) The conservator must also publish the notice in a daily newspaper.

## **201 Revision**

The conservator may revise a draft plan of management—

- (a) in consideration of any written comments received from any person about the draft plan; or
- (b) to correct any formal error.

## **202 Submission to Minister**

The conservator shall submit a draft plan of management (as revised under section 201) to the Minister for approval, together with—

- (a) a written report setting out the issues raised in any written comments submitted to the conservator in relation to the draft; and



- (b) a written report about the conservator's consultation with the public and with any other person or authority about the draft.

**203 Consideration of plan of management by Legislative Assembly committee**

If the conservator submits a draft plan of management to the Minister under section 202, the Minister shall, within 7 days of receiving the draft plan give—

- (a) a copy of the draft plan; and
- (b) a copy of the reports referred to in section 202 (a) and (b) relating to the draft plan; and
- (c) all other documents relating to the draft plan submitted to the Minister by the conservator;

to an appropriate committee of the Legislative Assembly.

**204 Minister's powers**

- (1) On receipt of a draft plan of management submitted under section 202 or section 205 for approval, the Minister shall consider any recommendation relating to the draft by a committee of the Legislative Assembly that considers the draft under section 203 and—
  - (a) in writing, approve a plan of management in the form in which the draft is submitted; or
  - (b) refer the draft to the conservator together with any of the following written directions:
    - (i) to conduct further specified consultation;
    - (ii) to consider any revision suggested by the Minister;
    - (iii) to revise the draft in a specified way;

(iv) to defer, in writing, until a specified date or the occurrence of a specified event, the resubmission of the draft to the Minister;

(v) to withdraw the draft in writing.

(2) The following are notifiable instruments:

(a) a deferral directed under subsection (1) (b) (iv);

(b) a withdrawal directed under subsection (1) (b) (v).

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

## **205 Referral back to conservator**

If the Minister refers a draft plan of management to the conservator under section 204 (1) (b), the conservator shall—

(a) comply with the Minister's directions; and

(b) if the Minister gives a direction under section 204 (1) (b) (i) or (ii)—if the conservator considers appropriate, revise the draft plan; and

(c) revise the draft to correct any formal error; and

(d) resubmit the draft plan of management (as revised) to the Minister for approval together with a written report about the conservator's compliance with the Minister's directions and about any revision of the draft under paragraph (c).

## **206 Notice of revival of deferred draft plan of management**

(1) If the conservator defers a draft plan of management as directed under section 204 (1) (b) (iv) (Minister's powers), on the day stated in the deferral, or as soon as possible after the event mentioned in the deferral, the conservator must prepare a written notice stating that the draft plan of management is revived.

- (2) A notice is a notifiable instrument.

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

- (3) The conservator must also publish the notice in a daily newspaper.

## **207 Notification, presentation, disallowance and date of effect**

- (1) A plan of management, as approved by the Minister under section 204, is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) The Legislation Act, chapter 7 (Presentation, amendment and disallowance of subordinate laws and disallowable instruments) applies to a plan of management as if each reference in that chapter to 6 sitting days were a reference to 5 sitting days.

- (3) Subject to any disallowance under the Legislation Act, chapter 7, the plan of management commences—

- (a) on the day after the 5th sitting day after the day it is presented to the Legislative Assembly under that chapter; or
- (b) if the plan provides for a later date or time of commencement—on that date or at that time.

## **Subdivision 5.7.5 Leases and licences**

### **208 Leases—generally**

- (1) Except as provided by section 209, the planning and land authority shall not grant a lease—

- (a) of public land; or
- (b) during the defined period, of land designated, in a draft variation of the plan notified under section 19, to become public land.

- (2) In subsection (1):

*defined period*, in relation to land designated, in a draft variation of the plan, to become public land, means the period of interim effect, under part 2, of that draft variation.

## 209 Grant of leases

- (1) On the written recommendation of the conservator, the planning and land authority may grant a lease of an area, or part of an area, of public land except if that area is reserved under the plan as a wilderness area.
- (2) On the written recommendation of the conservator, the planning and land authority may during the defined period referred to in section 208 (2), grant a lease of an area, or part of an area, of land designated in a draft variation of the plan to become public land except if it is proposed in that draft variation that the area be reserved as a wilderness area.

## 210 Licences

- (1) The planning and land authority may, on the written recommendation of the conservator, grant a licence to a person to occupy or use an area of unleased public land.

### Example of when a licence might be given to a person

to allow a building (including a fitting attached to the building) owned or occupied by the person to encroach onto, over or under an area of unleased public land

*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).

- (2) An application for a licence under subsection (1) shall—
- (a) be in writing signed by the applicant; and
- (b) specify—
- (i) the land in relation to which the licence is sought; and

- (ii) the period for which the licence is sought; and
- (iii) the purposes for which it is proposed that the land should be used under the licence.

*Note* A fee may be determined under s 287 for this subsection.

- (3) A licence under subsection (1) shall—
  - (a) be in writing; and
  - (b) apply to the person to whom it is granted and to all other persons to whom it is expressed to apply; and
  - (c) specify the period for which it is granted; and
  - (d) be subject to the conditions (if any) specified in the licence.
- (4) A person is not required to hold a licence under this section to occupy or use an area of unleased public land if—
  - (a) the person holds a permit under the *Roads and Public Places Act 1937* to place an object in, over or across the area; and
  - (b) the area is being occupied or used in accordance with the permit; and
  - (c) for an occupation or use that requires an approval under division 6.2 (Approvals)—
    - (i) the occupation or use has been approved under that division; and
    - (ii) the person is complying with any conditions under section 245 (Conditional approvals) that apply to the approval.

## **211 Miner's rights in relation to public land**

A miner's right must not be granted in relation to public land.

## Division 5.8 Miscellaneous

### 214 Lessee may surrender lease or part of lease

- (1) A person who holds a lease of Territory land may, at any time, with the consent of the planning and land authority, surrender the lease or any part of the land comprised in the lease.
- (2) The planning and land authority may agree to accept the surrender of a lease, or part of the land comprised in a lease, under subsection (1) either unconditionally or subject to any condition the authority considers appropriate.
- (3) The surrender of a lease, or of part of the land comprised in a lease, shall not entitle the lessee to a refund or remission of any rent already paid or due.

### 215 Reduction of rent and relief from provisions of lease

- (1) The planning and land authority may approve—
  - (a) a reduction of the rent payable under a lease of Territory land, or of the amount payable, in relation to any occupation of Territory land; or
  - (b) the grant of relief, to a lessee or occupier of Territory land, from compliance, completely or partly, with any provision to which the person's lease or occupation is subject.
- (2) The reduction or grant of relief may be for any period (including a period before the commencement of this section or any other period before the approval).
- (3) If the planning and land authority gives an approval under subsection (1), the liability or obligation of the lessee or occupier under the lease, or in relation to the person's occupation, is discharged for the period approved, to the extent of the reduction or grant of relief approved.

- (4) An approval under subsection (1) may be made subject to conditions.
- (5) If the planning and land authority approves a grant of relief to a lessee or occupier under subsection (1), it must give to the lessee or occupier notice of the reduction of rent or other grant of relief approved.

*Note* For how documents may be given, see Legislation Act, pt 19.5.

## **216 Access to leased land from roads and road related areas**

- (1) The planning and land authority may grant a lease of Territory land only if satisfied that the lessee will, during the term of the lease, have—
  - (a) direct access to the leased land from a road or road related area; or
  - (b) access to the leased land from a road or road related area by way of an access road or track, or in another way, that the lessee may use without charge and for all purposes at any hour of the day or night.
- (2) A way of access to leased land provided by the planning and land authority because of subsection (1) (b)—
  - (a) must not interfere with a building, garden or stockyard on the land at the time the way of access is provided; and
  - (b) must be located in a way that causes as little damage or inconvenience to the lessee as possible.
- (3) The validity of a lease granted under this part is not affected by a failure to comply with this section.
- (4) In this section:  
*road*—see the *Road Transport (General) Act 1999*, dictionary.

*road related area*—see the *Road Transport (General) Act 1999*, dictionary.

## 216A Notification of certain leases

- (1) This section applies if, during a quarter, the planning and land authority grants a lease—
  - (a) by direct grant; or
  - (b) under section 163 (Leases to community organisations), section 164 (Special leases) or section 209 (Grant of leases).
- (2) The planning and land authority must, within 5 working days after the end of the quarter, give the Minister a statement that sets out, in relation to any lease mentioned in subsection (1) granted during the quarter—
  - (a) the name of the lessee; and
  - (b) a description of the land comprised in the lease in accordance with the *Districts Act 2002*, section 9 (Description of parcel of land for dealings); and
  - (c) the amount (if any) paid for the grant of the lease; and
  - (d) the provision of this Act under which the lease was granted.
- (3) The Minister must present to the Legislative Assembly a copy of a statement received under subsection (2) within 5 sitting days after the day the Minister receives it.
- (4) The validity of a lease is not affected by a failure to comply with subsection (2) or (3).
- (5) In this section—

*quarter* means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in a year.



**217 Licences in relation to land that is not public land**

- (1) A person may apply to the planning and land authority for a licence to occupy or use an area of unleased Territory land that is not public land.

**Example of when a licence might be given to a person**

To allow a building (including a fitting attached to the building) owned or occupied by the person to encroach onto, over or under an area of unleased Territory land that is not public land.

*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).

- (2) An application under subsection (1) shall—
- (a) be in writing signed by the applicant; and
  - (b) specify—
    - (i) the land in relation to which the licence is sought; and
    - (ii) the period for which the licence is sought; and
    - (iii) the purposes for which it is proposed that the land should be used under the licence.

*Note* A fee may be determined under s 287 for this subsection.

- (3) On receiving an application under subsection (1) the planning and land authority may grant the applicant a licence to occupy or use the land specified in the application for the purposes and period specified in the application.
- (4) A licence under subsection (1) shall—
- (a) be in writing; and
  - (b) apply to the person to whom it is granted and to all other persons to whom it is expressed to apply; and
  - (c) specify the period for which it is granted; and

- (d) be subject to the conditions (if any) that are specified in the licence.
- (5) A person is not required to hold a licence under this section to occupy or use an area of unleased Territory land that is not public land if—
  - (a) the person holds a permit under the *Roads and Public Places Act 1937* to place an object in, over or across the area; and
  - (b) the area is being occupied or used in accordance with the permit; and
  - (c) for an occupation or use that requires an approval under division 6.2 (Approvals)—
    - (i) the occupation or use has been approved under that division; and
    - (ii) the person is complying with any conditions under section 245 (Conditional approvals) that apply to the approval.

## **218 Reservation of minerals**

A reservation of minerals contained in a lease of Territory land shall be read as a reservation of all minerals and mineral substances in or on the land, including gold, silver, copper, tin, other metals, ores and substances containing metals, gems, precious stones, coal, limestone, shale, mineral oils, valuable earths and substances, stone, clay, gravel and sand.

## **219 Rights to extract minerals**

- (1) The planning and land authority may, by a lease or other agreement, grant a person the right to extract minerals from specified Territory land.
- (2) The provisions of a lease or other agreement entered under subsection (1) shall be the provisions agreed between the parties.

**220 Access to lease documents and development agreements**

- (1) The *Freedom of Information Act 1989*, section 11 (2) does not apply to a document that is—
- (a) a lease; or
  - (b) a variation of a lease; or
  - (c) a renewal of a lease;
- if the document became a document of a Commonwealth agency before 1 January 1977.
- (2) A document that is—
- (a) a lease; or
  - (b) a variation of a lease; or
  - (c) a renewal of a lease;
- shall be deemed not to be an exempt document for the *Freedom of Information Act 1989*.
- (3) A reference in this section to a *lease* is a reference to a lease of Territory land.

## Part 6 Approvals and orders

### Division 6.1 Preliminary

**U** 222 Definitions for pt 6

In this part:

**application** means an application for approval to undertake a development.

**approval** means—

- (a) an approval under section 230 (Approvals); or
- (b) if, on reconsideration of an original decision, an application for development is approved—an approval on reconsideration.

*Note* Subdivision 6.2.4 deals with reconsideration of original decisions.

**building** includes—

- (a) an addition to a building; and
- (b) a structure attached to a building; and
- (c) a part of a building.

**building work**—see the *Building Act 2004*, section 6.

**consolidation**—see section 159.

**development** means activity in relation to land that consists of 1 or more of the following activities:

- (a) the erection, alteration or demolition of a building or structure on or under the land;
- (b) the carrying out of earthworks or other construction work on or under the land;

- (c) the carrying out of work that would affect the landscape of the land except if the land is leased for residential purposes only and is not specified in the heritage places register, or an interim heritage places register, as a heritage place;
- (d) a use of the land for a business—
  - (i) that is a home business within the meaning of the plan; and
  - (ii) that is not expressly authorised by a current lease;
- (e) a use of the land for an activity—
  - (i) that is prescribed for section 175 (3) (a); and
  - (ii) that is not expressly authorised by a current lease;
- (f) if the land is unleased Territory land—a use of the land that is not authorised by a current licence or permit granted for the land under an Act;
- (g) the erection, fixing or displaying of a sign or advertising material on the land, or on a structure or building on the land, otherwise than in accordance with a right to do so expressly given by a current licence granted under this Act, a current lease or a current permit under the *Roads and Public Places Act 1937*;
- (h) a variation of a lease of the land;
- (i) an activity declared by another Act to be a development activity for the purposes of this part;

but does not include a use of unleased Territory land by or on behalf of the Territory for a purpose for which it was used before the commencement of this Act.

***Executive*** includes a Minister acting on behalf of the Executive.

***inspector*** means a person appointed as an inspector under section 263 (1).

*lease*—see section 159.

*lessee*—see section 159.

*objection* means an objection under section 237.

*order* means—

- (a) an order under division 6.3; or
- (b) a decision under another Act that is declared by an Act to be an order for this part.

*original decision*—see section 246 (1).

*prescribed period* means the period specified in, or ascertained in accordance with, the regulations.

*prohibition notice*—see section 260 (1).

*relevant authority*, in relation to an application, means—

- (a) if the Minister has, under section 229B (Minister may decide some applications), decided to consider an application—the Minister; or
- (b) the planning and land authority.

*structure* includes a fence, mast, antenna, aerial, road, footpath, driveway, carpark, culvert or service conduit or cable.

*subdivision*—see section 159.

*variation*, of a lease—see section 223.

## **223 Meaning of *variation* for pt 6**

- (1) In this part, *variation*, of a lease, includes—
  - (a) the surrender of a lease and the granting of a new lease subject to different provisions to the same lessee over all or part of the land comprised in the surrendered lease; and
  - (b) a consolidation; and

- (c) a subdivision.
- (2) However, the *variation* of a lease does not include the surrender of a lease and the granting of a new lease to the same lessee over all or part of the land comprised in the surrendered lease if—
  - (a) the land is defined land within the meaning of section 31; or
  - (b) the new lease is granted under any of the following provisions:
    - (i) section 171 (Grant of further residential leases);
    - (ii) section 171A (Grant of further rural leases);
    - (iii) section 172 (Grant of further leases for purposes other than residential or rural).

## **Division 6.2            Approvals**

### **Subdivision 6.2.1    General**

#### **225            Offence—development**

- (1) A person shall not, without reasonable excuse, undertake a development otherwise than in accordance with an approval.

Maximum penalty: 50 penalty units.

- (2) A Territory authority shall not, without reasonable excuse, undertake a development except in accordance with an approval.

#### **226            Application to undertake development**

- (1) An application for approval must—
  - (a) be signed by the applicant; and
  - (b) if the application is for approval of a variation of a lease—be accompanied by an assessment by an accredited valuer that sets out the amounts of the values represented by  $V_1$  and  $V_2$  in—

- (i) for a variation that is not a consolidation or subdivision—section 184A; or
- (ii) for a variation consisting of a consolidation or subdivision—section 187C.

*Note 1* A fee may be determined under s 287 for this subsection.

*Note 2* If a form is approved under s 287A for an application or a declaration, the form must be used.

- (2) If the development to which the application relates requires construction work to be carried out on land that has previously been developed, and that is not leased for rural purposes, the application must be accompanied by a survey certificate given by a registered surveyor that shows—
  - (a) the boundaries of the land where the development is to be undertaken; and
  - (b) the location of each building or structure on the land; and
  - (c) the existing contours of the land.
- (3) A person is not entitled to apply to undertake a development of a rural lease if—
  - (a) the development is a variation of the lease that is a consolidation or subdivision; and
  - (b) the planning and land authority may not consent to the consolidation or subdivision under section 186H.
- (4) If an application is made by a person who is not the lessee of the place to which the application relates, the application shall, in addition to being signed by the person by whom it is made, be signed by—
  - (a) if the place to which the application relates is subject to a lease—the lessee of the place; or
  - (b) in any other case—the planning and land authority.



- (5) A lessee may, by writing, appoint a person to act on his or her behalf in relation to an application.
- (6) A person who signs an application under subsection (4) (a) shall be taken to be an applicant in relation to the application.
- (7) The planning and land authority may—
- (a) correct a formal error in an application; or
  - (b) at the request of the applicant, make an alteration to an application.
- (8) If the planning and land authority makes an alteration or correction under subsection (7), the authority must—
- (a) advise the applicant, or if there is more than 1, each applicant, that the alteration or correction has been made; and
  - (b) if notice has been given under section 229 of the making of the application—give notice in accordance with that section of the application as so altered or corrected.
- (9) An application may be made under this section in relation to a development that has been undertaken without approval.
- (10) The Minister may, in writing, exempt developments mentioned in subsection (2) from the application of the subsection.
- (11) An exemption is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (12) In this section:

***accredited valuer*** means a person who is—

- (a) registered, licensed or approved under the law of the Commonwealth or a State to carry out valuations of property; or

- (b) accredited as a certified practising valuer by the body known as the Australian Property Institute.

**U 227 Register of applications, approvals, orders and lease and development conditions**

- (1) The planning and land authority shall keep a register of—
  - (a) each alteration or correction to an application made under section 226 (7); and
  - (b) each application that has not been withdrawn, or that is not to be taken to have been withdrawn and in relation to which the period for making an application under section 275 or section 276 has not ended; and
  - (c) each approval in relation to which the period for making an application under section 275 or section 276 has not ended; and
  - (d) each approval, for the period for which it remains in force; and
  - (e) each order, for the period for which it remains in effect; and
  - (f) the lease and development conditions (if any) applicable to a lease granted after the commencement of this paragraph; and
  - (g) any comments of the planning and land authority or the planning and land council given to the planning and land authority for the Minister’s consideration of an application under section 229B (Minister may decide some applications); and
  - (h) if an application has been reconsidered under subdivision 6.2.4—the date and details of the decision on reconsideration; and
  - (i) details of any minor amendment made under section 247.
- (2) The planning and land authority may enter in the register details of lease and development conditions applicable to a lease granted before the commencement of subsection (1) (f).

- (3) A person may, during office hours—
- (a) inspect the register; and
  - (b) make copies of, or take extracts from, the register or any part of a document relevant to an application.

*Note* A fee may be determined under s 287 for par (b).

- (4) In this section:

***lease and development condition***, for a lease, means a condition, other than a condition contained in the lease, that—

- (a) was approved by the Territory when the lease was granted; and
- (b) regulates the development or use of the land that is subject to the lease.

## **228 Restrictions on inspection of applications**

- (1) An applicant for approval to undertake a development may apply in writing to the planning and land authority for a part of any copy of the application to be excluded from being made available to the public or for public inspection.
- (2) The planning and land authority may approve or refuse to approve an application under subsection (1).
- (3) The planning and land authority must approve an application if satisfied that—
- (a) the part of the application for approval to undertake a development to which the application under subsection (1) relates contains information—
    - (i) about the personal or business affairs of a person; or
    - (ii) that has been given to the authority in confidence; or
    - (iii) the publication of which would disclose a trade secret; or

- (iv) the disclosure of which is likely to affect the conduct of a person's lawful business affairs; and
  - (b) it would not be in the public interest for the part to be published.
- (4) If a part of an application is excluded from the copies of that application made available to the public or for public inspection, each copy shall include a statement to the effect that an unspecified part of the application has been excluded for the purpose of protecting the confidentiality of information included in that part.

**U 229 Notice of application**

- (1) The planning and land authority shall—
- (a) if a place other than unleased land adjoining the place to which an application relates—
    - (i) is occupied—give notice by post of the making of the application to the lessee of the adjoining place at the address of the adjoining place; or
    - (ii) is unoccupied—give notice by post to the lessee of the adjoining place at the address of the lessee last-known to the authority; and
  - (b) publish notice of the making of each application in a daily newspaper.
- (2) Subsection (1) (a) does not apply—
- (a) if, in the opinion of the planning and land authority, the number of places adjoining the place to which the application relates is such that it would be impractical to give notice by post to the lessee of each place; or
  - (b) in relation to a place adjoining the place to which the application relates that is leased by the applicant or a person for whom the applicant has been appointed to act as agent.

- (3) The planning and land authority shall, if the application relates to a development that is or includes a variation of a lease, give written notice of the making of the application to each person having an estate or interest in the land subject to the lease to be varied (being an estate or interest that is registered under the *Land Titles Act 1925*).

*Note* For how documents may be given, see Legislation Act, pt 19.5.

- (4) The planning and land authority —
- (a) must give to the heritage council for comment a copy of each application that relates to a place specified in the heritage places register, or an interim heritage places register, as a heritage place; and
  - (b) must give to the conservator a copy of each application that involves, or is likely to involve, damage to a significant tree under the *Tree Protection (Interim Scheme) Act 2001*; and
  - (c) must give to the conservator for comment a copy of each application that relates to public land; and
  - (d) may give a copy of an application to any other person or body for comment.
- (5) The planning and land authority shall give the environment management authority written notice of an application in relation to a development—
- (a) listed in the *Environment Protection Act 1997*, schedule 1; or
  - (b) that has the potential to cause serious or material environmental harm within the meaning of that Act.
- (6) The planning and land authority shall cause to be erected on the place to which an application relates a sign that specifies the development proposed to be undertaken in relation to that place.

- (7) A person shall not, without lawful excuse, move, deface, damage, obscure or otherwise interfere with a sign erected under subsection (6).

Maximum penalty: 5 penalty units.

- (8) A person shall not, without reasonable excuse, prevent or restrict access to a sign erected under subsection (6).

Maximum penalty: 5 penalty units.

- (9) The validity of an approval is not to be taken to be affected by a failure by the planning and land authority to comply with subsection (6).

- (10) A reference in subsection (1) to a *lessee* is a reference to the person registered as lessee in the register kept under the *Land Titles Act 1925* in relation to the place to which the application relates.

**U 229A Direction that applications be submitted to Minister**

- (1) The Minister may, in writing, direct the planning and land authority to refer to the Minister an application that has not been decided by the authority.

*Note* The *Planning and Land Act 2002*, s 10 provides that the planning and land authority must comply with directions given to it under a Territory law.

- (2) When complying with the direction, the planning and land authority must also give the Minister—

- (a) the information and documents received by the authority in relation to the application; and  
(b) any other relevant information and documents held by the authority.

- (3) If the Minister gives a direction under subsection (1) in relation to an application, the planning and land authority must take no further

action that would lead to a decision by the authority on the application.

**U 229B Minister may decide some applications**

- (1) This section applies in relation to an application referred to the Minister under section 229A.
- (2) The Minister may decide to consider the application if, in the Minister's opinion—
  - (a) the application raises a major policy issue; or
  - (b) the application seeks approval for a development that may have a substantial effect on the achievement or development of objectives of the Territory plan; or
  - (c) the approval or refusal of the application would provide a substantial public benefit.
- (3) If the Minister decides to consider an application, the Minister must tell the planning and land authority in writing about the decision.
- (4) An advice under subsection (3) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.
- (5) An advice under subsection (3) must be notified under the Legislation Act within 3 weeks after the day it is given.
- (6) If the Minister decides to consider an application, the Minister must—
  - (a) tell the applicant in writing about the decision and the grounds on which the decision has been taken; and
  - (b) ensure that the Minister has the comments of the planning and land authority and the planning and land council on the application; and
  - (c) approve or refuse the application under section 230.

- (7) Within 3 sitting days after the day the Minister decides an application, the Minister must present to the Legislative Assembly a statement containing—
  - (a) a description of the development to which the application relates; and
  - (b) details of the land where the development is proposed to take place; and
  - (c) the applicant's name; and
  - (d) details of the Minister's decision; and
  - (e) the grounds for the decision.
- (8) The statement under subsection (7) must be accompanied by a copy of the comments of the planning and land council on the application to which the statement relates.
- (9) If the Minister is satisfied that the Minister should not consider the application, the Minister must refer the application back to the planning and land authority for decision.

## **230 Approvals**

- (1) The relevant authority may approve or refuse to approve an application.
- (2) The relevant authority is to be taken to have refused to approve an application if he or she fails to make a decision in relation to the application before the end of the prescribed period.
- (3) Notwithstanding subsection (2), the relevant authority may approve an application at any time until the earliest of the following dates:
  - (a) the date when the administrative appeals tribunal has finally dealt with an application under section 275 to review the relevant authority's deemed refusal under subsection (2) of this section;



- (b) 6 months after the date of the application, unless paragraph (c) applies;
  - (c) if an assessment or a variation to the plan is required in relation to the application—12 months after the date of the application.
- (4) Subject to subsection (5), if the relevant authority approves an application to undertake a development that includes an activity that is not permitted by a lease of the land where the activity is to be carried out, the approval shall not take effect in relation to that activity until the lease is varied to permit the activity.
- (5) Subsection (4) does not apply in relation to—
- (a) an activity referred to in section 222 (1), definition of *development*, paragraph (c); or
  - (b) an activity included in a development of a type prescribed for section 175 (3) (a); or
  - (c) an activity prescribed for section 175 (3) (b).

**U** 231 **Matters to be considered**

- (1) Before approving or refusing to approve an application, the relevant authority must —
- (a) consider—
    - (i) any comments of a person or body to which the application has been referred for comment; and
    - (ii) each objection or other submission the planning and land authority has received in relation to the application that has not been withdrawn; and
    - (iii) a preliminary assessment under division 4.2, or a report under section 128; and

- (iv) any assessment made, or the report of any inquiry conducted, in relation to the development to which the application relates; and
  - (v) if the relevant authority is the Minister—the comments of the planning and land authority and the planning and land council; and
- (b) for an application for approval to undertake a development that would be affected by requirements relating to the conservation of the heritage significance of an Aboriginal place included in the heritage places register or an interim heritage places register—take all reasonable steps to consult with, and consider the views of, any relevant Aboriginal organisation.
- (2) In subsection (1) (b):
- Aboriginal place*—see section 52.
- relevant Aboriginal organisation*—see section 52.

## **232 Duty of applicants**

- (1) The planning and land authority may direct an applicant—
- (a) to give the notice of the application that the authority would, apart from this section, be required to give; and
  - (b) to give notice to any other person.
- (2) The planning and land authority need not give notice of an application under section 229 (Notice of application) or another Act if the authority gives a direction under subsection (1).
- (3) If an applicant fails to comply with a direction under subsection (1), the application is to be taken to have been withdrawn.
- (4) The applicant shall pay the cost of a notice given in accordance with a direction under subsection (1).

- (5) If the planning and land authority publishes a notice under section 229 (1) (b), the reasonable cost of the notice is a debt payable by the applicant to the Territory.

*Note* If a form is approved under s 287A for a notice under par (a) or (b), the form must be used.

### **233 More information**

- (1) The planning and land authority may, by written notice, require an applicant to give to the authority, within the period specified in the notice (of not less than 28 days), either orally or in writing, the further information relating to the application that is specified in the notice.
- (2) An applicant may, at any time before the end of the period specified in a notice under subsection (1), apply to the planning and land authority for an extension of the period within which the applicant is to give information.
- (3) On receipt of an application under subsection (2), the planning and land authority may grant an extension of the period of not more than 6 months.

### **234 Effect of failure to give further information**

If a person fails to give information in accordance with a notice under section 233 (1), the planning and land authority shall, for the purposes of enabling an application to be made to the administrative appeals tribunal under section 275, be taken to have made a decision refusing the application for approval to undertake the development.

### **236 Environmental assessments and inquiries**

The Minister may—

- (a) direct that an assessment be made; or
- (b) establish a panel to conduct an inquiry;

about any aspect of an application.

## **Subdivision 6.2.2 Objections**

### **237 Objections—general**

- (1) Any person who may be affected by the approval of an application may, within the prescribed period (or that period as extended under this section), object to the grant of the approval.
- (2) The planning and land authority may, by notice published in a daily newspaper, extend or further extend the period allowed under subsection (1) for the objection to the grant of an approval of an application.
- (3) The power under subsection (2) may be exercised after the end of the period to be extended.
- (4) An objection shall be made to the planning and land authority in writing and shall set out the grounds of the objection.
- (5) The planning and land authority shall give an applicant for approval to undertake a development a copy of each objection to the application, and any other submission received by the authority in relation to the application, that has not been withdrawn.
- (6) In this section:  
*person* includes an unincorporated association.

### **238 Inspection of objections**

The planning and land authority shall make a copy of each objection available for inspection by members of the public during office hours until the end of the period during which application may be made to the administrative appeals tribunal for a review of a decision in relation to the application.

## **239 Identity of objectors**

The planning and land authority may, on request by a person making an objection, exclude the identity of the objector from being made available under section 237 (5) or section 238 if, in the authority's opinion, based on reasonable grounds, it would not be in the public interest for that identity to be published.

## **Subdivision 6.2.3 Approvals**

### **242 Approvals—notices to applicants and registrar-general**

- (1) If an application is approved, the planning and land authority must give written notice—
  - (a) to the applicant; and
  - (b) if the application approved relates to a variation of a lease—to the registrar-general for notification under the *Land Titles Act 1925*.

*Note* An application may be approved under s 246A on reconsideration of an original refusal—see s 222 (1), def *approval*.

- (2) A notice to an applicant must state the date the approval takes effect.

*Note* For date of effect of an approval, see s 249.

### **243 Notification of approval or refusal of application**

- (1) If an application is approved, the planning and land authority must give each person who objected under section 237 (1) written notice of the approval.

*Note* An application may be approved under s 246A on reconsideration of an original refusal—see s 222 (1), def *approval*.

- (2) Subsection (1) does not apply to an approval for which the planning and land authority has issued a certificate that an environmental impact statement made, or an inquiry conducted, under part 4 has

substantially dealt with the matters forming the basis of the decision to approve the application.

- (3) A notice under subsection (1) must—
- (a) contain—
    - (i) a description of the place to which the decision relates; and
    - (ii) a brief description of the development the subject of the decision; and
  - (b) set out the decision and the reasons for the decision; and
  - (c) specify—
    - (i) the place where, and times when, a copy of the application and the decision may be inspected; and
    - (ii) how application may be made to the administrative appeals tribunal for a review of the decision.
- (4) If an application is refused, the planning and land authority must give written notice of the refusal to the applicant and each person who objected under section 237 (1).
- (5) In this section:  
*refused*, for an application, includes confirming a decision to refuse an application on reconsideration of the decision under subdivision 6.2.4.
- (6) A notice under subsection (4) shall set out the reasons for the decision.
- (7) A notice under subsection (1) or (4) must comply with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

**244 Notification if more than 1 objector**

If a number of persons make 1 objection, the planning and land authority is to be taken to have complied with section 243 (1) or (3), as the case may be, if the authority gives notice—

- (a) if the name and address of 1 of those persons have been given as the person to whom notice of the decision is to be given—to that person; or
- (b) if no name and address has so been given—to 1 of the persons who made that objection.

**U 244A Notice of decision to heritage council**

**U 245 Conditional approvals**

- (1) An approval may be conditional.
- (2) The relevant authority—
  - (a) shall include in an approval any condition that is required to be included by the plan; and
  - (b) shall not include in an approval a condition inconsistent with a condition included under paragraph (a).
- (3) Without limiting subsection (1), the conditions subject to which an approval may be given may include a condition—
  - (a) that a development is to be carried out to the satisfaction of a specified person or body; or
  - (b) requiring a development to be carried out in stages within the periods specified in or under the approval; or
  - (c) specifying a period in which a development or any stage of a development is to be carried out; or
  - (d) that an approval does not take effect unless a specified approval is revoked, amended or given; or

- (e) in relation to an approval to carry out a development for a specified period—that—
  - (i) building works or other works carried out in or on a place the subject of the approval are to be removed at the end of that period; or
  - (ii) the place is to be restored to a specified state at the end of that period; or
- (f) that a bond be entered into securing performance against the conditions of an approval; or
- (g) that the applicant is to enter into an agreement with the Minister for the conservation of the heritage significance of places specified in the heritage places register; or
- (h) that a development be carried out to a specified standard; or
- (i) that specified works, services or facilities that the relevant authority considers reasonable in the circumstances—
  - (i) be provided by the applicant on or to a place the subject of the approval, or on or to another place; or
  - (ii) be paid for in whole or in part by the applicant; or
  - (iii) be provided on or to a place the subject of the approval by agreement between the applicant and the Minister responsible for the provision of the works, services or facilities; or
- (j) that plans, drawings or other documents be prepared by the applicant and lodged with the planning and land authority for approval before the development or a specified part of it is begun; or
- (k) requiring changes to be made to any plan, drawing or other document forming part of the application for approval; or



- (l) that the applicant give to the planning and land authority a further assessment by a valuer that complies with section 226 (1) (b).
- (4) The planning and land authority may approve an amendment to a plan, drawing or other document approved under subsection (3) (j) if the amendment is not inconsistent with section 230 (4) or an approval under subsection (3) (j).

#### **Subdivision 6.2.4 Reconsideration of applications for approval**

##### **245A Definitions for sdiv 6.2.4**

In this subdivision:

*new application*—see section 246 (2).

*original application*—see section 246 (1) (a).

*original decision*—see section 246 (1) (a).

##### **246 Applications for reconsideration**

- (1) This section applies if—
  - (a) an application (the *original application*) has been approved or refused (the *original decision*) by the planning and land authority; and
  - (b) either—
    - (i) an application has not previously been made under this section for reconsideration of the original decision; or
    - (ii) an application has been previously made and the original decision was taken to be confirmed under section 246B (No action by planning and land authority within time).
- (2) The applicant for the original application may apply (the *new application*) for reconsideration of the original decision.

- (3) The new application must be made within—
  - (a) 4 weeks after the day the applicant is told about the decision by the planning and land authority; or
  - (b) any longer period allowed by the planning and land authority, either before or after the end of the 4 weeks.
- (4) The application must set out the grounds on which reconsideration of the original decision is sought.
- (5) The making of the application for reconsideration of the original decision automatically stays the operation of the decision.

#### **246A Reconsideration of decisions**

- (1) Within 4 weeks after the day the planning and land authority receives the new application, the authority must—
  - (a) reconsider the original decision; and
  - (b) after reconsideration—
    - (i) make any decision in substitution for the original decision that the authority could have made on the original application; or
    - (ii) confirm the original decision.
- (2) The 4 weeks mentioned in subsection (1) may be extended for a stated period by agreement between the planning and land authority and the applicant.
- (3) In reconsidering the original decision, the planning and land authority—
  - (a) need not give notice of the new application under section 229; but
  - (b) must give written notice of the new application to anyone who objected to the grant of approval for the original application, allow the person reasonable time (that is not shorter than 2

weeks) to make a submission on the new application, and consider any submission made within the time allowed.

- (4) Also, in reconsidering the original decision, the planning and land authority—
- (a) must consider any information available to it when it made the original decision and information given in the new application; and
  - (b) may consider any other relevant information.

**Examples of other relevant information**

- 1 information from submissions by objectors
- 2 information from an assessment or panel ordered under section 236

*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).

- (5) The planning and land authority must ensure that, if the original decision is made on its behalf by a person (the *original decision-maker*), the authority or someone other than the original decision-maker reconsiders the decision.

**246B No action by planning and land authority within time**

If the planning and land authority does not make a substitute decision, nor confirm the original decision, within the 4 weeks mentioned in section 246A, the planning and land authority is taken to have confirmed the original decision.

**246C Notice of decision on reconsideration**

- (1) As soon as practicable after reconsidering the original decision, the planning and land authority must give written notice of the decision on the reconsideration to the applicant and anyone who was given notice of the new application under section 246A (3) (b).

- (2) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

### Subdivision 6.2.5 Approvals—miscellaneous

#### 247 Minor amendments

- (1) The lessee or an occupier of a place in relation to which an approval is in force may apply in writing to the planning and land authority for an amendment of it.
- (2) The planning and land authority may amend an approval, if satisfied that the amendment—
- (a) does not change the effect of a condition subject to which the approval was given; and
  - (b) will not cause a significant increase in detriment to any person; and
  - (c) does not change the kind of development approved but only the activity permitted.
- (3) The planning and land authority shall give notice of an amendment—
- (a) to the person who made the application to amend; and
  - (b) if that person is not the lessee or occupier of the place to which the approval relates—to the lessee; and
  - (c) to each person who had objected under section 237 (Objections—general) to the grant of the approval; and
  - (d) to any relevant Territory authority.

*Note* For how documents may be given, see Legislation Act, pt 19.5.

**248 Corrections**

If the planning and land authority is satisfied that an approval contains a formal error, the authority must—

- (a) correct the approval; and
- (b) notify the applicant in writing.

**249 When approvals take effect**

- (1) This section is subject to section 230 (4) and section 245 (3) (d).

*Note* Section 230 (4) prevents an approval of a development application for an activity not permitted by the lease from taking effect until the lease is varied. Section 245 (3) (d) allows a condition to be included in an application for approval that the approval does not take effect until a specified approval is given, amended or varied.

- (2) An approval under section 230 (Approvals) takes effect—
- (a) if no objection to the relevant application has been made under section 237—on the day the approval is given; or
  - (b) if an objection to the relevant application has been made under section 237 and no application has been made to the AAT for review of the decision within 4 weeks after the day of the decision—on the day after the end of the period of 4 weeks; or
  - (c) if application is made to the AAT for a review of the decision to grant the approval and the tribunal decides to confirm the decision (whether or not a condition is varied, omitted or imposed)—on the day the tribunal makes its decision.
- (3) An approval on reconsideration under division 6.2.4 takes effect on the day the decision granting the approval is given.
- (4) However, the operation of an approval mentioned in subsection (2) (a) or (3) is stayed if application is made to the AAT for review of the decision to grant the approval.

- (5) The stay of the operation of the approval remains in force until the application for review is decided by the tribunal.

## **250 Execution of approvals for variations of leases**

Subject to division 5.3, if an approval to undertake a development takes effect under section 249, being a development that consists of or includes a variation of a lease, the planning and land authority shall vary the lease in accordance with the terms of the approval.

## **251 End of approvals**

- (1) An approval to undertake a development (other than a development that consists wholly of a variation of a lease) ends if—
- (a) the development or any stage of the development is not begun within the period specified in the approval; or
  - (b) the development or any stage of the development is not completed within the period specified in the approval; or
  - (c) if no period is specified in an approval for the beginning of the development or any stage of the development—the development or stage of development is not begun within 2 years after the day the approval takes effect.

*Note* For when an approval takes effect, see s 249.

- (2) The end of an approval does not affect anything done under the approval before its end.

## **252 Extension of time**

- (1) The lessee or occupier of a place in relation to which an approval to undertake a development (other than a development that consists wholly of a variation of a lease) applies (being an approval that specifies the date for the completion of the development or any stage of the development) may, before the end of the approval, apply to the planning and land authority for an extension of the period within which to complete the development or any stage of it.

- (2) On receipt of an application under subsection (1), the planning and land authority may extend the period within which the development, or the stage of the development, is to be completed.

**U 253 Revocation of approval**

A relevant authority may revoke an approval given by the authority—

- (a) if satisfied that the approval was obtained by fraud or misrepresentation; or
- (b) if the approval is in relation to a place that is specified in the heritage places register or interim heritage places register—if the applicant is convicted of an offence under this part.

**Subdivision 6.2.6 Powers of Supreme Court**

**253A Injunctions to require compliance with approvals**

- (1) This section applies if a person (the *relevant person*) has failed, is failing, or proposes to fail, to do something in accordance with the terms of an approval.
- (2) The planning and land authority or anyone else may apply to the Supreme Court for an injunction requiring the relevant person to do the thing.
- (3) On application under subsection (2), the Supreme Court may grant an injunction requiring the relevant person to do the thing.
- (4) The Supreme Court may grant an injunction requiring the relevant person to do a thing—
- (a) if satisfied that the person has failed to do the thing, whether or not it appears to the court that the person intends to fail again, or to continue to fail, to do the thing; or
- (b) if it appears to the court that, if an injunction is not granted, it is likely the person will fail to do the thing, whether or not the

person has previously failed to do the thing and whether or not there is an imminent danger of substantial damage to someone else if the person fails to do the thing.

- (5) This section applies whether or not a proceeding for an offence against this part has begun or is about to begin.

## Division 6.3 Orders

### Subdivision 6.3.1 Making of orders

#### **U** 254 Applications to planning and land authority for orders

- (1) A person may apply to the planning and land authority for an order directed to 1 or more of the following:
- (a) the lessee or occupier of a place where a controlled activity was, is being, or is to be, conducted;
  - (b) anyone by whom or on whose behalf a controlled activity was, is being, or is to be, conducted.
- (2) The application must state—
- (a) the matter about which the order is sought; and
  - (b) the kind of order sought by the person; and
  - (c) each person to whom the order sought is to be directed; and
  - (d) the place in relation to which the order is sought; and
  - (e) the grounds on which the order is sought.
- Note* If a form is approved under s 287A for an application, the form must be used.
- (3) The planning and land authority must give written notice of the application to—
- (a) each person to whom the order sought is to be directed; and



- (b) if different from the person or people mentioned in paragraph (a)—the lessee or occupier of the place in relation to which the order is sought; and
- (c) if the order sought relates to the control of a pest animal or plant—the conservator; and
- (d) if the order sought relates to the pruning of a significant tree under the *Tree Protection (Interim Scheme) Act 2001*—the conservator; and

*Note* For restrictions on pruning etc a significant tree, see *Tree Protection (Interim Scheme) Act 2001*, s 10.

- (e) if the order sought relates to the parking of a heavy vehicle on residential land under the *Road Transport (Safety and Traffic Management) Regulations 2000*, division 3.1.3—the road transport authority.

*Note* For how documents may be given, see Legislation Act, pt 19.5.

- (4) The notice must—
  - (a) be accompanied by a copy of the application; and
  - (b) contain a statement to the effect that the person to whom it is given may, within 7 days after the day the person is given the notice, make a submission to the planning and land authority about the making of the order.
- (5) The notice may also include any other information that the planning and land authority considers appropriate.

#### **254A Decision on application to planning and land authority for order**

- (1) Before deciding whether to make an order on an application under section 254, the planning and land authority must consider any submission made by a person within 7 days after the day the person was given notice of the application under that section.

- (2) The planning and land authority may decide—
- (a) to make an order of the kind sought; or
  - (b) to make an order (including a different kind of order) that is not more onerous than the order sought; or
  - (c) not to make an order.

**Example of less onerous order—par (b)**

A person applies for an order for the demolition of an unapproved structure but the planning and land authority makes an order that a development application be lodged for the structure within a stated period and, if the application is not lodged within that period or is not approved, the structure is to be demolished.

*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).

- (3) An order may be directed to 1 or more of the following:
- (a) the person against whom the order is sought to be directed;
  - (b) if the planning and land authority considers that the order would be more appropriately directed to someone else mentioned in section 254 (3) (a) or (b)—that person.
- (4) The planning and land authority is to be taken to have refused to make the order applied for under section 254 if the authority fails to decide the application before the end of the period prescribed under the regulations.
- (5) The planning and land authority must refuse to make an order about the use or management of land in a way that fails to control a pest animal or plant if—
- (a) there is a written agreement between the lessee or occupier of the land and the Environment Minister about control of the propagation of the pest animal or plant; and
  - (b) the authority is satisfied that the lessee or occupier is giving effect to the agreement.

**U 255 Proposed orders on planning and land authority's own initiative**

- (1) This section applies if the planning and land authority proposes, on the authority's own initiative, to make an order (the *proposed order*) directed to 1 or more of the following:
  - (a) the lessee or occupier of a place where a controlled activity was, is being, or is to be, conducted;
  - (b) anyone by whom or on whose behalf a controlled activity was, is being, or is to be, conducted.
- (2) The planning and land authority must give written notice of the proposed order to—
  - (a) each person to whom the proposed order is directed; and
  - (b) if different from the person or people mentioned in paragraph (a)—the lessee or occupier of the place in relation to which the proposed order is to apply; and
  - (c) if the proposed order relates to the control of a pest animal or plant—the conservator; and
  - (d) if the proposed order relates to the pruning of a significant tree under the *Tree Protection (Interim Scheme) Act 2001*—the conservator; and

*Note* For restrictions on pruning etc a significant tree, see *Tree Protection (Interim Scheme) Act 2001*, s 10.

  - (e) if the proposed order relates to the parking of a heavy vehicle on residential land under the *Road Transport (Safety and Traffic Management) Regulations 2000*, division 3.1.3—the road transport authority.

*Note* For how documents may be given, see Legislation Act, pt 19.5.
- (3) The notice must state—
  - (a) each person to whom the proposed order is directed; and

- (b) the terms of the proposed order and the place in relation to which it is to apply; and
- (c) the grounds for making the proposed order; and
- (d) when the proposed order will take effect; and
- (e) if appropriate—
  - (i) the period for compliance with the proposed order; and
  - (ii) when the proposed order will end (including, for example, on the happening of an event stated in the order).

*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).

- (4) Also, the notice must contain a statement to the effect that the person to whom it is given may, within 7 days after the day the person receives the notice, make a submission to the planning and land authority about the making of the proposed order.
- (5) Further, the notice may include any other information that the planning and land authority considers appropriate

## **256 Decision on proposed order on planning and land authority's own initiative**

- (1) Before deciding whether to make the proposed order mentioned in section 255, the planning and land authority must consider any submission made by a person within 7 days after the day the person was given notice of the proposed order under section 255 (2).
- (2) The planning and land authority may decide—
  - (a) to make the proposed order; or
  - (b) to make an order (including a different kind of order) that is not more onerous than the proposed order; or

(c) not to make the proposed order.

**Example of less onerous order—par (b)**

an order that requires the doing of an act within a period longer than that stated in the proposed order

*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).

- (3) An order may be directed to 1 or more of the following:
- (a) the person against whom the proposed order is directed; or
  - (b) if the planning and land authority considers that the order would be more appropriately directed to someone else mentioned in section 255 (2) (a) or (b)—that person.

**257 Content of orders**

- (1) An order must state—
- (a) that it is an order under this Act made by the planning and land authority; and
  - (b) each person to whom the order is directed; and
  - (c) anyone else who is bound by the order (see section 257B); and
  - (d) the terms of the order and the place in relation to which the order applies; and
  - (e) the grounds on which the order is made; and
  - (f) when the order takes effect; and
  - (g) if appropriate—
    - (i) the period for compliance with the order; and

- (ii) when the order ends (including, for example, on the happening of an event stated in the order).

*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).

- (2) An order must also contain a statement to the effect that the order operates until it is revoked or ends in accordance with the order.
- (3) An order may direct anyone to whom it is directed—
- (a) not to begin a development without approval; or
  - (b) to stop carrying out a development without approval; or
  - (c) to stop, or not begin, a controlled activity other than a development; or
  - (d) to comply with the terms of an approval to undertake a development; or
  - (e) to stop carrying out a development other than in accordance with the conditions under which an approval to carry out the development was given; or
  - (f) to demolish a building or structure, or a part of a building or structure, that has been constructed or erected without approval or permission required under a Territory law; or
  - (g) to demolish a building or structure, or a part of a building or structure, that encroaches onto, over or under unleased Territory land without approval granted under a Territory law; or
  - (h) to restore any land, building or structure that has been altered without approval or permission required under a Territory law; or
  - (i) to replace with an identical building or structure any building or structure that has been demolished without approval or permission required under a Territory law; or

- (j) to clean up a leasehold; or
- (k) to prune, in a way stated in the order, a tree, sapling, plant or shrub that overhangs a public place; or

*Note* For restrictions on pruning etc a significant tree, see *Tree Protection (Interim Scheme) Act 2001*, s 10.

- (l) to stop carrying out an activity that is likely to cause soil erosion; or
- (m) to stop carrying out an activity that involves destroying, damaging, removing or otherwise interfering with vegetation (living or dead) or removing or otherwise interfering with soil that is—
  - (i) between the banks of a watercourse; or
  - (ii) within 20m of a bank of a watercourse; or
  - (iii) on land having a slope of more than 18° from the horizontal; or
- (n) to manage land held under a rural lease in accordance with the land management agreement applying to it; or
- (o) if the person to whom the order is directed is bound by a land management agreement—to comply with the land management agreement.

## **257A Notice of making of orders**

If the planning and land authority makes an order, the authority must give notice of the making of the order to the following:

- (a) each person to whom the order is directed;
- (b) the applicant (if any) for the order;
- (c) the lessee or occupier of the place in relation to which the order applies;
- (d) the registrar-general;

- (e) if the order relates to the control of a pest animal or plant—the conservator;
- (f) if the order relates to the pruning of a significant tree under the *Tree Protection (Interim Scheme) Act 2001*—the conservator; and
- (g) if the order relates to the parking of a heavy vehicle on residential land under the *Road Transport (Safety and Traffic Management) Regulations 2000*, division 3.1.3—the road transport authority;
- (h) anyone else whose interests the authority believes are adversely affected by the order.

*Note* For how documents may be given, see Legislation Act, pt 19.5.

### **257B Who is bound by an order?**

- (1) An order binds each person to whom it is directed.
- (2) If an order binds the lessee of the place to which the order applies, the order also binds anyone who becomes the lessee of the place after the order is made (a *future lessee*) to the same extent as if the order had been directed to that person.
- (3) If an order binds the occupier of the place to which the order applies, the order also binds anyone who becomes an occupier of the place after the order is made (a *future occupier*) to the same extent as if the order had been directed to that person.
- (4) However, subsection (2) or (3) does not apply to an order if the order states that it does not bind a future lessee or a future occupier (as appropriate) of the lease.

### **258 Contravening orders**

- (1) A person commits an offence if—
  - (a) the planning and land authority makes an order directed to the person; and



- (b) the order requires the person to do, or not do, something stated in the order; and
- (c) the person is given notice of the making of the order (whether by being given a copy of the order or otherwise); and
- (d) the person contravenes the order.

Maximum penalty: the amount stated in schedule 5, column 3 in relation to the activity for which the order was made.

*Note* A Territory authority is not liable to be prosecuted for an offence against this section (see Legislation Act, s 121).

- (2) An offence against this section is a strict liability offence.

#### **258A Ending of orders**

- (1) An order operates until it is revoked or ends in accordance with the order.
- (2) A person who is bound by an order may, in writing, apply to the planning and land authority for the revocation of the order.
- (3) The application must state the grounds on which the revocation of the order is sought.
- (4) The planning and land authority may revoke the order if satisfied, on reasonable grounds, that the order is no longer necessary or appropriate.

#### **258B Notice ending orders**

- (1) If an order ends otherwise than by being revoked, the planning and land authority must give written notice of the ending of the order to the registrar-general.
- (2) If the planning and land authority revokes an order, the authority must give written notice of the revocation to—
  - (a) each person to whom the order was directed; and

- (b) if different from the person or people mentioned in paragraph (a)—the lessee or occupier of the place in relation to which the order applied; and
- (c) the registrar-general.

**258C Effect of orders about pest animals or plants**

- (1) This section applies if an order relates to the control of a pest animal or plant.
- (2) A person to whom the order is directed is not required to hold a licence under the *Nature Conservation Act 1980* for any action required to comply with the order in relation to the pest animal or plant.

**Subdivision 6.3.2 Rectification work**

**259 Definitions for sdiv 6.3.2**

In this subdivision:

*authorised person*—see section 259C (1).

*rectification work* means—

- (a) work in relation to a place where a controlled activity is being conducted to ensure compliance with the approval for the activity; or
- (b) the conduct of an activity required under an order that was not carried out within the period stated in the order.

**259A Direction to carry out rectification work**

- (1) The planning and land authority may direct 1 or more of the following to carry out rectification work in relation to a controlled activity:
  - (a) the lessee or occupier of a place where the activity was or is being conducted;

- (b) anyone by whom or on whose behalf the activity was or is being conducted.
- (2) The planning and land authority must give notice of the direction to—
- (a) the person who is required to comply with the direction; and
  - (b) if different from the person mentioned in paragraph (a)—the lessee or occupier of the place to which the direction applies.
- Note* For how documents may be given, see Legislation Act, pt 19.5.
- (3) The notice must state—
- (a) that it is a direction under this Act made by the planning and land authority; and
  - (b) the person who is required to comply with the direction; and
  - (c) the place in relation to which the direction applies; and
  - (d) the rectification work required; and
  - (e) the grounds on which the direction is made; and
  - (f) that the rectification work must be completed within 7 days after the day the notice is given to the person or any longer period stated in the notice.
- (4) The notice must also contain a statement to the effect that, if the rectification work is not completed within the period required by the notice—
- (a) the planning and land authority may authorise someone else to carry out the work; and
  - (b) the reasonable cost of carrying out the work is a debt to the Territory by the person who is required to comply with the direction.
- (5) This section applies whether or not a proceeding for an offence against this part has been begun or is about to begin.

**259B Contravening direction to carry out rectification work**

- (1) A person commits an offence if—
  - (a) the planning and land authority makes a direction to carry out rectification work in relation to a controlled activity; and
  - (b) the person is required to comply with the direction; and
  - (c) the person is given notice of the making of the direction; and
  - (d) the person contravenes the direction.

Maximum penalty: 50 penalty units.

*Note* A Territory authority is not liable to be prosecuted for an offence against this section (see Legislation Act, s 121).

- (2) An offence against this section is a strict liability offence.

**259C Authorisation to carry out rectification work**

- (1) The planning and land authority may authorise a person (an *authorised person*) to enter the place to which a direction under section 259A applies to carry out the rectification work required by the notice under that section if the work is not completed within the period required by the notice.
- (2) However, the planning and land authority must not give the authorisation—
  - (a) until the end of the period within which an application may be made to the administrative appeals tribunal for the review of the decision to make the order to which the rectification work relates; or
  - (b) if an application is made to the administrative appeals tribunal for a review of the decision—unless the decision is upheld or the application is withdrawn.
- (3) The authorised person must carry out the rectification work in accordance with the directions of an inspector.

**259D Obstructing etc authorised people**

- (1) A person commits an offence if—
  - (a) the person knows that, or is reckless about the fact that, a person is an authorised person; and
  - (b) the person obstructs, hinders, intimidates or resists the authorised person in the exercise of the person's functions.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Strict liability applies to subsection (1) (b).

**259E Liability for cost of rectification work**

The person who is required to comply with a direction under section 259A (Direction to carry out rectification work) must pay to the Territory the reasonable cost of any rectification work carried out by an authorised person to which the direction related.

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction (see Legislation Act, s 177).

**259F Determination of criteria for deferral of rectification work cost**

- (1) The planning and land authority may, in writing, determine circumstances when the payment of all or part of the cost of rectification work carried out by an authorised person on a lessee's leasehold may be deferred by the lessee.
- (2) A determination under subsection (1) is a notifiable instrument.

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

**259G Application for deferral of rectification work cost**

- (1) A lessee who is required to pay the cost of rectification work carried out on the lessee's leasehold may, in writing, apply to the planning

and land authority for the deferment of payment of all or part of the cost of the rectification work.

- (2) The application must state the grounds for the application.

*Note* If a form is approved under s 287A for an application, the form must be used.

### **259H Deferral of rectification work cost**

- (1) The planning and land authority may, in writing, declare that all or part of the cost of rectification work payable by a lessee is deferred if satisfied that a circumstance determined under section 259F (1) applies to the lessee.

*Note* Interest is payable on the deferred amount, see s 259I.

- (2) The declaration must state—
- (a) the leasehold to which the declaration relates; and
  - (b) the amount of the cost of the rectification work deferred.

### **259I Security for deferred rectification work cost**

- (1) The planning and land authority must—
- (a) lodge a copy of a declaration under section 259H with the registrar-general for registration under the *Land Titles Act 1925*; and
  - (b) give a copy of the declaration to the lessee of the leasehold to which the declaration relates and anyone else who has an interest in the leasehold.
- (2) For the *Land Titles Act 1925*, section 104 (1) (Lodging of caveat), the Territory is taken to be a person claiming an interest in the leasehold to which the declaration relates.
- (3) The registration under the *Land Titles Act 1925* of the copy of a declaration under section 259H creates a charge over the leasehold to which the declaration relates for—

- (a) the amount stated in the declaration; and
- (b) interest on the amount calculated on a daily basis at the interest rate applying from time to time under the *Taxation Administration Act 1999*, section 26 (Interest rate).

### **259J Payment of deferred rectification work cost**

- (1) If the full amount of the charge mentioned in section 259I (3) is paid to the Territory, the planning and land authority must—
  - (a) revoke the declaration to which the charge relates; and
  - (b) lodge a copy of the revocation with the registrar-general for registration under the *Land Titles Act 1925*; and
  - (c) give a copy of the revocation to the lessee of the charged leasehold and anyone else who has an interest in the leasehold.
- (2) The charge is discharged on the registration under the *Land Titles Act 1925* of the copy of the revocation of the declaration.
- (3) The lessees of a charged leasehold are liable separately and together for the payment to the Territory of the full amount of the charge.
- (4) A registered charge under this section does not give a power of sale over the leasehold to which it relates.

### **Subdivision 6.3.3 Prohibition notices and injunctions**

#### **260 Prohibition notices—making**

- (1) This section applies if the planning and land authority believes, on reasonable grounds, that the giving of a notice under this section (a *prohibition notice*) is necessary to prevent or lessen a significant threat or likelihood of irreversible damage to a thing because of the conduct, or likely conduct, of a controlled activity.
- (2) Also, this section applies whether or not—

- (a) an order has been made or is proposed to be made in relation to a controlled activity; or
  - (b) a proceeding for an offence against this part has begun or is about to begin.
- (3) The planning and land authority may give a prohibition notice to 1 or more of the following:
- (a) the lessee or occupier of a place to which the controlled activity relates;
  - (b) anyone by whom or on whose behalf the activity—
    - (a) was, is being, or is to be, conducted; or
    - (b) is likely to be conducted.

*Note* For how documents may be given, see Legislation Act, pt 19.5.

- (4) The prohibition notice must state—
- (a) that it is a prohibition notice under this Act; and
  - (b) each person to whom it is directed; and
  - (c) that the notice takes effect when it is given to a person to whom it is directed; and
  - (d) the grounds on which the notice is given; and
  - (e) the activity, and the place, in relation to which the notice applies; and
  - (f) that the activity—
    - (i) must not be carried on by the person; or
    - (ii) must not be carried on by the person except in accordance with the notice; and



(g) when the notice ends (including, for example, on the happening of an event stated in the notice).

*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).

- (5) A prohibition notice takes effect when it is given to a person to whom it is directed.
- (6) To remove any doubt, 2 or more prohibition notices may be given in relation to the same activity.

## **260A Contravening prohibition notices**

- (1) A person commits an offence if—
- (a) the planning and land authority gives a prohibition notice to the person; and
  - (b) the notice is directed to the person; and
  - (c) the notice states that a controlled activity must not be carried on by the person in relation to a place; and
  - (d) the person carries on the activity in relation to the place.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

*Note* A Territory authority is not liable to be prosecuted for an offence against this section (see Legislation Act, s 121).

- (2) A person commits an offence if—
- (a) the planning and land authority gives a prohibition notice to the person; and
  - (b) the notice is directed to the person; and
  - (c) the notice states that a controlled activity must not be carried on by the person in relation to a place except in accordance with the notice; and

(d) the person carries on the activity in relation to the place otherwise than in accordance with the notice.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) An offence against this section is a strict liability offence.

### **260B Prohibition notices—ending**

(1) A prohibition notice remains in force until it ends in accordance with this section.

(2) A prohibition notice ends on the earlier of the following:

(a) 60 days after the day it is given to a person to whom the notice is directed;

(b) the notice ends in accordance with the notice;

(c) the notice is revoked.

(3) A person to whom a prohibition notice is directed may, in writing, apply to the planning and land authority for the revocation of the notice.

(4) The application must state the grounds on which the revocation of the prohibition notice is sought.

(5) The planning and land authority may revoke the prohibition notice if satisfied, on reasonable grounds, that the notice is no longer necessary or appropriate.

### **260C Injunctions to restrain contravention of orders or prohibition notices**

(1) This section applies if a person (the *relevant person*) has engaged, is engaging, or proposes to engage, in conduct that was, is, or would be, a contravention of an order or a prohibition notice.

- (2) The planning and land authority or anyone else may apply to the Supreme Court for an injunction.
- (3) On application under subsection (2), the Supreme Court may grant an injunction—
  - (a) restraining the relevant person from engaging in the conduct; and
  - (b) if, in the court's opinion, it is desirable to do so, requiring the relevant person to do anything.
- (4) The Supreme Court may grant an injunction restraining a relevant person from engaging in conduct of a particular kind—
  - (a) if satisfied that the person has engaged in conduct of that kind, whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
  - (b) if it appears to the court that, if an injunction is not granted, it is likely the person will engage in conduct of that kind, whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to someone else if the person engages in conduct of that kind.
- (5) This section applies whether or not a proceeding for an offence against this part has begun or is about to begin.

#### **Subdivision 6.3.4 Other matters**

##### **261 Declaration of pest animal or pest plant**

- (1) The Environment Minister may, in writing, declare—
  - (a) an animal to be a pest animal; or
  - (b) a plant to be a pest plant.

- (2) The Environment Minister must not make a declaration unless the Minister has consulted with—
- (a) the flora and fauna committee under the *Nature Conservation Act 1980*; and
  - (b) for a proposed declaration under subsection (1) (a)—the animal welfare advisory committee under the *Animal Welfare Act 1992*.
- (3) After making a declaration, the Environment Minister—
- (a) must arrange for the preparation of a plan for the control of the propagation of the pest animal or plant; and
  - (b) if the declaration was made under subsection (1) (a)—may arrange for the preparation of a code of practice under the *Animal Welfare Act 1992* for the pest animal.
- (4) A declaration is a disallowable instrument.
- Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.
- (5) In subsection (1):
- animal* means any live vertebrate, but does not include a human being.

## Division 6.4 Inspection and seizure powers

### Subdivision 6.4.1 Preliminary

#### 262 Definitions for div 6.4

In this division:

*connected*—a thing is *connected* with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or

- (c) it was used, is being used, or is intended to be used, to commit the offence.

*occupier*, of premises, includes—

- (a) a person believed, on reasonable grounds, to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

*offence* includes an offence that there are reasonable grounds for believing has been, is being, or will be committed.

## **263 Appointment of inspectors**

- (1) The planning and land authority may appoint a person as an inspector for this part.

*Note 1* For the making of appointments (including acting appointments), see 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).

- (2) An inspector has the functions that the planning and land authority directs.

## **264 Identity cards**

- (1) The planning and land authority must issue an inspector with an identity card that states the person is an inspector for this Act, or for stated provisions of this Act, and shows—

- (a) a recent photograph of the person; and
- (b) the name of the person or the particulars that are prescribed under the *Magistrates Court Act 1930* as the identifying particulars for the person (or both); and
- (c) the date of issue of the card; and
- (d) a date of expiry for the card; and

- (e) anything else prescribed under the regulations.
  - (2) A person commits an offence if—
    - (a) the person ceases to be an inspector; and
    - (b) the person does not return the person's identity card to the chief executive as soon as practicable (but within 7 days) after the day the person ceases to be an inspector.
- Maximum penalty: 1 penalty unit.
- (3) An offence against this section is a strict liability offence.

### **265 Power not to be exercised before identity card shown**

An inspector may exercise a power under this Act in relation to a person only if the inspector first shows the person his or her identity card.

## **Subdivision 6.4.2 Inspection**

### **266 Inspections etc**

For the purposes of ascertaining whether or not a controlled activity is being conducted in or on any place—

- (a) in accordance with an approval; or
  - (b) without an approval; or
  - (c) contrary to the conditions of an approval; or
  - (d) in accordance with, or in contravention of, an order;
- an inspector may enter the place—
- (e) with the consent of the occupier of the place; or
  - (f) under a warrant issued under section 273; or
  - (g) with the assistance and by the force that is reasonable, if the inspector believes on reasonable grounds that the

circumstances are of such seriousness and urgency as to require the immediate exercise of those powers without the authority of a warrant issued under section 273;

and, subject to section 268, exercise any power referred to in section 269 if the inspector believes on reasonable grounds that a controlled activity is, or is intended to be, conducted in or on that place.

### **267 Consent to entry**

- (1) Before seeking the consent of the occupier of a place for section 266, an inspector shall inform the occupier that he or she may refuse to give that consent.
- (2) If an inspector obtains the occupier's consent for those purposes, the inspector shall ask the occupier to sign a written acknowledgment—
  - (a) that the occupier has been informed that he or she may refuse to give consent, for section 266, for the inspector to enter the place and to exercise any power under section 269; and
  - (b) that the occupier has given the inspector that consent; and
  - (c) of the day and time when the consent was given.
- (3) If it is material, in any proceedings, for a court to be satisfied that an occupier has consented for section 266 and an acknowledgment, in accordance with subsection (2), signed by the occupier, is not produced in evidence, it shall be presumed that the occupier did not consent, but that presumption is rebuttable.

### **269 Powers of inspection**

- (1) Subject to this part, an inspector who enters a place under section 266 may—
  - (a) inspect, examine, take measurements of, or conduct tests relating to, the premises or a controlled activity conducted in or on that place; and

- (b) take the photographs, video recordings, or make the sketches or other recordings, that the inspector believes on reasonable grounds to be necessary; and
  - (c) take samples of anything that the inspector believes on reasonable grounds is connected with an offence against this part; and
  - (d) seize anything that the inspector believes on reasonable grounds to be connected with an offence against this part; and
  - (e) inspect, make copies of, or take extracts from, any document in or on that place that the inspector believes on reasonable grounds is connected with an offence against this part; and
  - (f) require any person in or on the place—
    - (i) to give the inspector such information; or
    - (ii) to produce to the inspector any document containing such information;relating to the use of the place in relation to the conduct of a controlled activity; and
  - (g) require any person in or on the place to answer questions; and
  - (h) require any person on the premises to give the inspector the assistance that is reasonable to enable the inspector to exercise his or her powers under this section.
- (2) A person shall not, without reasonable excuse, fail to comply with a requirement made of the person under subsection (1) (f), (g) or (h).

Maximum penalty: 50 penalty units.

## **271 Taking samples**

An inspector who takes samples under section 269 (1) (c) shall—

- (a) ensure that the sample permits paragraph (c) to be complied with; and



- (b) give a receipt for the sample to the occupier of the place from where the sample was taken; and
- (c) divide the sample into 2 parts as nearly as practicable identical in size and composition to each other and each suitable for the purpose of analysis; and
- (d) place each of those parts in a separate container and seal each container; and
- (e) attach to each container a label bearing the signature of the inspector and particulars of the date and time when, and the place where, the sample was taken; and
- (f) give 1 container to the occupier of the place.

## **272 Disposal of seized items**

- (1) If a thing has been seized under section 269 (1) (d) and—
  - (a) a prosecution for an offence against this part in relation to that thing has not been instituted within 90 days after the day of seizure; or
  - (b) a person is so charged but is not convicted;subject to subsection (2), the planning and land authority shall take all reasonably practical steps to give the thing to the person whom the authority reasonably believes to be entitled to it.
- (2) If a person is—
  - (a) convicted of an offence against this part; or
  - (b) dealt with under the *Crimes Act 1900*, section 402 in relation to an offence against this Act;the court may order that anything seized under section 269 (1) (d) and connected with the offence—
  - (c) be given to the person who appears to the court to be entitled to it; or

(d) be forfeited to the Territory.

### **273 Search warrants**

- (1) If an inspector suspects on reasonable grounds that there is in or on any place a thing of a particular kind connected with a particular offence against this part or the regulations, the inspector may—
  - (a) lay before a magistrate an information on oath setting out those grounds; and
  - (b) apply for the issue of a warrant to search the place for things of that kind.
- (2) If an application is made under subsection (1) for a warrant to search a place, a magistrate may, subject to subsection (3), issue a warrant authorising an inspector named in the warrant, with the assistance and by the force that is necessary and reasonable—
  - (a) to enter the place; and
  - (b) to ascertain whether or not a controlled activity is being conducted in or on the place; and
  - (c) to search the place for things of the kind specified in the warrant; and
  - (d) to seize anything found in the course of the search that the inspector believes on reasonable grounds to be a thing of that kind connected with the relevant offence.
- (3) A magistrate shall not issue a warrant under subsection (2) unless—
  - (a) the informant or another person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires about the grounds on which the issue of the warrant is being sought; and
  - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

- (4) A warrant shall—
- (a) state the purpose for which it is issued; and
  - (b) specify the nature of the relevant offence; and
  - (c) specify particular hours during which the entry is authorised, or state that the entry is authorised at any time of the day or night; and
  - (d) include a description of the kinds of things in relation to which the powers under the warrant may be exercised; and
  - (e) specify the date (not later than 28 days after the date of issue of the warrant) when the warrant ceases to have effect.

## **Division 6.6            Miscellaneous**

### **Subdivision 6.6.1    Review of decisions**

#### **U 275            AAT review—general**

- (1) A person whose interests are affected by a decision mentioned in schedule 4, part 4.1, column 4 may apply to the AAT for review of the decision.
- (2) A person mentioned in schedule 4, part 4.1, column 2 who makes a decision mentioned in column 4 of the item mentioning the person must give written notice to people whose interests the person believes are affected by the decision.
- (3) The notice under subsection (2) must comply with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

#### **275A            Approvals subject to entity's satisfaction**

- (1) This section applies if—

- (a) an approval given to a person contains a condition that a development is to be carried out to the satisfaction of an entity mentioned in the approval; and
- (b) the entity decides that the development has not been carried out to its satisfaction.

*Note* Section 245 (3) (a) allows a relevant authority to impose a condition of the kind mentioned in s (1) (a).

- (2) The entity must give the person written notice of the decision.
- (3) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (4) A person whose interests are affected by a decision mentioned in subsection (1) (b) may apply to the AAT for review of the decision.

## **276 Review of decisions—objectors and third parties to approvals**

- (1) A person who is qualified under subsection (2) may apply to the AAT for review of a decision of the relevant authority to—
  - (a) approve an application under section 230 or section 246A; or
  - (b) include a condition in an approval.

*Note* Section 245 deals with inclusion of conditions.

- (2) A person is qualified to make an application under subsection (1) if—
  - (a) the person objected to the grant of the approval of the relevant application to undertake development under section 237; or
  - (b) the AAT is satisfied that the person had reasonable grounds for not objecting within the prescribed period.
- (3) An application under subsection (1) must be made within 4 weeks after the day the person was notified of the decision.

- (4) A notice given under section 243 to a person who objected under section 237 shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (5) At the hearing of a proceeding before the administrative appeals tribunal, the tribunal shall have regard to—
- (a) any decisions or recommendations of a committee of the Legislative Assembly in relation to; and
  - (b) any environmental impact statement made, or inquiry conducted into;
- a matter that is in issue in the hearing.
- (6) In this section:  
*person* includes an unincorporated association.
- (7) For this section, an organisation or association of persons, whether incorporated or not, shall be taken to have interests that are affected by a decision if the decision relates to a matter included in the objects or purposes of the organisation or association.

## **277 Review of decisions—orders and prohibition notices**

- (1) Application may be made to the administrative appeals tribunal for review of a decision of the planning and land authority—
- (a) to make an order under section 254A (2) (Decision on application to planning and land authority for order) or section 256 (2) (Decision on proposed order on planning and land authority's own initiative); or
  - (b) not to make an order under section 254A (2); or
  - (c) to include in an order under section 254A (2) or section 256 (2) a direction of a kind mentioned in section 257 (3); or

- (d) to refuse, under section 258A (4) (Ending of orders), to revoke an order; or
  - (e) to give a prohibition notice under section 260 (3) (Prohibition notices—making); or
  - (f) to refuse, under section 260B (5) (Prohibition notices—ending), to revoke a prohibition notice.
- (2) A notice given by the planning and land authority to a person in accordance with section 257A (a), (b), (c) or (g) (Notice of making of orders) must be in accordance with the requirements of the code of practice under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

## 278 Notification of objectors

- (1) This section applies in relation to a decision mentioned in schedule 4, part 4.1.
- (2) The person who made the decision must, as soon as practicable, tell each person who, under section 237, objected to the application in relation to which the decision was made, in writing, about the application to the tribunal.
- (3) A notice under subsection (1) shall include a statement to the effect that the person to whom it is given is entitled, on application to the administrative appeals tribunal, to be made a party to the proceedings for the review.
- (4) In this section:  
*applicant* means—
  - (a) for a decision mentioned in schedule 4, part 4.1, items 1 to 7—the applicant for the decision; or
  - (b) for a decision mentioned in schedule 4, part 4.1 item 8—the person to whom the approval was granted.

**279 Application for review by objectors—notification to applicants**

- (1) If an objector makes an application under section 276 for the review of a decision, the objector shall, at the same time, give notice to the person who made the application for approval of the decision in relation to which the objector has applied for review.
- (2) A notice under subsection (1) shall include a statement to the effect that the person to whom it is given is entitled, on application to the administrative appeals tribunal, to be made a party to the proceedings for the review.
- (3) In subsection (1):  
*objector* means a person mentioned in section 276 (2).

**279A Challenge to validity of certain decisions**

- (1) The validity of a decision made by the Minister on an application to which section 229B (6) applies may not be questioned in any legal proceedings except those begun within 28 days after the date of the decision.
- (2) In this section:  
*legal proceedings* does not include an application to the administrative appeals tribunal.

**Subdivision 6.6.2 General**

**282 Regulations for pt 6**

- (1) The regulations may make provision for—
  - (a) the lodging of applications; and
  - (b) the form and conditions of a bond referred to in section 245 (3) (f), including the method of calculating the amount of the bond and the conditions of payment under the bond; and

- (c) the exemption of the Territory or a Territory authority from the requirements of all or any of the provisions of this part; and
  - (d) the circumstances, whether generally or in a particular case, in which an exemption under paragraph (c) applies; and
  - (e) exempting a development of a kind specified in the regulations, either absolutely or subject to conditions, from the application of this part or any provision of this part; and
  - (f) exempting a controlled activity of a kind specified in the regulations, either absolutely or subject to conditions, from the application of this part or any provision of this part; and
  - (g) the extension of any period within which action is to be taken by the Minister, the planning and land authority or anyone else, under this part or the regulations.
- (2) The regulations may authorise the Minister to exempt from this part or any provision of this part a development that consists of the erection, fixing or displaying of a sign or advertising material on the land, otherwise than in accordance with a right to do so expressly given by a current licence granted under this Act or a current lease.
- (3) An exemption under a regulation mentioned in subsection (2) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) An exemption under subsection (1) or (2) that relates to a development mentioned in subsection (2) may be conditional.



## Part 7 Administrative appeals

### **U** 282A AAT review of decisions

- (1) Application may be made to the AAT for review of the following decisions:
  - (a) a decision mentioned in subsection (3) or (4);
  - (b) a decision not to register a place under section 69 (1) (b) or 73 (1) (b);
  - (c) a decision mentioned in schedule 4, part 4.2, column 4.
- (2) A person mentioned in schedule 4, part 4.2, column 2, who makes a decision mentioned in column 4 of the item in which the person is mentioned must give written notice to people whose interests the person believes are affected by the decision.
- (3) If the Environment Minister, under section 125 (5), fixes a maximum price for the sale by a proponent of a copy of a draft environmental impact statement, the Environment Minister must give written notice of the decision to the proponent.
- (4) If the conservator decides to vary a land management agreement under a provision of the agreement mentioned in section 186C (3), the conservator must give written notice of the decision to the other party to the agreement.
- (5) A notice under subsection (2), (3) or (4) must comply with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

## Part 8 Miscellaneous

### 283 People authorised to exercise powers of Executive

- (1) The Executive may, in writing, authorise anybody to act on its behalf in the exercise of a function under part 2 (Planning) or part 5 (Land administration), other than a function under the following provisions:
  - section 163 (4) (Leases to community organisations)
  - section 164 (3) (Special leases)
  - section 167 (1) (Eligibility for certain classes of leases)
  - section 178 (3) (Refund of amount paid for grant of lease).
- (2) If the exercise of a function by the Executive in accordance with this part is dependent on the opinion, belief or state of mind of the Executive in relation to a matter and a person has, under subsection (1), been authorised to exercise that function, the function may be exercised by the person so authorised on his, her or its opinion, belief or state of mind in relation to the matter.

### 284 Power of administrative appeals tribunal and Supreme Court

If a person appeals, or purports to appeal, under this Act—

- (a) to the administrative appeals tribunal; or
- (b) against a determination or decision of the administrative appeals tribunal to the Supreme Court;

and it appears to the tribunal or court, as the case may be—

- (c) that the appeal, or purported appeal, or the decision, or the purported decision, against which the appeal, or purported

appeal, has been brought is affected by a failure to comply with a requirement of this Act; and

- (d) that to exercise the powers given by this section would not be unjust or inequitable;

the tribunal or court may order that, subject to any specified conditions, the requirement concerned be dispensed with to the necessary extent.

## **286 Acts and omissions of representatives**

- (1) In this section:

*person* means an individual.

*Note* See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

*representative*, of a person, means an employee or agent of the person.

*state of mind*, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
- (b) the representative had the state of mind.

- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

## **287 Determination of fees**

- (1) The Minister may, in writing, determine fees for this Act.

*Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## **287A Approved forms**

- (1) The Minister may, in writing, approve forms for section 186C (Land management agreements).
- (2) The planning and land authority may approve forms for any other provision of this Act.
- (3) If a form is approved for a particular purpose, the form must be used for that purpose.

*Note* For other provisions about forms, see Legislation Act, s 255.

- (4) A form approved for section 186C is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (5) A form approved for any other provision is a notifiable instrument.

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

## **288 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

## Part 9 Transitional

### 289 Status of leases and licences

- (1) Subject to section 290, a lease or licence granted or continued, or purported to have been granted or continued, under a repealed Act and in force immediately before 2 April 1992 is taken, on and after that day, to have been granted under this Act.
- (2) In this section:  
*repealed Act* means any of the following Acts:
  - (a) the *Leases Act 1918* No 2;
  - (b) the *Leases (Special Purposes) Act 1925* No 11;
  - (c) the *City Area Leases Act 1936* No 31.

### 290 Continued application of certain repealed Acts and provisions

- (1) Despite the repeal of the *Australian National University (Leases) Act 1967*, that Act continues to apply in relation to a lease granted under, or continued in force by, that Act and in force immediately before 2 April 1992.
- (2) Despite the repeal of the *Canberra College of Advanced Education (Leases) Act 1977* and subject to subsection (3), that Act continues to apply in relation to a lease granted under that Act and in force immediately before 2 April 1992.
- (3) For subsection (2), the *Canberra College of Advanced Education (Leases) Act 1977*, section 5 is taken to apply as if that section had been amended by omitting ‘in perpetuity’.
- (4) Despite the repeal of the *Church Lands Leases Act 1924*, that Act, sections 5, 6, 8 and 10 continue to apply in relation to a lease

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granted under that Act and in force immediately before 2 April 1992.

- (5) In a continuing lease, a reference to *improvements* is a reference to improvements other than improvements by way of clearing, draining, grading, filling, excavating or levelling made by the Territory or the Commonwealth or the cost of which the Territory or the Commonwealth has paid.
- (6) Despite the repeal of the *City Area Leases Act 1936*, the following sections of that Act continue to apply:
- (a) so far as the section relates to a continuing lease in which provision is made for the land comprised in the lease to be used for a purpose specified in that Act, section 8A (1)—section 8A;
  - (b) so far as the section relates to a variation of a continuing lease in respect of which notice under that Act, section 18A of that Act was given before the commencement day—section 18B;
  - (c) so far as the section relates to a continuing lease in relation to which notice under the section was given before the commencement day—section 22;
  - (d) so far as the section relates to a continuing lease specified in that Act, section 28A (1)—section 28A;
  - (e) so far as the section relates to a continuing lease specified in that Act, section 28DA (1)—section 28DA;
  - (f) so far as the section relates to a sublease specified in that Act, section 30A (2) and in force immediately before 2 April 1992—section 30A.
- (7) Despite the repeal of the *Leases (Special Purposes) Act 1925*, that Act, sections 5AC, 5AD, 5A and 5B continue to apply in relation to a lease of Territory Land—
- (a) granted under that Act, section 3 (2) as in force immediately before 11 May 1989; and

(b) in force immediately before 2 April 1992.

(8) Despite the repeal of the *Leases (Special Purposes) Act 1925*, that Act, section 5BA (6) continues to apply in relation to a lease granted under that Act and in force immediately before 2 April 1992.

(9) In this section:

***continuing lease*** means a lease granted or continued, or purported to have been granted or continued, under the *City Area Leases Act 1936* and to which this Act, section 289 applies.

## 291 Conversion of Commonwealth leases

(1) This section applies if—

(a) a declaration under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), section 27 (1) has been rescinded, revoked, amended or varied and as a consequence land that had been national land has ceased to be national land; and

(b) a lease had been granted under a prescribed law over all or part of that land and the lease was in force immediately before the rescission, revocation, amendment or variation of the declaration.

(2) The lease is taken to have been granted under this Act from the day of the rescission, revocation, amendment or variation of the declaration.

(3) In this section:

***prescribed law*** means any of the following laws:

(a) the *Leases Ordinance 1918*;

(b) the *Leases (Special Purposes) Ordinance 1925*;

(c) the *City Area Leases Ordinance 1936*;



- (d) the provisions of a law mentioned in paragraph (a), (b) or (c) as in effect under the *National Land Ordinance 1989*.

**U** 294 **Territory plan variation—omission of heritage places register**

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## Schedule 1 Management objectives for public land

(see s 195)

| column 1<br>item | column 2<br>reserve     | column 3<br>management objectives  |
|------------------|-------------------------|--|
| 1                | wilderness area         | 1 to conserve the natural environment in a way ensuring that disturbance to that environment is minimal<br>2 to provide for the use of the area (other than by vehicles or other mechanised equipment) for recreation by limited numbers of people, to ensure that opportunities for solitude are provided |
| 2                | national park           | 1 to conserve the natural environment<br>2 to provide for public use of the area for recreation, education and research  |
| 3                | nature reserve          | 1 to conserve the natural environment<br>2 to provide for public use of the area for recreation, education and research  |
| 4                | special purpose reserve | 1 to provide for public and community use of the area for recreation and education   |

| <b>column 1<br/>item</b> | <b>column 2<br/>reserve</b>  | <b>column 3<br/>management objectives</b>   |
|--------------------------|------------------------------|---|
| 5                        | cemetery or burial ground    | 1 to provide for the interment or cremation of human remains and the interment of the ashes of human remains  |
| 6                        | sport and recreation reserve | 1 to provide for public and community use of the area for sport and recreation  |
| 7                        | urban open space             | 1 to provide for public and community use of the area<br>2 to develop the area for public and community use   |
| 8                        | lake                         | 1 to prevent and control floods by providing a reservoir to receive flows from rivers, creeks and urban run-offs<br>2 to prevent and control pollution of waterways<br>3 to provide for public use of the lake for recreation<br>4 to provide a habitat for fauna and flora |

## **U** Schedule 2      **Criteria for assessment of heritage significance of places**

(see s 56)

- 1 Under the *Land (Planning and Environment) Act 1991*, section 56 the criteria for the assessment of the heritage significance of places are:
  - (a) a place that demonstrates a high degree of technical, creative achievement, or both by showing qualities of innovation or departure or representing a new achievement of its time; or
  - (b) a place that exhibits outstanding design or aesthetic qualities valued by the community or a cultural group; or
  - (c) a place that demonstrates a distinctive way of life, taste, tradition, religion, land use, custom, process, design or function that is no longer practised, is in danger or being lost, or is of exceptional interest; or
  - (d) a place that is highly valued by the community or a cultural group for reasons of strong or special religious, spiritual, cultural, educational or social associations; or
  - (e) a place that is the only known or only comparatively intact example of its type; or
  - (f) a place that is a notable example of a class of natural or cultural places or landscapes and that demonstrates the principal characteristics of that class; or
  - (g) a place that has strong or special associations with person, group, event, development or cultural phase that played a significant part in local or national history; or

- 
- (h) a place that represents the evolution of a natural landscape, including significant geological features, landforms, biota or natural processes; or
  - (i) a place that is a significant habitat or locality for the life cycle of native species; for rare, endangered or uncommon species, for species at the limits of their natural range, or for district occurrences of species; or
  - (j) a place that exhibits unusual richness, diversity or significant transitions of flora, fauna or natural landscapes and their elements; or
  - (k) a place that demonstrates a likelihood of providing information that will contribute significantly to a wider understanding of natural or cultural history, because of its use as a research site, teaching site, type locality or benchmark site.

## Schedule 3      Content of preliminary assessments

(see s 115)

**1** The following format is to be used for a preliminary assessment required under section 115.

**1. General Information**

**1.1 Name and address of proponent** This is to include the details of any ACT government authority or agency.

**1.2 Details of the contact** This is to include the contact officer within any ACT government authority or agency.

**1.3 Status of the project** Advise the current position on the planning of the project, studies begun or planned and the proposed targets for planning, development or construction.

**1.4 Location of the project**

(a) project site description sufficient for precise location on a map or a map included to show the exact site location;

(b) information on possible future extensions.

**1.5 Description of the project**

(a) the type and form of the project including supporting developments including those not the responsibility of the proponent;

(b) the purpose and need for the project, intended utilisation and operation of the facilities;

(c) the relationship of the project with surrounding development, to connected facilities and services or to other proposed projects.

- 
- 2 Existing Environmental Conditions**
- 2.1 **Description of project site** A brief description of the overall appearance and current land use with mention made of any special features including the built and natural heritage factors (if any) of the site.
- 2.2 **Description of region surrounding the project site** Significant differences between the site and surrounding areas should be noted eg variation in population density, watershed, proximity to watercourses and water bodies.
- 2.3 **Current land use policy and lease conditions of the site**
- 3 Potential Impact of the Project on the Environment**
- 3.1 **On the physical environment**
- 3.2 **On the human environment**
- 3.3 **On the non-human biological environment**
- 3.4 **Potentially beneficial impacts**
- 4 Summary and Conclusions**
- 4.1 A summary of the potential benefits and disadvantages of the project. Can the benefits to the community be said to offset any unavoidable permanent or temporary adverse effects?

**U Schedule 4 Decisions reviewable by AAT**

(see s 275, 282A)

**Part 4.1 Reviewable decisions under part 6**

| <b>column 1<br/>item</b> | <b>column 2<br/>decision-maker</b> | <b>column 3<br/>provision of<br/>Act</b> | <b>column 4<br/>decision</b>          |
|--------------------------|------------------------------------|--|---------------------------------------|
| 1                        | planning and land authority        | 228 (2)                                  | refusing to approve application       |
| 2                        | relevant authority                 | 230                                      | refusing to approve application       |
| 3                        | planning and land authority        | 233 (3)                                  | refusing to grant extension of period |
| 4                        | relevant authority                 | 245                                      | giving approval subject to condition  |
| 5                        | planning and land authority        | 245 (4)                                  | refusing to approve amendment         |
| 6                        | planning and land authority        | 246A                                     | refusing to approve application       |
| 7                        | planning and land authority        | 246A                                     | giving approval subject to condition  |
| 8                        | planning and land authority        | 247 (2)                                  | refusing to amend approval            |
| 9                        | planning and land authority        | 252 (2)                                  | refusing to extend period             |



| column 1<br>item | column 2<br>decision-maker | column 3<br>provision of<br>Act | column 4<br>decision |
|------------------|----------------------------|---------------------------------|----------------------|
| 10               | relevant authority         | 253                             | revoking approval    |

## **Part 4.2 Other reviewable decisions**

| column 1<br>item | column 2<br>decision-maker | column 3<br>provision of<br>Act | column 4<br>decision   |
|------------------|----------------------------|---------------------------------|--|
| 1                | heritage council           | 59 (3)                          | including provision in interim heritage places register                                |
| 2                | heritage council           | 59 (3)                          | refusing application for inclusion of provision in interim heritage places register    |
| 3                | heritage council           | 62 (1) (b)                      | revision of interim heritage places register by removal of provision relating to entry |
| 4                | Minister                   | 64                              | acquiring place or object  |
| 5                | Minister                   | 69 (1) (a)                      | directing heritage council to notify interim heritage places register                  |
| 6                | Minister                   | 73 (1) (a)                      | directing heritage council to notify interim heritage places register                  |
| 7                | Minister                   | 76 (1)                          | refusing to compensate   |
| 8                | Minister                   | 82 (1)                          | declaring information to be restricted information                                     |

**Schedule 4**  
**Part 4.2**

Decisions reviewable by AAT  
Other reviewable decisions

| <b>column 1<br/>item</b> | <b>column 2<br/>decision-maker</b> | <b>column 3<br/>provision of<br/>Act</b> | <b>column 4<br/>decision</b>   |
|--------------------------|------------------------------------|--|--|
| 9                        | heritage council                   | 84 (2)                                   | refusing to approve publication of restricted information about Aboriginal place                         |
| 10                       | planning and land authority        | 167 (3)                                  | deciding that person not eligible for grant of lease of specified class                                  |
| 11                       | planning and land authority        | 167 (5)                                  | refusing to consent to assignment, transfer or subletting of lease or parting of possession of leasehold |
| 12                       | planning and land authority        | 170 (1)                                  | terminating person's right to grant of lease   |
| 13                       | planning and land authority        | 171 (2)                                  | refusing to grant further residential lease  |
| 14                       | planning and land authority        | 171A (1)                                 | refusing to grant further rural lease  |
| 15                       | planning and land authority        | 172 (2)                                  | refusing to grant further lease other than residential or rural lease                                    |
| 16                       | planning and land authority        | 174 (2)                                  | determining market value of improvements   |
| 17                       | planning and land authority        | 177 (3)                                  | confirming variation of rent   |
| 18                       | planning and land authority        | 177 (3)                                  | on review of variation of rent, substituting other variation   |

| <b>column 1<br/>item</b> | <b>column 2<br/>decision-maker</b> | <b>column 3<br/>provision of<br/>Act</b> | <b>column 4<br/>decision</b>   |
|--------------------------|------------------------------------|--|--|
| 19                       | planning and land authority        | 178 (1)                                  | refusing to authorise payment of amount  |
| 20                       | planning and land authority        | 179 (1)                                  | refusing to issue certificate of compliance  |
| 21                       | planning and land authority        | 179 (2)                                  | on application for certificate of compliance under s 179 (1)—<br>issuing certificate that building and development condition partially complied with |
| 22                       | planning and land authority        | 179 (2)                                  | refusing to issue certificate that building and development condition partially complied with  |
| 23                       | planning and land authority        | 179 (2)                                  | issuing certificate of compliance subject to condition under s 179 (3)   |
| 24                       | planning and land authority        | 180 (2)                                  | refusing to consent to assignment or transfer of lease or interest in lease  |
| 25                       | planning and land authority        | 184A (2)                                 | determining change of use charge for variation of nominal rent lease   |
| 26                       | planning and land authority        | 184C (1)                                 | refusing to remit change of use charge for variation of nominal rent lease   |

**Schedule 4**  
**Part 4.2**

Decisions reviewable by AAT  
Other reviewable decisions

| <b>column 1<br/>item</b> | <b>column 2<br/>decision-maker</b> | <b>column 3<br/>provision of<br/>Act</b> | <b>column 4<br/>decision</b>  |
|--------------------------|------------------------------------|--|---|
| 27                       | planning and land authority        | 184C (1)                                 | remitting change of use charge for variation of nominal rent lease by amount less than amount applied for |
| 28                       | planning and land authority        | 184C (2)                                 | increasing change of use charge for variation of nominal rent lease                                       |
| 29                       | planning and land authority        | 184D (2)                                 | reappraising rent payable under rental lease  |
| 30                       | planning and land authority        | 186 (1) (d)                              | determining amount payable to reduce lease rent to nominal rent   |
| 31                       | planning and land authority        | 187A (2)                                 | determining change of use charge for consolidation or subdivision   |
| 32                       | planning and land authority        | 187C (1)                                 | refusing to remit change of use charge for consolidation or subdivision                                   |
| 33                       | planning and land authority        | 187C (1)                                 | remitting change of use charge for consolidation or subdivision by amount less than amount applied for    |
| 34                       | planning and land authority        | 187C (2)                                 | increasing change of use charge for consolidation or subdivision  |
| 35                       | planning and land authority        | 188 (1)                                  | terminating lease   |

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| <b>column 1<br/>item</b> | <b>column 2<br/>decision-maker</b> | <b>column 3<br/>provision of<br/>Act</b> | <b>column 4<br/>decision</b>   |
|--------------------------|------------------------------------|--|--|
| 36                       | planning and land authority        | 188 (4)                                  | terminating licence  |
| 37                       | planning and land authority        | 214 (1)                                  | refusing consent to surrender of lease or part of leasehold            |
| 38                       | planning and land authority        | 214 (2)                                  | accepting surrender of lease or part of leasehold subject to condition |
| 39                       | planning and land authority        | 219 (1)                                  | refusing to grant right to extract minerals                            |

## **U** Schedule 5      **Activities subject to orders**

(see s 4, s 258)

| <b>column 1<br/>item</b> | <b>column 2<br/>activities</b>  | <b>column 3<br/>penalty</b> |
|--------------------------|---|-----------------------------|
| 1                        | work affecting the requirements for the conservation of the heritage significance of places included in the heritage places register or an interim heritage places register conducted otherwise than in accordance with an approval | 200 penalty units           |
| 2                        | failure to comply with—<br>(a) a lease; or<br>(b) if a lease is granted subject to the lessee entering into a development agreement and the lessee has entered into such an agreement—the development agreement                     | 50 penalty units            |
| 4                        | failure to keep a leasehold clean   | 50 penalty units            |
| 5                        | undertaking a development   | 50 penalty units            |
| 6                        | having a building or structure that was constructed or erected without approval required by—<br>(a) this Act, division 6.2; or<br>(b) the <i>Buildings (Design and Siting) Act 1964</i>   | 50 penalty units            |

| column 1<br>item | column 2<br>activities   | column 3<br>penalty |
|------------------|--|---------------------|
| 9                | permitting a tree, sapling, plant or shrub to overhang a public place so as to obstruct or inconvenience a person in that place  | 5 penalty units     |
| 10               | an activity that is likely to cause soil erosion, or an activity that involves destroying, damaging, removing or otherwise interfering with vegetation (living or dead) or soil between the banks, or within 20m of the bank, of a watercourse, or on land with a slope of more than 18° from the horizontal | 100 penalty units   |
| 11               | using or managing land in a way that fails to control the propagation of a pest animal or pest plant   | 50 penalty units    |
| 12               | parking a heavy vehicle on residential land in contravention of a code of practice under the <i>Road Transport (Safety and Traffic Management) Regulations 2000</i> , division 3.1.3 about the parking of heavy vehicles   | 20 penalty units    |
| 13               | managing land held under a rural lease other than in accordance with the land management agreement that applies to it  | 50 penalty units    |

## **U** Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- AAT
- administrative appeals tribunal
- amend
- appoint
- change
- conservator of flora and fauna
- contravene
- document
- domestic partner (see s 169)
- exercise
- function
- month
- national capital authority
- penalty unit (see s 133)
- the Territory.

*Aboriginal object*, for part 3 (Heritage)—see section 52.

*Aboriginal place*, for part 3 (Heritage)—see section 52.

*Aboriginal tradition*, for part 3 (Heritage)—see section 52.

*application*, for part 6 (Approvals and orders)—see section 222.

*approval*, for part 6 (Approvals and orders)—see section 222.

*assessment* means an assessment made under division 4.3



**authorised person—**

- (a) for subdivision 4.4.3 (Procedures and powers)—see section 143; and
- (b) for subdivision 6.3.2 (Rectification work)—see section 259C (1).

**background papers**, for part 2 (Planning)—see section 5.

**building**, for part 6 (Approvals and orders)—see section 222.

**building and development provision**, for part 5 (Land administration)—see section 159.

**building work**, for part 6 (Approvals and orders)—see section 222.

**cemetery** includes crematorium.

**chairperson**, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

**compensation**, for subdivision 3.5.4 (Compensation claims)—see section 74.

*Note* Subdivision 3.5.4 is about compensation claims in relation to Aboriginal heritage discoveries and places.

**connected**, with an offence, for division 6.4 (Enforcement)—see section 262.

**conservation**, for part 3 (Heritage)—see section 52.

**conservator** means the conservator of flora and fauna.

**consolidation—**

- (a) for part 5 (Land administration)—see section 159; and
- (b) for part 6 (Approvals and orders)—see section 222.

**consultation notice**, for part 2 (Planning)—see section 19.

**controlled activity** means—

- (a) an activity of a kind mentioned in schedule 5; or

(b) an activity under another Act that is declared by that Act to be a controlled activity for schedule 5.

**dealing**, for division 5.4 (Restrictions on rural leases)—see section 186B.

**defined decision**, for part 4 (Environmental assessments and inquiries)—see section 111.

**deputy chairperson**, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

**development**, in relation to land—

(a) for part 2 (Planning)—see section 5; and

(b) for part 6 (Approvals and orders)—see section 222.

**discharge amount**, for division 5.4 (Restrictions on rural leases)—see section 186B.

**draft plan variation**, for part 2 (Planning)—see section 5.

**earlier index number**, for division 5.4 (Restrictions on rural leases)—see section 186B.

**environmental impact**, for part 4 (Environmental assessments and inquiries)—see section 111.

**environmental impact statement**, for part 4 (Environmental assessments and inquiries)—see section 111.

**environmental report**, for part 2 (Planning)—see section 5.

**Environment Minister** means the Minister administering part 4 (Environmental assessments and inquiries).

**Executive**, for part 6 (Approvals and orders)—see section 222.

**expert member**, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

***formal error*** means—

- (a) a clerical error; or
- (b) an error arising from an accidental slip or omission; or
- (c) a defect of form.

***heritage council*** means the Australian Capital Territory Heritage Council established under section 91.

***heritage object***, for part 3 (Heritage)—see section 52.

***heritage objects register***, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

***heritage place***, for part 3 (Heritage)—see section 52.

***heritage places register*** means the register of heritage places incorporated in the plan.

***heritage significance*** means archaeological, historic, aesthetic, architectural, scientific, natural or social significance, or other special significance in relation to the environment, for the present community, and for future generations.

***holding period***, for division 5.4 (Restrictions on rural leases)—see section 186B.

***index number***, for division 5.4 (Restrictions on rural leases)—see section 186G.

***inquiry*** means an inquiry conducted under division 4.4 (Inquiries).

***inspector***, for part 6 (Approvals and orders), means a person appointed as an inspector under section 263 (1).

***interim heritage places register***—see section 52.

***interim variation***, in relation to the heritage places register, for part 3 (Heritage)—see section 52.

**land**—

- (a) for part 2 (Planning)—see section 5; and
- (b) for part 4 (Environmental assessments and inquiries)—see section 111.

**land management agreement** means an agreement under section 186C.

*Note* A reference to an instrument (including a land management agreement) includes a reference to the instrument as originally made and as amended (see Legislation Act, s 102).

**later index number**, for division 5.4 (Restrictions on rural leases)—see section 186B.

**lease**—

- (a) for part 5 (Land administration)—see section 159; and
- (b) for part 6 (Approvals and orders)—see section 222.

**lessee**—

- (a) for part 5 (Land administration)—see section 159; and
- (b) for part 6 (Approvals and orders)—see section 222.

**long lease**, for division 5.4 (Restrictions on rural leases)—see section 186B.

**market value**, for part 5 (Land administration)—see section 159.

**member**, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

**national capital plan**, for part 2 (Planning)—see section 5.

**natural environment**, for schedule 1 (Management objectives for public land)—see section 195 (6).

**new application**, for subdivision 6.2.4 (Reconsideration of applications for approval)—see section 245A.

**newspaper** means a newspaper published and circulating in the ACT.

**nominal rent lease**, for part 5 (Land administration)—see section 159.

**objection**, for part 6 (Approvals and orders)—see section 222.

**occupier**—

(a) for subdivision 4.4.3 (Procedures and powers)—see section 143; and

(b) for division 6.4 (Enforcement)—see section 262.

**offence**, for division 6.4 (Enforcement)—see section 262.

**order**, for part 6 (Approvals and orders)—see section 222.

**original application**, for subdivision 6.2.4 (Reconsideration of applications for approval)—see section 245A.

**original decision**, for subdivision 6.2.4 (Reconsideration of applications for approval)—see section 245A.

**panel**, for part 4 (Environmental assessments and inquiries)—see section 111.

**permanent member**, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

**pest animal** means an animal declared to be a pest animal under section 261.

**pest plant** means a plant declared to be a pest plant under section 261.

**place**, for subdivision 4.4.3 (Procedures and powers)—see section 143.

**plan** means the Territory plan.

*Note* A reference to an instrument (including the plan) includes a reference to the instrument as originally made and as amended (see Legislation Act, s 102).

**plan of management**, for division 5.7 (Public land)—see section 191.

**preliminary assessment**, for part 4 (Environmental assessments and inquiries)—see section 111.

**prescribed period**, for part 6 (Approvals and orders)—see section 222.

**prohibition notice**, for part 6 (Approvals and orders)—see section 260 (1).

**proponent**, for part 4 (Environmental assessments and inquiries)—see section 111.

**provision**, of a lease, for part 5 (Land administration)—see section 159.

**public car park**, for part 5 (Land administration)—see section 159.

**public environment report**, for part 4 (Environmental assessments and inquiries)—see section 111.

**public land** means land identified by the plan as public land.

**rectification work**, for subdivision 6.3.2 (Rectification work)—see section 259.

**registered**, for division 3.5 (Aboriginal heritage)—see section 66.

**registered lease**, for part 5 (Land administration)—see section 159.

**registered proprietor**, for part 5 (Land administration)—see section 159.

**registration**, for division 3.5 (Aboriginal heritage)—see section 66.

**relevant Aboriginal organisation**, for part 3 (Heritage)—see section 52.

**relevant authority**, for part 6 (Approvals and orders)—see section 222.

**relevant Minister**, for part 4 (Environmental assessments and inquiries)—see section 111.

**rental lease**, for part 5 (Land administration)—see section 159.

**residential lease**, for part 5 (Land administration)—see section 159.

**restricted information**, for part 3 (Heritage)—see section 52.

**rural lease**, for part 5 (Land administration)—see section 159.

**secretary**, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

**short lease**, for division 5.4 (Restrictions on rural leases)—see section 186B.

**special Pialligo lease**, for division 5.4 (Restrictions on rural leases)—see section 186B.

**structure**, for part 6 (Approvals and orders)—see section 222.

**subdivision**—

- (a) for part 5 (Land administration)—see section 159; and
- (b) for part 6 (Approvals and orders)—see section 222.

**sublease**, for part 5 (Land administration)—see section 159.

**sublessee**, for part 5 (Land administration)—see section 159.

**Territory authority** means—

- (a) a body (whether or not incorporated) established by the Executive; or
- (b) the holder of a position established under an Act or by the Executive.

**unregistered**, for division 3.5 (Aboriginal heritage)—see section 66.

**variation**, for part 3 (Heritage)—see section 52.

**variation**, of a lease—

(a) for division 5.3 (Variation of leases)—see section 184; and

(b) for part 6 (Approvals and orders)—see section 223.

**variation**, of the plan, for part 2 (Planning)—see section 5.

**variation**, of a plan of management, for division 5.7 (Public land)—see section 191.



## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

|  |  |
|--|--|
| am = amended   | ord = ordinance  |
| amdt = amendment                                       | orig = original  |
| ch = chapter   | par = paragraph/subparagraph   |
| cl = clause  | pres = present   |
| def = definition                                       | prev = previous  |
| dict = dictionary                                      | (prev...) = previously   |
| disallowed = disallowed by the Legislative<br>Assembly | pt = part  |
| div = division   | r = rule/subrule   |
| exp = expires/expired                                  | reg = regulation/subregulation                                       |
| Gaz = Gazette  | renum = renumbered   |
| hdg = heading  | reloc = relocated  |
| IA = Interpretation Act 1967                           | R[X] = Republication No  |
| ins = inserted/added                                   | RI = reissue   |
| LA = Legislation Act 2001                              | s = section/subsection   |
| LR = legislation register                              | sch = schedule   |
| LRA = Legislation (Republication) Act 1996             | sdiv = subdivision   |
| mod = modified/modification                            | sub = substituted  |
| o = order  | SL = Subordinate Law   |
| om = omitted/repealed                                  | <u>underlining</u> = whole or part not commenced<br>or to be expired |

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Land (Planning and Environment) Act 1991 No 100**

notified 15 January 1992  
s 1 and s 2 commenced 15 January 1992  
remainder commenced 2 April 1992

as amended by

#### **Land (Planning and Environment) (Amendment) Act 1992 No 32**

notified 3 July 1992  
commenced 3 July 1992

#### **Land (Planning and Environment) (Amendment) Act 1993 No 11**

notified 1 March 1993  
commenced 1 March 1993

#### **Acts Revision (Position of Crown) Act 1993 No 44 sch 2**

notified 27 August 1993 (Gaz 1993 No S165)  
sch 2 commenced 27 August 1993 (s 2)

#### **Registrar-General (Consequential Provisions) Act 1993 No 64**

notified 6 September 1993  
s 1, s 2 commenced 6 September 1993  
remainder commenced 1 October 1993 (s 2 (2) and Gaz 1993 No S207)

#### **Land (Planning and Environment) (Amendment) Act (No 2) 1993 No 75**

notified 2 November 1993  
s 1, s 2 commenced 2 November 1993  
remainder commenced 1 December 1993 (Gaz 1993 No S247)

#### **Land (Planning and Environment) (Amendment) Act (No 3) 1993 No 77**

notified 2 November 1993  
s 1, s 2 commenced 2 November 1993  
remainder commenced 1 December 1993 (Gaz 1993 No S243)

**Real Property (Consequential Provisions) Act 1993 No 90**

notified 17 December 1993  
s 1, s 2 commenced 17 December 1993  
remainder commenced 1 January 1994 (s 2 (2) and Gaz 1993  
No S270)

**Statute Law Revision Act 1994 No 26**

notified 31 May 1994  
commenced 31 May 1994

**Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38**

notified 30 June 1994  
s 1, s 2 commenced 30 June 1994  
remainder commenced 1 July 1994 (Gaz 1994 No S142)

**Administrative Appeals (Consequential Amendments) Act 1994 No 60**

notified 11 October 1994  
s 1, s 2 commenced 11 October 1994  
remainder commenced 14 November 1994 (s 2 (2) and Gaz 1994  
No S250)

**Statute Law Revision (Penalties) Act 1994 No 81**

notified 29 November 1994  
s 1, s 2 commenced 29 November 1994  
remainder commenced 29 November 1994 (Gaz 1994 No S269)

**Statutory Offices (Miscellaneous Provisions) Act 1994 No 97**

notified 15 December 1994  
s 1, s 2 commenced 15 December 1994  
remainder commenced 15 December 1994 (Gaz 1994 No S293)

**Land (Planning and Environment) (Amendment) Act 1995 No 20**

notified 5 September 1995  
commenced 5 September 1995

**Land (Planning and Environment) (Amendment) Act (No 2) 1995  
No 21**

notified 5 September 1995  
ss 1-3 commenced 5 September 1995  
remainder commenced 1 January 1996 (Gaz 1995 No S316)

## Endnotes

3 Legislation history

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**Annual Reports (Government Agencies) (Consequential Provisions) Act 1995 No 25**

notified 5 September 1995  
commenced 5 September 1995

**Land Titles (Consequential Amendments) Act 1995 No 54**

notified 20 December 1995  
commenced 20 June 1996 (s 2)

**Remuneration Tribunal (Consequential and Transitional Provisions) Act 1995 No 56**

notified 20 December 1995  
commenced 21 December 1995 (s 2 and Gaz 1995 No S315)

**Gungahlin Development Authority (Consequential Provisions) Act 1996 No 39**

notified 10 July 1996  
commenced 19 August 1996 (s 2 and Gaz 1996 No S212)

**Land (Planning and Environment) (Amendment) Act 1996 No 62**

notified 3 December 1996  
commenced 3 December 1996

**Land (Planning and Environment) (Amendment) Act (No 2) 1996 No 71**

notified 20 December 1996  
ss 1-3 commenced 20 December 1996  
remainder commenced 1 January 1997 (Gaz 1996 No S352)

**Motor Traffic (Amendment) Act (No 3) 1996 No 83**

notified 20 December 1996  
ss 1-3 commenced 20 December 1996  
remainder commenced 1 January 1997 (Gaz 1996 No S353)

**Land (Planning and Environment) (Amendment) Act (No 3) 1996 No 85**

notified 24 December 1996  
s 1, s 2 commenced 24 December 1996  
remainder commenced 24 June 1997

**Land (Planning and Environment) (Amendment) Act 1997 No 7**

notified 22 April 1997  
ss 1-3 commenced 22 April 1997  
remainder commenced 24 June 1997 (s 2 (2))

**Remuneration Tribunal (Consequential Amendments) Act 1997 No 41  
(as am by Act 2002 No 49 amdt 3.222)**

notified 19 September 1997  
commenced 24 September 1997 (s 2 as am by Act 2002 No 49  
amdt 3.222)

**Environment Protection (Consequential Provisions) Act 1997 No 93**

notified 1 December 1997  
s 1, s 2 commenced 1 December 1997  
remainder commenced 1 June 1998

**Land (Planning and Environment) (Amendment) Act (No 2) 1997  
No 116**

notified 24 December 1997  
commenced 24 December 1997

**Statute Law Revision (Penalties) Act 1998 No 54**

notified 27 November 1998  
s 1, s 2 commenced 27 November 1998  
remainder commenced 9 December 1998 (Gaz 1998 No 49)

**Water Resources Act 1998 No 63 s 83**

notified 11 December 1998 (Gaz 1998 No S209)  
s 83 commenced 11 December 1998

**Land (Planning and Environment) (Amendment) Act 1998 No 65**

notified 23 December 1998  
commenced 23 December 1998

**Land (Planning and Environment) (Amendment) Act 1999 No 40**

notified 16 July 1999  
commenced 16 July 1999

**Land Planning and Environment Amendment Act (No 2) 1999 No 73**

notified 15 December 1999  
commenced 15 December 1999

## Endnotes

3 Legislation history

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**Road Transport Legislation Amendment Act 1999 No 79**

notified 23 December 1999

commenced 1 March 2000 (s 2 and Gaz 2000 No S5)

**Land (Planning and Environment) Amendment Act (No 3) 1999 No 87**

notified 23 December 1999

commenced 23 December 1999

**Land (Planning and Environment) Amendment Act 2000 No 14**

notified 31 March 2000

commenced 31 March 2000

**Land (Planning and Environment) Amendment Act 2000 (No 2)  
2000 No 15**

notified 20 April 2000

commenced 20 April 2000

**Land (Planning and Environment) Amendment Act 2000 (No 3)  
2000 No 37**

notified 20 July 2000

s 1, s 2 commenced 20 July 2000

remainder commenced 24 July 2000 (Gaz 2000 No S39)

**Land (Planning and Environment) Amendment Act 2000 (No 4)  
2000 No 49**

notified 28 September 2000

commenced 28 September 2000

**Statute Law Amendment Act 2000 No 80**

notified 21 December 2000

commenced 21 December 2000

**Land (Planning and Environment) Amendment Act 2001 No 1**

notified 19 February 2001 (Gaz 2001 No S7)

s 1, s 2 commenced 19 February 2001 (IA s 10B)

remainder commenced 31 May 2001 (Gaz 2001 No 22)

**Unit Titles Consequential Amendments Act 2001 No 17 sch 2**

notified 5 April 2001 (Gaz 2001 No 14)

s 1, s 2 commenced 5 April 2001 (IA s 10B)

sch 2 commenced 5 October 2001 (s 2)

**Tree Protection (Interim Scheme) Act 2001 No 20 s 54**

notified 3 April 2001 (Gaz 2001 No S16)  
s 1, s 2 commenced 3 April 2001 (IA s 10B)  
s 54 taken to have commenced 29 March 2001 (s 2)

**Land (Planning and Environment) Amendment Act 2001 (No 2) 2001 No 32**

notified 21 June 2001 (Gaz 2001 No S33)  
taken to have commenced 15 June 2001 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 207**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 207 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.29**

notified 5 September 2001 (Gaz 2001 No S65)  
amdt 3.436 taken to have commenced 21 December 2000 (s 2 (2))  
pt 3.29 remainder commenced 5 September 2001 (s 2 (1))

**Community Title Act 2001 No 58 s 101, s 102**

notified 10 September 2001 (Gaz 2001 No S66)  
s 1, s 2 commenced 10 September 2001 (IA s 10B)  
s 101, s 102 commenced 10 March 2002 (s 2 and LA s 79)

**Land (Planning and Environment) Amendment Act 2001 (No 3) 2001 No 73**

notified LR 12 September 2001  
commenced 12 September 2001 (s 2)

**Land (Planning and Environment) Amendment Act 2001 (No 4) 2001 No 80**

notified 10 September 2001 (Gaz 2001 No S66)  
s 1, s 2 commenced 10 September 2001 (IA s 10B)  
s 3, s 4 commenced 10 September 2001 (s 2 (1))  
remainder commenced 12 September 2001 (s 2 (2))

**Legislation Amendment Act 2002 No 11 pt 2.32**

notified LR 27 May 2002  
s 1, s 2 commenced 27 May 2002 (LA s 75)  
pt 2.32 commenced 28 May 2002 (s 2 (1))

## Endnotes

3 Legislation history

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### **Statute Law Amendment Act 2002 No 30 pt 3.38**

notified LR 16 September 2002

s 1, s 2 commenced 16 September 2002 (LA s 75)

pt 3.38 commenced 17 September 2002 (s 2 (1))

### **Land (Planning and Environment) Amendment Act 2002 No 37**

notified LR 10 October 2002

s 1, s 2 commenced 10 October 2002 (LA s 75 (1))

remainder commenced 11 October 2002 (s 2)

### **Districts Act 2002 No 39 pt 1.4**

notified LR 10 October 2002

s 1, s 2 commenced 10 October 2002 (LA s 75 (1))

pt 1.4 commenced 11 October 2002 (s 2)

### **Statute Law Amendment Act 2002 (No 2) No 49 amdt 3.222**

notified LR 20 December 2002

s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))

amdt 3.222 commenced 24 September 1997 (s 2 (3))

*Note* This Act only amends the Remuneration Tribunal  
(Consequential Amendments) Act 1997 No 41.

### **Planning and Land (Consequential Amendments) 2002 A2002-56 sch 1**

notified LR 20 December 2002

s 1, s 2 commenced 20 December 2002 (LA s 75 (1))

sch 1 commenced 1 July 2003 (s 2 and see Planning and Land

Act 2002 A2002-55, s 2)

### **Cemeteries and Crematoria Act 2003 A2003-11 sch 1 pt 1.1**

notified LR 27 March 2003

s 1, s 2 commenced 27 March 2003 (LA s 75 (1))

sch 1 pt 1.1 commenced 27 September 2003 (s 2 and LA s 79)

### **Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 A2003-14 sch 1 pt 1.20**

notified LR 27 March 2003

s 1, s 2 commenced 27 March 2003 (LA s 75 (1))

sch 1 pt 1.20 commenced 28 March 2003 (s 2)



**Planning and Land Legislation Amendment Act 2003 A2003-30 sch 1 pt 1.1**

notified LR 30 June 2003  
s 1, s 2 commenced 30 June 2003 (LA s 75 (1))  
sch 1 pt 1.1 commenced 1 July 2003 (s 2 and see Planning and Land Act 2002 A2002-55, s 2)

**Land (Planning and Environment) (Compliance) Amendment Act 2003 A2003-34 pt 2, sch 1 pt 1.2, sch 2**

notified LR 7 July 2003  
s 1, s 2 commenced 7 July 2003 (LA s 75 (1))  
pt 2, sch 1 pt 1.2, sch 2 commenced 1 September 2003 (s 2 and CN2003-8)

**Sexuality Discrimination Legislation Amendment Act 2004 A2004-2 sch 1 pt 1.9**

notified LR 18 February 2004  
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))  
sch 1 pt 1.9 commenced 22 March 2004 (s 2 and CN2004-4)

**Construction Occupations Legislation Amendment Act 2004 A2004-13 sch 2 pt 2.16**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 2 pt 2.16 commenced 1 September 2004 (s 2 and see Construction Occupations (Licensing) Act 2004 A2004-12, s 2 and CN2004-8)

**Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.27, sch 2 pt 2.48**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 1 pt 1.27, sch 2 pt 2.48 commenced 9 April 2004 (s 2 (1))

**Gungahlin Drive Extension Authorisation Act 2004 A2004-27 s 16, s 17**

notified LR 26 May 2004  
s 1, s 2 commenced 26 May 2004 (LA s 75 (1))  
s 16, s 17 commenced 27 May 2004 (s 2)

## Endnotes

4 Amendment history

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### **Statute Law Amendment Act 2004 A2004-42 sch 1 pt 1.3**

notified LR 11 August 2004

s 1, s 2 commenced 11 August 2004 (LA s 75 (1))

sch 1 pt 1.3 commenced 25 August 2004 (s 2 (1))

### **Heritage Act 2004 A2004-57 sch 1 pt 1.5**

notified LR 9 September 2004

s 1, s 2 commenced 9 September 2004 (LA s 75 (1))

sch 1 pt 1.5 awaiting commencement (s 2)

*Note* default commencement under LA s 79: 9 March 2005

### **Land (Planning and Environment) Amendment Act 2004 A2004-64**

notified LR 25 August 2004

s 1, s 2 commenced 25 August 2004 (LA s 75 (1))

remainder commenced 1 November 2004 (s 2 and CN2004-16)

## 4 Amendment history

### **Name of Act**

s 1 sub 2002 No 30 amdt 3.404

### **Dictionary**

s 2 om 2001 No 44 amdt 1.2333  
ins 2002 No 30 amdt 3.404

### **Notes**

s 3 om 1993 No 44  
ins 2002 No 30 amdt 3.404

### **Offences against Act—application of Criminal Code etc**

s 4 om 2002 No 30 amdt 3.404  
def **appeals board** ins 1993 No 77 s 4  
def **commissioner** ins 1996 No 85 s 4  
def **conservator** am 1994 No 97 sch  
def **controlled activity** am 1996 No 85 s 4  
def **determined fee** om 2001 No 44 amdt 1.2334  
def **Environment Minister** ins 1996 No 71 s 4  
def **Gungahlin central area** ins 1996 No 39 s 8  
def **land management agreement** ins 1999 No 73 s 4  
sub 2001 No 44 amdt 1.2335  
def **pest animal** ins 1997 No 7 s 4  
def **pest plant** ins 1997 No 7 s 4  
def **plan** sub 2001 No 44 amdt 1.2335  
def **public land** ins 1996 No 85 s 4  
def **public street** ins 1996 No 85 s 4  
om 1999 No 79 sch 3

def **registrar** ins 1993 No 77 s 4  
 def **public works** om 1993 No 75 s 4  
 pres s 4 ins A2003-34 amdt 2.1

**Preliminary**

div 2.1 hdg (prev pt 2 div 1 hdg) renum R6 LA

**Definitions for pt 2**

s 5 am 1996 Nos 71 and 85  
 def **background papers** am A2002-56 amdt 1.1-1.3,  
 amdt 1.24; A2004-57 amdt 1.8-1.11  
 def **Commonwealth Planning Act** om 2002 No 30  
 amdt 3.405  
 def **consultation notice** ins 2002 No 30 amdt 3.406  
 def **draft plan variation** sub 2002 No 30 amdt 3.407,  
 A2002-56 amdt 1.4  
 def **national authority** om 2002 No 30 amdt 3.408  
 def **national capital plan** sub 2002 No 30 amdt 3.409

**Stages and parts of the plan**

s 6 om 2002 No 30 amdt 3.410

**Territory plan—object and effect**

div 2.2 hdg (prev pt 2 div 2 hdg) renum R6 LA

**Object of Territory plan**

s 7 hdg sub A2004-57 amdt 1.13  
 s 7 am 1996 No 85; 2002 No 30 amdt 3.411; A2004-57 amdt 1.14

**Effect of plan**

s 8 am 1993 No 77; 1996 No 85

**Effect of draft plan variation**

s 9 am 1996 No 85; 2000 No 37 s 4; 2001 No 44 amdt 1.2336;  
 R6 LA (see 2001 No 44 amdt 1.2337); 2002 No 30  
 amdt 3.412, amdt 3.413; ss renum R9 LA (see 2002 No 30  
 amdt 3.414); A2002-56 amdt 1.5, amdt 1.6; pars renum R15  
 LA; A2004-57 amdt 1.16

**Effect of interim heritage places register**

s 10 am A2002-56 amdt 1.23, amdt 1.24  
 om A2004-57 amdt 1.18

**Draft heritage places register and variations—lack of effect**

s 11 om A2004-57 amdt 1.18

**Territory plan—continuation and variation**

div 2.3 hdg (prev pt 2 div 3 hdg) renum R6 LA

**Territory plan**

sdiv 2.3.1 hdg (prev pt 2 div 3 sdiv A hdg) renum R6 LA

## Endnotes

4 Amendment history

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### **Preparation of variations of Territory plan**

sdiv 2.3.2 hdg (prev pt 2 div 3 sdiv B hdg) renum R6 LA

### **Preparation of plan variations**

s 15 am 1996 No 85  
sub A2002-56 amdt 1.7

### **Consultation with conservator**

s 16 sub 1996 No 85  
am A2002-56 amdt 1.24

### **Consultation with heritage council**

s 17 am 2001 No 44 amdt 1.2338, amdt 1.2339; 2002 No 30  
amdt 3.415, amdt 3.508; A2002-56 amdt 1.24  
sub A2004-57 amdt 1.19

### **Environmental reports and inquiries**

s 18 am 2002 No 30 amdt 3.416; A2002-56 amdt 1.24

### **Public consultation—notification**

s 19 am 1993 No 75; 1996 No 85; 2000 No 37 s 5  
sub 2001 No 44 amdt 1.2340  
am 2002 No 30 amdt 3.417; A2002-56 amdt 1.8, amdt 1.23,  
amdt 1.24

### **Public consultation—notice of interim effect etc**

s 19A ins 2001 No 44 amdt 1.2340  
am 2002 No 30 amdt 3.418; A2004-57 amdt 1.20

### **Public consultation—availability of draft plan variation etc**

s 19B ins 2001 No 44 amdt 1.2340  
am 2002 No 30 amdt 3.419; A2002-56 amdt 1.9, amdt 1.10,  
amdt 1.24; ss renum R12 LA (see A2002-56 amdt 1.11)

### **Draft plan variations that do not affect rights**

s 19C ins 2001 No 44 amdt 1.2340  
sub A2002-56 amdt 1.12

### **Consultation with national capital authority**

s 20 am 2002 No 30 amdt 3.420  
sub A2002-56 amdt 1.12

### **Public inspection of comments**

s 21 am 1996 No 85; 2002 No 30 amdt 3.421  
sub A2002-56 amdt 1.13

### **Revision, deferral or withdrawal of draft plan variations**

s 22 am 1996 No 85; 2001 No 44 amdts 1.2341-1.2345; R6 LA  
(see 2001 No 44 amdt 1.2346); 2002 No 30 amdt 3.422;  
A2002-56 amdt 1.23, amdt 1.24

**Executive approval and consideration by Legislative Assembly**

sdiv 2.3.3 hdg (prev pt 2 div 3 sdiv C hdg) renum R6 LA

**Submission of draft plan variation to Executive**s 24 am 1996 No 85; 2001 No 44 amdt 1.2347; 2002 No 30 amdt 3.422, amdt 3.423; A2002-56 amdt 1.23, amdt 1.24; A2003-30 amdt 1.1; ss renum R12 LA (see A2003-30 amdt 1.2); [A2004-57 amdt 1.21](#)**Consideration by Legislative Assembly committee**

s 25 am A2002-56 amdt 1.23

**Minister's powers**s 26 hdg sub A2002-56 amdt 1.14  
s 26 am 1996 No 85; 2001 No 44 amdts 1.2348-1.2350; 2002 No 30 amdt 3.424; A2002-56 amdts 1.15-1.17, amdt 1.23, amdt 1.24**Return of draft plan variation to authority**s 27 sub 2002 No 30 amdt 3.425  
am A2002-56 amdt 1.18, amdt 1.19, amdt 1.23**Notice of revival of deferred draft plan variation**

s 28 am 2001 No 44 amdt 1.2351, amdt 1.2352; A2002-56 amdt 1.20, amdt 1.23, amdt 1.24

**Consideration of plan variation by Legislative Assembly**

s 29 am 1996 No 85; 2001 No 44 amdts 1.2353-1.2356, amdt 1.2358; R6 LA (see 2001 No 44 amdt 1.2357); 2002 No 30 amdts 3.426-3.430; ss renum R9 LA (see 2002 No 30 amdt 3.431); A2002-56 amdt 1.20, amdt 1.21, amdt 1.23

**Rejection of plan variation by Legislative Assembly**s 30 om 2001 No 44 amdt 1.2359  
ins 2001 No 44 amdt 1.2358  
am A2002-56 amdt 1.21, amdt 1.24**Partial rejection of plan variation by Legislative Assembly**s 30A ins 2001 No 44 amdt 1.2358  
am 2002 No 30 amdt 3.432**Partial rejection of plan variation—newspaper publication etc**s 30B ins 2001 No 44 amdt 1.2358  
am A2002-56 amdt 1.21**Plan variations—defined land**

sdiv 2.3.4 hdg (prev pt 2 div 3 sdiv D hdg) renum R6 LA

**Plan variations in relation to defined land**

s 32 am 1996 No 85; 2001 No 44 amdts 1.2360-1.2366; R6 LA (see 2001 No 44 amdt 1.2367); am A2002-56 amdt 1.24

## Endnotes

### 4 Amendment history

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**Australian Capital Territory Planning Authority**

div 2.4 hdg (prev pt 2 div 4 hdg) renum R6 LA  
om A2002-56 amdt 1.22

**Establishment, constitution, functions and powers**

div 4 subdiv A hdg om 1996 No 85

**Establishment of authority**

s 33 am 1996 No 85  
sub 2002 No 30 amdt 3.433  
om A2002-56 amdt 1.22

**Constitution**

s 34 om 1996 No 85

**Functions**

s 36 am 2002 No 30 amdt 3.434, amdt 3.435  
om A2002-56 amdt 1.22

**Executive policy directions**

s 37 am 1995 No 25; 1996 No 85; 2001 No 44 amdt 1.2368; R6 LA  
(see 2001 No 44 amdt 1.2369); 2002 No 30 amdt 3.436  
om A2002-56 amdt 1.22

**Power to enter into contracts**

s 38 am 1994 No 38  
sub 2002 No 30 amdt 3.437  
om A2002-56 amdt 1.22

**Annual report**

s 39 om 1995 No 25

**Delegation**

s 40 sub 2002 No 30 amdt 3.437  
om A2002-56 amdt 1.22

**Staff**

s 41 am 2002 No 30 amdt 3.438  
om A2002-56 amdt 1.22

**Effect of irregularity of appointment of chief planner**

s 42 om 1996 No 85

**Chief planner**

div 4 subdiv B hdg om 1996 No 85

**Chief planner**

s 43 om 1996 No 85

**Acting chief planner**

s 44 om 1996 No 85

**Remuneration and allowances**

s 45 am 1994 No 38  
om 1995 No 56

**Leave of absence**

s 46 om 1996 No 85

**Disclosure of interests**

s 47 om 1996 No 85

**Other employment, remuneration, business etc**

s 48 om 1996 No 85

**Resignation**

s 49 om 1996 No 85

**Termination of appointment**

s 50 om 1996 No 85

**Miscellaneous**

div 2.5 hdg (prev pt 2 div 5 hdg) renum R6 LA

**Heritage**

pt 3 hdg [om A2004-57 amdt 1.22](#)

**Preliminary**

div 3.1 hdg (prev pt 3 div 1 hdg) renum R6 LA  
[om A2004-57 amdt 1.22](#)

**Definitions for pt 3**

s 52 hdg sub 2002 No 30 amdt 3.439  
s 52 am 2002 No 30 amdt 3.440, amdt 3.442  
[om A2004-57 amdt 1.22](#)  
def *interim heritage places register* ins 2001 No 44  
amdt 1.2370  
am 2002 No 30 amdt 3.441  
[om A2004-57 amdt 1.22](#)  
def *interim variation* ins 2001 No 44 amdt 1.2371  
[om A2004-57 amdt 1.22](#)

**Compliance with requirements for consultation or notification**

s 53 om 2001 No 44 amdt 1.2372  
ins 2002 No 30 amdt 3.443  
[om A2004-57 amdt 1.22](#)

**Heritages places register**

div 3.2 hdg (prev pt 3 div 2 hdg) renum R6 LA  
[om A2004-57 amdt 1.22](#)

**Content of heritage places register**

s 54 am 2002 No 30 amdt 3.444, amdt 3.445  
[om A2004-57 amdt 1.22](#)

## Endnotes

### 4 Amendment history

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#### **Interim heritage places registers**

div 3.3 hdg (prev pt 3 div 3 hdg) renum R6 LA  
om A2004-57 amdt 1.22

#### **Effect**

sdiv 3.3.1 hdg (prev pt 3 div 3 sdiv A hdg) renum R6 LA  
om A2004-57 amdt 1.22

#### **Effect of interim registers**

s 55 am 2001 No 44 amdt 1.2373; 2002 No 30 amdt 3.446  
om A2004-57 amdt 1.22

#### **Preparation, notification and submission of registers**

sdiv 3.3.2 hdg (prev pt 3 div 3 sdiv B hdg) renum R6 LA  
om A2004-57 amdt 1.22

#### **Application for inclusion of places in interim register**

s 59 am 1993 No 77; 1996 No 71; ss renum R15 LA  
om A2004-57 amdt 1.22

#### **Public notification**

s 60 am 1993 No 77; 1996 No 71; 2001 No 44 amdt 1.2374, amdt  
1.2375; R6 LA (see 2001 No 44 amdt 1.2376); 2002 No 30  
amdt 3.447, amdt 3.448  
om A2004-57 amdt 1.22

#### **Notification of lessees and occupiers**

s 61 am 2001 No 44 amdt 1.2377; 2002 No 30 amdt 3.508  
om A2004-57 amdt 1.22

#### **Revision of interim register**

s 62 am 1993 No 77; 1996 No 71; 2001 No 44 amdt 1.2378-  
1.2381; R6 LA (see 2001 No 44 amdt 1.2382); 2002 No 30  
amdt 3.449, amdt 3.508  
om A2004-57 amdt 1.22

#### **Submission of interim register to planning and land authority**

s 63 hdg am A2002-56 amdt 1.25  
s 63 am 1993 No 77; 1996 No 71; 2001 No 44 amdt 1.2383;  
A2002-56 amdt 1.25-1.29  
om A2004-57 amdt 1.22

#### **Acquisition**

s 64 am A2002-56 amdt 1.30, amdt 1.31  
om A2004-57 amdt 1.22

#### **Acquisition of heritage places and objects**

div 3.4 hdg (prev pt 3 div 4 hdg) renum R6 LA  
om A2004-57 amdt 1.22



**Notice of acquisition**

s 65 am 1993 No 77  
om 1996 No 71

**Aboriginal heritage**

div 3.5 hdg (prev pt 3 div 5 hdg) renum R6 LA  
om A2004-57 amdt 1.22

**Preliminary**

sdiv 3.5.1 hdg (prev pt 3 div 5 sdiv A hdg) renum R6 LA  
om A2004-57 amdt 1.22

**Definitions for div 3.5**

s 66 sub 2002 No 30 amdt 3.450  
om A2004-57 amdt 1.22

**Reporting discoveries of unregistered Aboriginal places**

sdiv 3.5.2 hdg (prev pt 3 div 5 sdiv B hdg) renum R6 LA  
om A2004-57 amdt 1.22

**Reports**

s 67 am 1994 No 81  
om A2004-57 amdt 1.22

**Aboriginal heritage discoveries—consideration of reports**

s 68 am 2002 No 30 amdt 3.508  
om A2004-57 amdt 1.22

**Aboriginal heritage discoveries—Ministerial directions and declarations**

s 69 am 1993 No 77; 1996 No 71; 2001 No 44 amdts  
1.2384-1.2386; 2002 No 30 amdts 3.451-3.454  
om A2004-57 amdt 1.22

**Protection of unregistered Aboriginal heritage**

subdiv 3.5.3 hdg (prev pt 3 div 5 subdiv C hdg) renum R6 LA  
om A2004-57 amdt 1.22

**Damaging unregistered Aboriginal places**

s 70 am 1994 No 81  
om A2004-57 amdt 1.22

**Orders for protection of unregistered Aboriginal places—application of pt 6**

s 71 am 1993 No 77; A2002-56 amdt 1.31; A2003-34 amdt 1.3  
om A2004-57 amdt 1.22

**Orders—reports by heritage council**

s 72 om A2004-57 amdt 1.22

**Orders—Ministerial directions and declarations**

s 73 am 1993 No 77; 1996 No 71; 2001 No 44 amdts  
1.2387-1.2389; 2002 No 30 amdt 3.455, 3.456  
om A2004-57 amdt 1.22

## Endnotes

### 4 Amendment history

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#### **Compensation claims**

sdiv 3.5.4 hdg (prev pt 3 div 5 sdiv D hdg) renum R6 LA  
[om A2004-57 amdt 1.22](#)

#### **Definitions for sdiv 3.5.4**

s 74 [om A2004-57 amdt 1.22](#)

#### **Application of sdiv 3.5.4**

s 75 am 2002 No 30 amdt 3.457  
[om A2004-57 amdt 1.22](#)

#### **Right to compensation**

s 76 [om A2004-57 amdt 1.22](#)

#### **Loss for which compensation is recoverable**

s 77 am 2002 No 30 amdt 3.458  
[om A2004-57 amdt 1.22](#)

#### **Amount of compensation**

s 78 [om A2004-57 amdt 1.22](#)

#### **Consultation with applicants**

s 79 am 1996 No 71  
[om A2004-57 amdt 1.22](#)

#### **Notice of decisions about compensation**

s 80 am 1993 No 77  
sub 1996 No 71  
[om A2004-57 amdt 1.22](#)

#### **Consultation in relation to registers**

sdiv 3.5.5 hdg (prev pt 3 div 5 sdiv E hdg) renum R6 LA  
[om A2004-57 amdt 1.22](#)

#### **Consultation with Aboriginal organisations**

s 81 am 2002 No 30 amdt 3.459  
[om A2004-57 amdt 1.22](#)

#### **Restricted information**

sdiv 3.5.6 hdg (prev pt 3 div 5 sdiv F hdg) renum R6 LA  
[om A2004-57 amdt 1.22](#)

#### **Restricted information**

s 82 am 1993 No 77; 1996 No 71; 2001 No 56 amdt 3.432; 2002  
No 30 amdt 3.508  
[om A2004-57 amdt 1.22](#)

#### **Publication of restricted information by public officials**

s 83 [om A2004-57 amdt 1.22](#)

#### **Publication of restricted information generally**

s 84 am 1993 No 77; 1994 No 81; 1996 No 71  
[om A2004-57 amdt 1.22](#)

**Access to restricted information**

s 85 am 1996 No 71  
om [A2004-57 amdt 1.22](#)

**Administrative review**

pt 3 div 6 hdg om 1996 No 71

**Review of decisions**

s 86 am 1993 No 77  
om 1996 No 71

**Public access to heritage information**

div 3.6 hdg (prev pt 3 div 7 hdg) renum R6 LA  
om [A2004-57 amdt 1.22](#)

**Information about administrative action**

sdiv 3.6.1 hdg (prev pt 3 div 7 sdiv A hdg) renum R6 LA  
om [A2004-57 amdt 1.22](#)

**Application of sdiv 3.6.1**

s 87 om [A2004-57 amdt 1.22](#)

**Searching administrative records**

s 88 am 2001 No 44 amdt 1.2390, amdt 1.2391  
om [A2004-57 amdt 1.22](#)

**Access to heritage registers**

sdiv 3.6.2 hdg (prev pt 3 div 7 sdiv B hdg) renum R6 LA  
om [A2004-57 amdt 1.22](#)

**Searching heritage registers**

s 89 am 2001 No 44 amdt 1.2392, amdt 1.2393  
sub 2002 No 30 amdt 3.460  
om [A2004-57 amdt 1.22](#)

**Australian Capital Territory Heritage Council**

div 3.7 hdg (prev pt 3 div 8 hdg) renum R6 LA  
sub 2002 No 30 amdt 3.461  
om [A2004-57 amdt 1.22](#)

**Preliminary**

sdiv 3.7.1 hdg (prev pt 3 div 8 sdiv A hdg) renum R6 LA  
om 2002 No 30 amdt 3.461

**Definitions for div 3.7**

s 90 sub 2002 No 30 amdt 3.461  
om [A2004-57 amdt 1.22](#)

**Establishment, functions and powers**

sdiv 3.7.2 hdg (prev pt 3 div 8 sdiv B hdg) renum R6 LA  
om 2002 No 30 amdt 3.461

## Endnotes

### 4 Amendment history

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#### **Establishment of heritage council**

s 91 sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

#### **Constitution**

s 92 sub 2002 No 30 amdt 3.461  
am A2002-56 amdt 1.32  
om A2004-57 amdt 1.22

#### **Functions of heritage council**

s 93 am 1995 No 25; 2001 No 44 amdt 1.2394  
sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

#### **Ministerial directions**

s 94 sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

#### **Deputies of permanent members**

s 95 om 1995 No 25  
ins 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

#### **Appointment of expert members**

s 96 sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

#### **Constitution and meetings**

sdiv 3.7.3 hdg (prev pt 3 div 8 sdiv C hdg) renum R6 LA  
om 2002 No 30 amdt 3.461

#### **Term of appointment of expert members**

s 97 am 1996 No 85  
sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

#### **Conditions of appointment of expert members generally**

s 98 sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

#### **Chairperson, deputy chairperson and secretary**

s 99 sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

#### **Leave of absence**

s 100 sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

#### **Disclosure of interests**

s 101 sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

**Ending of appointments**

s 102 om 1997 No 41  
ins 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

**Calling meetings**

s 103 am 1997 No 41  
sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

**Procedure at meetings**

s 104 sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

**Delegation to secretary**

s 105 sub 2002 No 30 amdt 3.461  
om A2004-57 amdt 1.22

**Termination of appointment**

s 106 om 2002 No 30 amdt 3.461

**Acting members**

s 107 om 2002 No 30 amdt 3.461

**Convening meetings**

s 108 om 2002 No 30 amdt 3.461

**Procedure at meetings**

s 109 om 2002 No 30 amdt 3.461

**Quorum**

s 110 om 2002 No 30 amdt 3.461

**Preliminary**

div 4.1 hdg (prev pt 4 div 1 hdg) renum R6 LA  
div 4.1 note ins A2002-56 amdt 1.33

**Definitions for pt 4**

s 111 am 1996 No 71

**Preliminary assessments**

div 4.2 hdg (prev pt 4 div 2 hdg) renum R6 LA

**Directions**

s 113 am 1996 No 85

**Submission to Minister**

s 116 am 1996 No 85; 2001 No 44 amdt 1.2395, amdt 1.2396

## Endnotes

### 4 Amendment history

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#### **Public inspection**

s 117 am 1993 No 77; 1996 No 71  
sub 1996 No 85  
am 2000 No 37 s 6; 2001 No 44 amdts 1.2397-1.2400; R6 LA  
(see 2001 No 44 amdt 1.2401); A2002-56 amdt 1.34

#### **Assessments**

div 4.3 hdg (prev pt 4 div 3 hdg) renum R6 LA

#### **Form and content**

sdiv 4.3.1 hdg (prev pt 4 div 3 sdiv A hdg) renum R6 LA

#### **Direction of assessments**

sdiv 4.3.2 hdg (prev pt 4 div 3 sdiv B hdg) renum R6 LA

#### **Decisions to direct assessments**

s 121 am 2000 No 37 s 7; ss renum R15 LA

#### **Directions**

s 123 am 1996 No 85; 2001 No 44 amdt 1.2402, amdt 1.2403; R6  
LA (see 2001 No 44 amdt 1.2404)

#### **Preparation, evaluation and consideration by Legislative Assembly**

sdiv 4.3.3 hdg (prev pt 4 div 3 sdiv C hdg) renum R6 LA

#### **Environmental impact statements—consultation and public inspection**

s 125 am 1993 No 77; 1996 No 71; 2000 No 37 s 8; 2001 No 44  
amdt .2405, amdt 1.2406; 2001 No 56 amdt 3.433; R6 LA  
(see 2001 No 44 amdt 1.2407); A2002-56 amdt 1.35

#### **Consultation**

s 128 am 2001 No 44 amdts 1.2408-1.2410

#### **Presentation to Legislative Assembly and public inspection**

s 132 am 2001 No 44 amdt 1.2411; 2002 No 30 amdt 3.462

#### **Exclusion of material**

s 133 am 2002 No 30 amdt 3.463

#### **Exemptions**

s 134 am 2001 No 44 amdts 1.2412-1.2414

#### **Inquiries**

div 4.4 hdg (prev pt 4 div 4 hdg) renum R6 LA

#### **Establishment of panels and terms of reference**

sdiv 4.4.1 hdg (prev pt 4 div 4 sdiv A hdg) renum R6 LA

#### **Remuneration**

s 137 om 1997 No 41

#### **Terms of reference**

s 138 am 2001 No 44 amdt 1.2415, amdt 1.2416

**Notification**

s 139 am 2001 No 44 amdt 1.2417, amdt 1.2418

**Inquiry reports**

sdiv 4.4.2 hdg (prev pt 4 div 4 sdiv B hdg) renum R6 LA

**Presentation to Legislative Assembly and public inspection**

s 141 am 2001 No 44 amdt 1.2419; 2002 No 30 amdt 3.464

**Exclusion of material**

s 142 am 2002 No 30 amdt 3.465, amdt 3.466

**Procedures and powers**

sdiv 4.4.3 hdg (prev pt 4 div 4 sdiv C hdg) renum R6 LA

**Definitions for sdiv 4.4.3**

s 143 sub 2002 No 30 amdt 3.467  
def **authorised person** sub 2002 No 30 amdt 3.467  
def **occupier** ins 2002 No 30 amdt 3.467  
def **place** sub 2002 No 30 amdt 3.467

**Notice of inquiry hearings**

s 144 am 2001 No 44 amdt 1.2420-1.2422

**General procedure**

s 146 am 2002 No 30 amdt 3.468

**Special hearings—consultation with interested persons**

s 147 am 2002 No 30 amdt 3.508

**Assessments for purpose of inquiries**

s 148 am 2002 No 30 amdt 3.469

**Witnesses—summons to appear**

s 149 am 1994 No 81

**Victimisation of witnesses**

s 150 am 1994 No 81

**Powers of search and inspection**

s 154 am 1994 No 81

**Obstructing or resisting authorised person**

s 155 am 1994 No 81  
om A2004-15 amdt 2.105

**Contempt**

s 156 am 1994 No 81; 2002 No 30 amdt 3.470

**Protection of panel members and witnesses**

s 157 am 2002 No 30 amdt 3.471

**Administrative review**

pt 4 div 5 hdg om 1996 No 71

## Endnotes

### 4 Amendment history

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#### **Review of decisions**

s 158 am 1993 No 77  
om 1996 No 71

#### **Preliminary**

div 5.1 hdg (prev pt 5 div 1 hdg) renum R6 LA

#### **Definitions for pt 5**

s 159 hdg sub 2002 No 30 amdt 3.472  
s 159 am 1993 No 90; 1995 No 54; 1996 No 85; 1999 No 79 sch 3;  
2001 No 17 amdt 2.9; 2002 No 30 amdt 3.473, amdt 3.477  
def *lease* sub 2002 No 30 amdt 3.474  
def *market value* ins 2002 No 30 amdt 3.475  
def *provision* ins 2002 No 30 amdt 3.475  
def *repealed Act* om 2002 No 30 amdt 3.476

#### **Application of pt 5**

s 160 am A2002-56 amdt 1.36

#### **Leases**

div 5.2 hdg (prev pt 5 div 2 hdg) renum R6 LA

#### **Effect qualified**

s 160A ins 1999 No 73 s 5

#### **Planning and land authority may grant leases**

s 160B ins A2002-56 amdt 1.37

#### **Granting of leases**

s 161 am 1993 No 11; 1996 No 85; 2001 No 44 amdts 1.2423-  
1.2425; R6 LA (see 2001 No 44 amdt 1.2426); A2002-56  
amdt 1.38, amdt 1.78

#### **Fees for granting leases**

s 162 om 2001 No 44 amdt 1.2427

#### **Leases to community organisations**

s 163 am 1993 No 11; 2001 No 44 amdt 1.2428, amdt 1.2429; 2002  
No 30 amdt 3.478; A2002-56 amdt 1.39, amdt 1.78; ss renum  
R15 LA

#### **Special leases**

s 164 am 1993 No 11; 2001 No 44 amdt 1.2428, amdt 1.2429;  
A2002-56 amdt 1.40, amdt 1.78; ss renum R15 LA

#### **Authority to consider proposed leases**

s 165 am 1993 No 11; 1996 No 39  
om 1996 No 85

#### **Inquiries and assessments in relation to granting of leases**

s 166 am A2002-56 amdt 1.41, amdt 1.42



**Grants of leases after inquiries or assessments**

s 166A ins A2002-56 amdt 1.42

**Eligibility for certain classes of leases**

s 167 am 1996 No 85; 2001 No 44 amdt 1.2428, amdt 1.2429; A2002-56 amdt 1.78

**Authority need not grant lease**

s 168 sub A2002-56 amdt 1.43

**Payment for leases**

s 169 am 2000 No 37 s 9; A2002-56 amdt 1.78

**Failure to accept and execute lease**

s 170 am 2002 No 30 amdt 3.479; A2002-56 amdt 1.78

**Grant of further residential leases**s 171 am 1996 No 85; 2001 No 44 amdt 1.2429, amdt 1.2430  
sub A2002-56 amdt 1.44**Grant of further rural leases**s 171A ins 1996 No 85  
am 1999 No 73 s 6; 2001 No 32 s 4, s 5; 2001 No 44  
amdt 1.2429, amdt 1.2430; R6 LA (see 2001 No 32 s 6);  
A2002-56 amdt 1.45, amdt 1.46, amdt 1.78; pars, ss renum  
R15 LA**Grant of further leases for purposes other than residential or rural**s 172 am 1996 No 85; 2001 No 44 amdt 1.2429; amdt 1.2430  
sub A2002-56 amdt 1.47**Grant of further lease—unit titles**s 172A ins 1996 No 85  
sub 2001 No 17 amdt 2.10  
am A2002-56 amdt 1.48, amdt 1.78**Grant of further lease—community title**s 172B ins 2001 No 58 s 102  
am A2002-56 amdt 1.49, amdt 1.78**No right to use, flow and control of water**s 172C (prev s 172B) ins 1998 No 63  
renum 2001 No 58 s 101**Lessee's rights in relation to improvements**s 173 am 1996 No 85; A2002-56 amdts 1.50-1.54, amdt 1.78,  
amdt 1.79; ss renum R12 LA (see A2002-56 amdt 1.55)**Determination of value of improvements**

s 174 am 1996 No 85; A2002-56 amdt 1.79

**Use of land for leased purpose**

s 175 am 1996 No 85

## Endnotes

### 4 Amendment history

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#### **Variation of rent**

s 176 am A2002-56 amdt 1.79

#### **Review of variations of rent**

s 177 am A2002-56 amdt 1.56, amdt 1.79

#### **Refund on lease surrender or termination**

s 178 am 2001 No 44 amdt 1.2428, amdt 1.2429; A2002-56  
amdt 1.79  
sub A2004-64 s 4

#### **Certificates of compliance**

s 179 am 1996 No 85; 2001 No 17 amdt 2.11; 2001 No 44  
amdt 1.2431, amdt 1.2432; R6 LA (see 2001 No 44  
amdt 1.2433); A2002-56 amdt 1.57, amdt 1.79

#### **Transfer of land subject to building and development provision**

s 180 am 1996 No 85; 2001 No 44 amdt 1.2434, amdt 1.2435;  
A2002-56 amdt 1.58, amdt 1.59, amdt 1.79; A2004-2  
amdt 1.31; A2004-64 ss 5-7; ss renum R22 LA (see  
A2004-64 s 8)

#### **Mortgage of leasehold subject to building and development provision**

s 181 am 1996 No 85

#### **Power of lessee to sublet part of building or land in certain cases**

s 183 am 1995 No 20

#### **Variation of leases**

div 5.3 hdg (prev pt 5 div 3 hdg) renum R6 LA

#### **Effect qualified**

s 183A ins 1999 No 73 s 7

#### **Application to surrender and regrant of leases**

s 184 am 1996 No 62  
sub 1996 No 85

#### **Variation of nominal rent lease—change of use charge**

s 184A ins 1996 No 85  
am 2001 No 1 s 4; A2002-56 amdt 1.60, amdt 1.79; ss renum  
R15 LA

#### **New change of use charge formula**

s 184B ins 1996 No 85  
am 1998 No 65; 1999 No 40 s 4; 2000 No 14 s 4; 2000 No 49  
s 4  
om 2001 No 1 s 5

**Change of use charge for variations of nominal rent leases**

s 184C ins 1996 No 85  
am 2000 No 49 s 5; 2001 No 1 s 6  
sub 2001 No 80 s 3  
am A2002-56 amdt 1.79

**Variation of rental leases**

s 184D ins 1996 No 85  
am A2002-56 amdt 1.61, amdt 1.78

**Advice of rent payable on variation of lease**

s 185 am A2002-56 amdt 1.62, amdt 1.78

**Variation of lease to pay out rent**

s 186 am 1996 No 85; 2001 No 44 amdt 1.2436, amdt 1.2437;  
A2002-56 amdt 1.79; ss renum R15 LA

**No variations to extend term**

s 186A ins 1996 No 85  
am A2002-56 amdt 1.78

**Restrictions on rural leases**

div 5.4 hdg (prev pt 5 div 3AA hdg) ins 1999 No 73 s 8  
renum R6 LA

**Definitions for div 5.4**

s 186B ins 1999 No 73 s 8  
def *dealing* ins 1999 No 73 s 8  
def *discharge amount* ins 1999 No 73 s 8  
def *earlier index number* ins 1999 No 73 s 8  
def *holding period* ins 1999 No 73 s 8  
def *index number* ins 1999 No 73 s 8  
def *later index number* ins 1999 No 73 s 8  
def *long lease* ins 1999 No 73 s 8  
def *short lease* ins 1999 No 73 s 8  
def *special Pialligo lease* ins 1999 No 73 s 8

**Land management agreements**

s 186C ins 1999 No 73 s 8  
am 2001 No 44 amdt 1.2438, amdt 1.2439; A2002-56  
amdt 1.63, amdt 1.64, amdt 1.78; A2004-42 amdt 1.6

**Dealings with rural leases**

s 186D ins 1999 No 73 s 8  
am 2001 No 32 s 7; R6 LA (see 2001 No 32 s 8); A2002-56  
amdt 1.65, amdt 1.78; A2003-14 amdt 1.67, amdt 1.68

**Discharge amount**

s 186E ins 1999 No 73 s 8  
am A2003-34 amdt 2.2

## Endnotes

### 4 Amendment history

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**Discharge amount—special Pialligo leases**

s 186F ins 1999 No 73 s 8  
am 2001 No 56 amdt 3.434

**Index numbers**

s 186G ins 1999 No 73 s 8

**No subdivision or consolidation**

s 186H ins 1999 No 73 s 8  
am A2002-56 amdt 1.78

**Consolidation and subdivision**

div 5.5 hdg (prev pt 5 div 3A hdg) ins 1996 No 85  
renum R6 LA

**Effect qualified**

s 187AA ins as s 187A 1999 No 73 s 9  
renum 2000 No 80 amdt 3.8

**Application—nominal rent leases of Territory land**

s 187 om 1993 No 75  
ins 1996 No 85

**Consolidation and subdivision—change of use charge**

s 187A ins 1996 No 85  
am 2001 No 1 s 7; A2002-56 amdt 1.66, amdt 1.79; ss renum  
R15 LA

**New change of use charge formula**

s 187B ins 1996 No 85  
am 1998 No 65; 1999 No 40 s 5; 2000 No 14 s 5; 2000 No 49  
s 6  
om 2001 No 1 s 8

**Change of use charge for consolidations and subdivisions**

s 187C ins 1996 No 85  
am 2000 No 49 s 7; 2001 No 1 s 9  
sub 2001 No 80 s 4  
am A2002-56 amdt 1.79

**Recovery of land**

div 5.6 hdg (prev pt 5 div 4 hdg) renum R6 LA

**Termination of leases**

s 188 am 1996 No 85; A2002-56 amdt 1.67, amdt 1.78, amdt 1.79;  
ss renum R15 LA

**How land may be recovered**

s 189 sub A2002-56 amdt 1.68

**Evidence of ending of lease**

s 190 sub A2002-56 amdt 1.68

- Public land**  
div 5.7 hdg (prev pt 5 div 5 hdg) renum R6 LA
- Preliminary**  
sdiv 5.7.1 hdg (prev pt 5 div 5 sdiv A hdg) renum R6 LA
- Definitions for div 5.7**  
s 191 hdg sub 2002 No 30 amdt 3.480
- Public land**  
sdiv 5.7.2 hdg (prev pt 5 div 5 sdiv B hdg) renum R6 LA
- Recommendations to planning and land authority**  
s 192 hdg am A2002-56 amdt 1.69  
s 192 am 1996 No 85; A2002-56 amdt 1.70
- Management of public land**  
sdiv 5.7.3 hdg (prev pt 5 div 5 sdiv C hdg) renum R6 LA
- Reserved areas**  
s 193 am 1996 No 85; [A2004-57 amdt 1.23](#)
- Management objectives**  
s 195 am 2001 No 44 amdt 1.2440; 2002 No 30 amdt 3.481
- Plans of management**  
sdiv 5.7.4 hdg (prev pt 5 div 5 sdiv D hdg) renum R6 LA
- Public consultation**  
s 200 am 2001 No 44 amdt 1.2441, amdt 1.2442
- Minister's powers**  
s 204 am 2001 No 44 amdts 1.2443-1.2446
- Referral back to conservator**  
s 205 am 2001 No 44 amdt 1.2447, amdt 1.2448
- Notice of revival of deferred draft plan of management**  
s 206 sub 2001 No 44 amdt 1.2449
- Notification, presentation, disallowance and date of effect**  
s 207 am 2001 No 44 amdt 1.2450, amdt 1.2451
- Leases and licences**  
sdiv 5.7.5 hdg (prev pt 5 div 5 sdiv E hdg) renum R6 LA
- Leases—generally**  
s 208 am A2002-56 amdt 1.78
- Grant of leases**  
s 209 am 1993 No 11, A2002-56 amdt 1.71

## Endnotes

### 4 Amendment history

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#### **Licences**

s 210 am 1992 No 32; 1996 No 71; 2001 No 44 amdts 1.2452-1.2454; A2002-56 amdt 1.78; A2003-34 s 4, s 5

#### **Miner's rights in relation to public land**

s 211 am 2002 No 30 amdt 3.482

#### **Administrative review**

pt 5 div 6 hdg om 1996 No 71

#### **Notice of decisions**

s 212 am 1993 No 77  
om 1996 No 71

#### **Review by appeals board**

s 213 sub 1993 No 77  
om 1996 No 71

#### **Notice of decisions under s 174, s 177, s 178 or s 184**

s 213A ins 1993 No 77  
am 1994 No 60  
om 1996 No 71

#### **Review by administrative appeals tribunal**

s 213B ins 1993 No 77  
om 1996 No 71

#### **Lessee may surrender lease or part of lease**

s 214 am A2002-56 amdt 1.72, amdt 1.78

#### **Miscellaneous**

div 5.8 hdg (prev pt 5 div 7 hdg) renum R6 LA

#### **Reduction of rent and relief from provisions of lease**

s 215 sub 2002 No 30 amdt 3.483  
am A2002-56 amdt 1.78

#### **Access to leased land from roads and road related areas**

s 216 am 1996 No 85  
sub 1999 No 79 sch 3  
am A2002-56 amdt 1.73, amdt 1.74, amdt 1.78; ss renum R12  
LA (see A2002-56 amdt 1.75)

#### **Notification of certain leases**

s 216A ins 1993 No 11  
am 1996 No 85  
sub 2002 No 30 amdt 3.484  
am 2002 No 39 amdt 1.4  
sub A2002-56 amdt 1.76

**Licences in relation to land that is not public land**

s 217 am 2001 No 44 amdts 1.2455-1.2457  
am A2002-56 amdt 1.78; A2003-34 s 6, s 7

**Rights to extract minerals**

s 219 am A2002-56 amdt 1.78

**False or misleading statements in relation to leases**

s 221 am 1994 No 81  
sub A2002-56 amdt 1.77  
om A2004-15 amdt 2.105

**Preliminary**

div 6.1 hdg (prev pt 6 div 1 hdg) renum R6 LA

**Definitions for pt 6**

s 222 hdg sub 2002 No 30 amdt 3.485  
s 222 am 1996 No 85; 1997 No 116; 2000 No 37 s 10; 2002 No 30  
amdt 3.486, amdt 3.491  
def **approval** sub A2002-56 amdt 1.80  
def **building work** sub 2002 No 30 amdt 3.487; A2004-13  
amdt 2.73  
def **consolidation** sub 2002 No 30 amdt 3.487  
def **development** am A2003-34 amdt 1.4; pars renum R15 LA;  
A2004-57 amdt 1.24  
def **Executive** ins 2002 No 30 amdt 3.488  
def **inspector** ins A2003-34 amdt 2.3  
def **lease** sub 2002 No 30 amdt 3.489  
def **lessee** sub 2002 No 30 amdt 3.489  
def **order** sub A2003-34 amdt 1.5  
def **original decision** ins A2002-56 amdt 1.81  
def **prohibition notice** ins A2003-34 amdt 1.6  
def **relevant authority** sub A2002-56 amdt 1.82  
def **subdivision** sub 2002 No 30 amdt 3.489  
def **variation** ins 2002 No 30 amdt 3.490

**Meaning of variation for pt 6**

s 223 om 1996 No 85  
ins 2002 No 30 amdt 3.492

**Approvals**

div 6.2 hdg (prev pt 6 div 2 hdg) renum R6 LA

**Preliminary**

pt 6 div 2 sdiv A hdg om 1996 No 85

**Interpretation**

s 224 om 1996 No 85

**General**

sdiv 6.2.1 hdg (prev pt 6 div 2 sdiv B hdg) renum R6 LA

## Endnotes

### 4 Amendment history

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#### **Offence—development**

s 225 am 1996 No 85

#### **Application to undertake development**

s 226 am 1996 No 85; 1999 No 73 s 10; 2001 No 44 amdts 1.2458-1.2460; 2001 No 73 s 4, s 5; 2001 No 80 ss 5-7; R6 LA (see 2001 No 44 amdt 1.2461 and 2001 No 73 s 6); A2002-56 amdts 1.83-1.85, amdt 1.133, amdt. 1.134

#### **Register of applications, approvals, orders and lease and development conditions**

s 227 hdg sub 2000 No 37 s 11

s 227 am 2000 No 37 s 11; 2001 No 44 amdt 1.2462, amdt 1.2463; R6 LA (see 2001 No 44 amdt 1.2464); A2002-56 amdt 1.86, amdt 1.87, amdt 1.134; A2004-57 amdt 1.25

#### **Restrictions on inspection of applications**

s 228 am 1996 No 85; A2002-56 amdt 1.88, amdt 1.134

#### **Notice of application**

s 229 am 1993 No 90; 1995 No 54; 1996 No 71; 1996 No 85; 1997 No 93; 2000 No 37 s 12; 2001 No 20 s 54; 2002 No 30 amdt 3.508; A2002-56 amdt 1.89, amdt 1.134; A2003-30 amdt 1.3; ss renum R15 LA; A2004-57 amdt 1.27

#### **Direction that applications to be submitted to Minister**

s 229A hdg sub 2001 No 44 amdt 1.2465

s 229A ins 1996 No 85  
am 1999 No 87 s 3; 2001 No 44 amdts 1.2466-1.2472; R6 LA (see 2001 No 44 amdt 1.2473); 2002 No 30 amdt 3.493, amdt 3.494

sub A2002-56 amdt 1.90

am A2004-57 amdt 1.28, amdt 1.29

#### **Minister may decide some applications**

s 229B ins A2002-56 amdt 1.90

am A2004-27 s 16; A2004-57 amdt 1.31

#### **Approvals**

s 230 am 1993 No 77; 1996 No 71

sub 1996 No 85

am 2000 No 37 s 13

#### **Matters to be considered by relevant authority**

s 231 am 1996 No 85; 2002 No 30 amdt 3.495; A2002-56 amdt 1.91, amdt 1.134, amdt 1.135; A2004-27 s 17  
sub A2004-57 amdt 1.32



**Duty of applicants**

s 232 am 2001 No 44 amdt 1.2474, amdt 1.2475; 2002 No 30 amdt 3.508; A2002-56 amdt 1.92-1.94, amdt 1.134; ss renum R12 La (see A2002-56 amdt 1.95)

**More information**

s 233 am 1996 No 85; A2002-56 amdt 1.135

**Effect of failure to give further information**

s 234 am 1996 No 85; A2002-56 amdt 1.135

**Duties of concurring authorities**

s 235 am 1996 No 39  
om 1996 No 85

**Objections**

sdiv 6.2.2 hdg (prev pt 6 div 2 sdiv C hdg) renum R6 LA

**Objections—general**

s 237 am 1996 No 85; 1997 No 116; 2000 No 37 s 14; A2002-56 amdt 1.96, amdt 1.134; ss renum R12 LA (see A2002-56 amdt 1.97)

**Inspection of objections**

s 238 am 1993 No 77; 1996 No 71; A2002-56 amdt 1.134

**Identity of objectors**

s 239 am A2002-56 amdt 1.98, amdt 1.134

**Circumstances in which Executive approves applications, other than lease variations, subdivisions, consolidations**

s 240 om 1996 No 85

**Circumstances in which Executive approves applications for lease variations, subdivisions, consolidations**

s 241 om 1996 No 85

**Approvals**

sdiv 6.2.3 hdg (prev pt 6 div 2 sdiv D hdg) renum R6 LA

**Approvals—notices to applicants and registrar-general**

s 242 am 1992 No 32; 1993 No 64  
sub 1996 No 85; A2002-56 amdt 1.99

**Notification of approval or refusal of application**

s 243 am 1993 No 77; 1996 Nos 71 and 85; 2000 No 37 s 15; A2002-56 amdt 1.100, amdt 1.101, amdt 1.135; ss renum R12 LA (see A2002-56 amdt 1.102)

**Notification if more than 1 objector**

s 244 am 1996 No 85; A2002-56 amdt 1.103, amdt 1.134

## Endnotes

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### **Notice of decision to heritage council**

s 244A ins A2004-57 amdt 1.33

### **Conditional approvals**

s 245 am 1996 No 85; 2001 No 80 s 8, s 9; A2002-56  
amdt 1.104-1.106, amdt 1.134; pars renum R15 LA;  
A2004-57 amdt 1.34

### **Reconsideration of applications for approval**

sdiv 6.2.4 hdg ins A2002-56 amdt 1.107

### **Definitions for sdiv 6.2.4**

s 245A ins A2002-56 amdt 1.107  
def *new application* ins A2002-56 amdt 1.107  
def *original application* ins A2002-56 amdt 1.107  
def *original decision* ins A2002-56 amdt 1.107

### **Applications for reconsideration**

s 246 om 1996 No 85  
ins A2002-56 amdt 1.107  
am A2003-30 amdt 1.4

### **Reconsideration of decisions**

s 246A ins A2002-56 amdt 1.107

### **No action by planning and land authority within time**

s 246B ins A2002-56 amdt 1.107

### **Notice of decision on reconsideration**

s 246C ins A2002-56 amdt 1.107

### **Approvals—miscellaneous**

sdiv 6.2.5 hdg ins A2002-56 amdt 1.107

### **Minor amendments**

s 247 am 1996 No 85; 2002 No 30 amdt 3.508; 2002 No 37 ss 4-6;  
ss (4), (5) om R10 LA; pars renum R10 LA; A2002-56  
amdt 1.108, amdt 1.135

### **Corrections**

s 248 am 1996 No 85; A2002-56 amdt 1.109

### **When approvals take effect**

s 249 sub 1993 No 77  
am 1996 No 71; 1996 No 85; 2002 No 30 amdt 3.496  
sub A2002-56 amdt 1.110

### **Execution of approvals for variations of leases**

s 250 sub 1996 No 85  
am A2002-56 amdt 1.133

### **End of approvals**

s 251 am 1996 No 85; A2002-56 amdt 1.111

**Extension of time**

s 252 am 1996 No 85; A2002-56 amdt 1.134

**Revocation of approval**

s 253 am A2002-56 amdt 1.112; A2004-57 amdt 1.35

**Powers of Supreme Court**

sdiv 6.2.6 hdg ins A2003-34 amdt 1.7

**Injunctions to require compliance with approvals**

s 253A ins A2003-34 amdt 1.7

**Orders**

div 6.3 hdg (prev pt 6 div 3 hdg) renum R6 LA  
sub A2003-34 s 8

**Making of orders**

sdiv 6.3.1 hdg ins A2003-34 s 8

**Applications to planning and land authority for orders**

s 254 om 1996 No 85  
ins 1997 No 7  
am 2001 No 44 amdt 1.2476-1.2478; A2002-56 amdt 1.113  
sub A2003-34 s 8  
am A2004-57 amdt 1.36

**Decision on application to planning and land authority for order**

s 254A ins A2003-34 s 8

**Proposed orders on planning and land authority's own initiative**

s 255 sub A2003-34 s 8  
am A2004-57 amdt 1.38

**Decision on proposed order on planning and land authority's own initiative**

s 256 am 1993 No 77; 1996 No 71; 1996 No 83; 1996 No 85; 1997  
No 7; 1999 No 73 s 11; 1999 No 79 sch 3; 2001 No 44  
amdt 1.2479; 2002 No 30 amdt 3.508; A2002-56  
amds 1.114-1.117, amdt 1.134  
sub A2003-34 s 8

**Effect of certain orders**

s 256A ins 1997 No 7  
om A2003-34 s 8

**Content of orders**

s 257 am 1993 Nos 64 and 77; 1996 No 71; 2002 No 30 amdt 3.508;  
A2002-56 amdt 1.118, amdt 1.119, amdt 1.134  
sub A2003-34 s 8

**Notice of making orders**

s 257A ins A2003-34 s 8

## Endnotes

4 Amendment history

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### **Who is bound by an order?**

s 257B ins A2003-34 s 8

### **Contravening orders**

s 258 am 1993 No 77; 1996 No 71; A2002-56 amdt 1.120  
sub A2003-34 s 8

### **Ending of orders**

s 258A ins A2003-34 s 8

### **Notice ending orders**

s 258B ins A2003-34 s 8

### **Effect of orders about pest animals or plants**

s 258C ins A2003-34 s 8

### **Rectification work**

sdiv 6.3.2 hdg ins A2003-34 s 8

### **Definitions for sdiv 6.3.2**

s 259 am 1993 No 77; 1996 No 71; A2002-56 amdt 1.121, amdt  
1.134  
sub A2003-34 s 8

### **Direction to carry out rectification work**

s 259A ins A2003-34 s 8

### **Contravening direction to carry out rectification work**

s 259B ins A2003-34 s 8

### **Authorisation to carry out rectification work**

s 259C ins A2003-34 s 8

### **Obstructing etc authorised people**

s 259D ins A2003-34 s 8

### **Liability for cost of rectification work**

s 259E ins A2003-34 s 8

### **Determination of criteria for deferral of rectification work cost**

s 259F ins A2003-34 s 8

### **Application for deferral of rectification work cost**

s 259G ins A2003-34 s 8

### **Deferral of rectification work cost**

s 259H ins A2003-34 s 8

### **Security for deferred rectification work cost**

s 259I ins A2003-34 s 8

### **Payment of deferred rectification work cost**

s 259J ins A2003-34 s 8

**Prohibition notices and injunctions**

sdiv 6.3.3 hdg ins A2003-34 s 8

**Prohibition notices—making**s 260 am 1993 Nos 64 and 77; 1996 No 71; A2002-56 amdt 1.122  
sub A2003-34 s 8**Contravening prohibition notices**

s 260A ins A2003-34 s 8

**Prohibition notices—ending**

s 260B ins A2003-34 s 8

**Injunctions to restrain contravention of orders or prohibition notices**

s 260C ins A2003-34 s 8

**Other matters**

sdiv 6.3.4 hdg ins A2003-34 s 8

**Declaration of pest animal or pest plant**

s 261 sub A2003-34 s 8

**Inspection and seizure powers**div 6.4 hdg (prev pt 6 div 4 hdg) renum R6 LA  
sub A2003-34 amdt 2.4**Preliminary**

sdiv 6.4.1 hdg (prev pt 6 div 4 sdiv A hdg) renum R6 LA

**Definitions for div 6.4**s 262 sub 2002 No 30 amdt 3.497  
def **connected** ins 2002 No 30 amdt 3.497  
def **occupier** ins 2002 No 30 amdt 3.497  
def **offence** ins 2002 No 30 amdt 3.497**Appointment of inspectors**s 263 am A2002-56 amdt 1.134  
sub A2003-34 amdt 2.5**Identity cards**s 264 am A2002-56 amdt 1.134  
sub A2003-34 amdt 1.8**Power not to be exercised before identity card shown**s 265 am 1994 No 81; A2002-56 amdt 1.134  
sub A2003-34 amdt 1.8**Inspection**

sdiv 6.4.2 hdg (prev pt 6 div 4 sdiv B hdg) renum R6 LA

**Display of identity cards**

s 268 om A2003-34 amdt 1.9

## Endnotes

### 4 Amendment history

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#### **Powers of inspection**

s 269 am 1994 No 81

#### **Work carried out at direction of inspector**

s 270 om A2003-34 amdt 1.9

#### **Disposal of seized items**

s 272 am A2002-56 amdt 1.123, amdt 1.134

#### **Obstruction of inspectors**

s 274 am 1994 No 81  
om A2004-15 amdt 2.105

#### **Commissioner for land and planning**

div 6.5 hdg (prev pt 6 div 4A hdg) ins 1996 No 85  
renum R6 LA  
om A2002-56 amdt 1.124

#### **Commissioner for land and planning**

s 274A ins 1996 No 85  
am 2002 No 11 amdt 2.66  
sub 2002 No 30 amdt 3.498  
om A2002-56 amdt 1.124

#### **Term of office**

s 274B ins 1996 No 85  
sub 2002 No 30 amdt 3.498  
om A2002-56 amdt 1.124

#### **Leave of absence**

s 274C ins 1996 No 85  
sub 2002 No 30 amdt 3.498  
om A2002-56 amdt 1.124

#### **Leave of absence**

s 274D ins 1996 No 85  
om 2002 No 30 amdt 3.498

#### **Acting appointments**

s 274E ins 1996 No 85  
om 2002 No 30 amdt 3.498

#### **Resignation**

s 274F ins 1996 No 85  
om 2002 No 30 amdt 3.498

#### **Suspension and removal of commissioner**

s 274G ins 1996 No 85  
am 2002 No 30 amdt 3.499-3.501  
om A2002-56 amdt 1.124

**Retirement**

s 274H ins 1996 No 85  
om A2002-56 amdt 1.124

**Delegation**

s 274I ins 1996 No 85  
sub 2002 No 30 amdt 3.502  
om A2002-56 amdt 1.124

**Protection from suit**

s 274J ins 1996 No 85  
am 2002 No 30 amdt 3.503  
om A2002-56 amdt 1.124

**Miscellaneous**

div 6.6 hdg (prev pt 6 div 5 hdg) renum R6 LA

**Review of decisions**

sdiv 6.6.1 hdg (prev pt 6 div 5 sdiv A hdg) renum R6 LA

**AAT review—general**

s 275 am 1993 No 77  
sub 1996 No 71  
am 1996 No 85  
sub A2002-56 amdt 1.125  
am A2004-57 amdt 1.40

**Approvals subject to entity's satisfaction**

s 275A ins A2002-56 amdt 1.125

**Review of decisions—objectors and third parties to approvals**

s 276 hdg sub A2003-34 amdt 2.6  
s 276 am 1993 No 77; 1996 No 71; 1996 No 85; 1997 No 116; 2000  
No 15 s 4; 2000 No 37 s 16; A2002-56 amdt 1.126; ss renum  
R12 LA (see A2002-56 amdt 1.127)

**Review of decisions—orders and prohibition notices**

s 277 am 1993 No 77  
sub 1996 No 7; A2003-34 amdt 1.10

**Notification of objectors**

s 278 am 1993 No 77; 1996 No 71; 1996 No 85; 2002 No 30  
amdt 3.508; A2002-56 amdt 1.128, amdt 1.129; ss renum  
R12 LA (see A2002-56 amdt 1.130)

**Application for review by objectors—notification to applicants**

s 279 hdg sub A2003-34 amdt 2.7  
s 279 am 1993 No 77; 1996 No 71; 1996 No 85

**Challenge to validity of certain decisions**

s 279A ins 1999 No 87 s 4  
am A2002-56 amdt 1.131

## Endnotes

### 4 Amendment history

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#### **Applicants and objectors may be made parties to proceedings**

s 280 sub 1993 No 77  
om 1996 No 71

#### **Failure to comply with certain notification requirements**

s 281 om 1996 No 71

#### **General**

sdiv 6.6.2 hdg (prev pt 6 div 5 sdiv B hdg) renum R6 LA

#### **Regulations**

s 282 am 1992 No 32; 1996 No 85; 2000 No 37 s 17; 2001 No 44  
amds 1.2480-1.2482; A2002-56 amdt 1.132; pars renum  
R15 LA

#### **Administrative appeals**

pt 7 hdg (prev pt 6A hdg) ins 1993 No 77  
sub 1996 No 71  
renum R6 LA

#### **Preliminary**

pt 6A div 1 hdg ins 1993 No 77  
om 1996 No 71

#### **AAT review of decisions**

s 282A ins 1993 No 77  
sub 1996 No 71  
am 1996 No 85; 1999 No 73 s 12; 2000 No 15 s 5; 2001 No 56  
amdt 3.435  
sub A2002-56 amdt 1.136  
am A2004-42 amdt 1.7; A2004-57 amdt 1.42

#### **Establishment of land planning and appeals board**

pt 6A div 2 hdg ins 1993 No 77  
om 1996 No 71

#### **Establishment of board**

s 282B ins 1993 No 77  
om 1996 No 71

#### **Appointment of members**

s 282C ins 1993 No 77  
om 1996 No 71

#### **Remuneration and allowances**

s 282D ins 1993 No 77  
om 1996 No 71

#### **Acting appointments**

s 282E ins 1993 No 77  
om 1996 No 71



**Deputy chairperson to act for chairperson**

s 282F ins 1993 No 77  
om 1996 No 71

**Delegation**

s 282G ins 1993 No 77  
om 1996 No 71

**Leave of absence**

s 282H ins 1993 No 77  
om 1996 No 71

**Other terms and conditions**

s 282I ins 1993 No 77  
om 1996 No 71

**Resignation**

s 282J ins 1993 No 77  
om 1996 No 71

**Removal from office**

s 282K ins 1993 No 77  
om 1996 No 71

**Organisation of appeals board**

pt 6A div 3 hdg ins 1993 No 77  
om 1996 No 71

**Disclosure of interests**

s 282L ins 1993 No 77  
om 1996 No 71

**Arrangement of business**

s 282M ins 1993 No 77  
om 1996 No 71

**Constitution of appeals board**

s 282N ins 1993 No 77  
om 1996 No 71

**Member presiding**

s 282P ins 1993 No 77  
om 1996 No 71

**Member of appeals board ceasing to be available**

s 282Q ins 1993 No 77  
om 1996 No 71

**Places of sitting**

s 282R ins 1993 No 77  
om 1996 No 71

## Endnotes

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### **Review by the appeals board of decisions**

pt 6A div 4 hdg ins 1993 No 77  
om 1996 No 71

### **Reviewable decisions**

s 282S ins 1993 No 77  
om 1996 No 71

### **Persons who may apply to appeals board**

s 282T ins 1993 No 77  
om 1996 No 71

### **Manner of applying for review**

s 282U ins 1993 No 77  
om 1996 No 71

### **Parties to proceedings before appeals board**

s 282V ins 1993 No 77  
om 1996 No 71

### **Representation before appeals board**

s 282W ins 1993 No 77  
om 1996 No 71

### **Procedure of appeals board**

s 282X ins 1993 No 77  
om 1996 No 71

### **Conferences**

s 282Y ins 1993 No 77  
om 1996 No 71

### **Hearings to be in public**

s 282Z ins 1993 No 77  
om 1996 No 71

### **Lodging of material documents with appeals board**

s 282ZA ins 1993 No 77  
om 1996 No 71

### **Power of appeals board to obtain additional statements**

s 282ZB ins 1993 No 77  
om 1996 No 71

### **Opportunity to make submissions**

s 282ZC ins 1993 No 77  
om 1996 No 71

### **Powers of appeals board**

s 282ZD ins 1993 No 77  
om 1996 No 71

**Operation and implementation of a decision that is subject to review**

s 282ZE ins 1993 No 77  
om 1996 No 71

**Power of appeals board to dismiss application or strike out party**

s 282ZF ins 1993 No 77  
om 1996 No 71

**Review by appeals board**

s 282ZG ins 1993 No 77  
om 1996 No 71

**Return of documents etc at completion of proceeding**

s 282ZH ins 1993 No 77  
om 1996 No 71

**Appeals to Supreme Court from decisions of the appeals board**

s 282ZI ins 1993 No 77  
om 1996 No 71

**Operation and implementation of a decision that is subject to appeal**

s 282ZJ ins 1993 No 77  
om 1996 No 71

**Reference of questions of law to Supreme Court**

s 282ZK ins 1993 No 77  
om 1996 No 71

**Sending of documents to, and disclosure of documents by, the Supreme Court**

s 282ZL ins 1993 No 77  
om 1996 No 71

**Miscellaneous**

pt 6A div 5 hdg ins 1993 No 77  
om 1996 No 71

**Protection of members, representatives and witnesses**

s 282ZM ins 1993 No 77  
om 1996 No 71

**Failure of witness to attend**

s 282ZN ins 1993 No 77  
om 1996 No 71

**Refusal to answer questions**

s 282ZP ins 1993 No 77  
om 1996 No 71

**False or misleading evidence**

s 282ZQ ins 1993 No 77  
om 1996 No 71

## Endnotes

### 4 Amendment history

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#### **Contempt of appeals board**

s 282ZR ins 1993 No 77  
om 1996 No 71

#### **Registry**

s 282ZS ins 1993 No 77  
om 1996 No 71

#### **Registrar**

s 282ZT ins 1993 No 77  
om 1996 No 71

#### **Giving of notices**

s 282ZU ins 1993 No 77  
am 1994 No 38  
om 1996 No 71

#### **Lodging of documents**

s 282ZV ins 1993 No 77  
om 1996 No 71

#### **Miscellaneous**

pt 8 hdg (prev pt 7 hdg) renum R6 LA

#### **People authorised to exercise powers of Executive**

s 283 am 1996 No 39; 2002 No 30 amdt 3.504; A2002-56  
amdt 1.137; A2003-30 amdt 1.5, amdt 1.6

#### **Power of administrative appeals tribunal and Supreme Court**

s 284 sub 1993 No 77; 1996 No 71

#### **Corporations—penalites**

s 285 am 1994 No 26  
om R5 LRA

#### **Acts and omissions of representatives**

s 286 sub A2004-15 amdt 1.31

#### **Determination of fees**

s 287 sub 2001 No 44 amdt 1.2483

#### **Approved forms**

s 287A ins 2001 No 44 amdt 1.2483  
am 2002 No 30 amdt 3.505  
sub A2002-56 amdt 1.138

#### **Regulation-making power**

s 288 am 1994 No 81  
sub 2001 No 44 amdt 1.2483

#### **Transitional**

pt 9 hdg (prev pt 8 hdg) ins 2000 No 80 amdt 3.9  
renum R6 LA

**Status of leases and licences**

s 289 ins 2000 No 80 amdt 3.9  
am 2002 No 30 amdt 3.506

**Continued application of certain repealed Acts and provisions**

s 290 ins 2000 No 80 amdt 3.9

**Conversion of Commonwealth leases**

s 291 ins 2001 No 56 amdt 3.436  
am A2003-34 s 9  
(4), (5) exp 1 December 2003 (s 291 (5))

**Consent under City Area Leases Ordinance 1936, s 28**

s 292 ins A2002-56 amdt 1.139  
exp 1 July 2004 (s 292 (3))

**Proceedings and evidence**

s 293 ins A2003-30 amdt 1.7  
exp 1 July 2004 (s 293 (9))

**Territory plan variation—omission of heritage places register**

s 294 ins A2004-57 amdt 1.43

**Management objectives for public land**

sch 1 am A2003-11 amdt 1.1

**Criteria for assessment of heritage significance of places**

sch 2 om A2004-57 amdt 1.44

**Decisions reviewable by AAT**

sch 4 am 1993 No 75; 1996 No 39  
om 1996 No 85  
ins A2002-56 amdt 1.140  
am A2004-57 amdt 1.45

**Activities subject to orders**

sch 5 hdg am A2003-34 amdt 1.11  
sch 5 am 1993 No 75; 1995 No 21; 1996 No 85; 1997 No 7; 1998  
No 54; 1999 No 73 s 13; 1999 No 79 sch 3; 2000 No 37 s 18;  
R6 LA; A2003-34 amdt 2.8; A2004-57 amdt 1.47

**Dictionary**

dict ins 2002 No 30 amdt 3.507  
am A2002-56 amdt 1.141; A2003-14 amdt 1.69  
def **Aboriginal object** om A2004-56 amdt 1.48  
def **Aboriginal project** ins 2002 No 30 amdt 3.507  
def **Aboriginal place** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.48  
def **Aboriginal tradition** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.48

## Endnotes

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def **application** ins 2002 No 30 amdt 3.507  
def **approval** ins 2002 No 30 amdt 3.507  
def **assessment** ins 2002 No 30 amdt 3.507  
def **authorised person** ins 2002 No 30 amdt 3.507  
sub A2003-34 amdt 1.12  
def **authority** ins 2002 No 30 amdt 3.507  
om A2002-56 amdt 1.142  
def **background papers** ins 2002 No 30 amdt 3.507  
def **building** ins 2002 No 30 amdt 3.507  
def **building and development provision** ins 2002 No 30  
amdt 3.507  
def **building work** ins 2002 No 30 amdt 3.507  
def **cemetery** ins A2003-11 amdt 1.2  
def **chairperson** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.48  
def **commissioner** ins 2002 No 30 amdt 3.507  
om A2002-56 amdt 1.143  
def **compensation** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.48  
def **connected** ins 2002 No 30 amdt 3.507  
def **conservation** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.48  
def **conservator** ins 2002 No 30 amdt 3.507  
def **consolidation** ins 2002 No 30 amdt 3.507  
def **consultation notice** ins 2002 No 30 amdt 3.507  
def **controlled activity** ins 2002 No 30 amdt 3.507  
def **dealing** ins 2002 No 30 amdt 3.507  
def **defined decision** ins 2002 No 30 amdt 3.507  
def **deputy chairperson** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.48  
def **development** ins 2002 No 30 amdt 3.507  
def **discharge amount** ins 2002 No 30 amdt 3.507  
def **draft plan variation** ins 2002 No 30 amdt 3.507  
def **earlier index number** ins 2002 No 30 amdt 3.507  
def **environmental impact** ins 2002 No 30 amdt 3.507  
def **environmental impact statement** ins 2002 No 30  
amdt 3.507  
def **environmental report** ins 2002 No 30 amdt 3.507  
def **Environment Minister** ins 2002 No 30 amdt 3.507  
def **Executive** ins 2002 No 30 amdt 3.507  
def **expert member** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.48  
def **formal error** ins 2002 No 30 amdt 3.507  
def **Gungahlin central area** ins 2002 No 30 amdt 3.507  
om A2003-30 amdt 1.8  
def **heritage direction** ins A2004-57 amdt 1.49

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- def **heritage council** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.49
- def **heritage object** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.49
- def **heritage objects register** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.49
- def **heritage place** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.49
- def **heritage places register** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.49
- def **heritage significance** ins 2002 No 30 amdt 3.507  
sub A2004-56 amdt 1.49
- def **holding period** ins 2002 No 30 amdt 3.507
- def **index number** ins 2002 No 30 amdt 3.507
- def **inquiry** ins 2002 No 30 amdt 3.507
- def **inspector** ins A2003-34 amdt 2.9
- def **interim heritage places register** ins 2002 No 30  
amdt 3.507  
om A2004-56 amdt 1.50
- def **interim variation** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.50
- def **land** ins 2002 No 30 amdt 3.507
- def **land management agreement** ins 2002 No 30 amdt 3.507
- def **later index number** ins 2002 No 30 amdt 3.507
- def **lease** ins 2002 No 30 amdt 3.507
- def **lessee** ins 2002 No 30 amdt 3.507
- def **long lease** ins 2002 No 30 amdt 3.507
- def **market value** ins 2002 No 30 amdt 3.507
- def **member** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.50
- def **national capital plan** ins 2002 No 30 amdt 3.507
- def **natural environment** ins 2002 No 30 amdt 3.507
- def **new application** ins A2002-56 amdt 1.144
- def **newspaper** ins 2002 No 30 amdt 3.507
- def **nominal rent lease** ins 2002 No 30 amdt 3.507
- def **objection** ins 2002 No 30 amdt 3.507
- def **occupier** ins 2002 No 30 amdt 3.507
- def **offence** ins 2002 No 30 amdt 3.507
- def **order** ins 2002 No 30 amdt 3.507
- def **original application** ins A2002-56 amdt 1.144
- def **original decision** ins A2002-56 amdt 1.144
- def **panel** ins 2002 No 30 amdt 3.507
- def **permanent member** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.50
- def **pest animal** ins 2002 No 30 amdt 3.507  
sub A2003-34 amdt 1.13

## Endnotes

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- def **pest plant** ins 2002 No 30 amdt 3.507  
sub A2003-34 amdt 1.14
- def **place** ins 2002 No 30 amdt 3.507
- def **plan** ins 2002 No 30 amdt 3.507
- def **plan of management** ins 2002 No 30 amdt 3.507
- def **preliminary assessment** ins 2002 No 30 amdt 3.507
- def **prescribed period** ins 2002 No 30 amdt 3.507
- def **prohibition notice** ins A2003-34 amdt 1.15
- def **proponent** ins 2002 No 30 amdt 3.507
- def **provision** ins 2002 No 30 amdt 3.507
- def **public car park** ins 2002 No 30 amdt 3.507
- def **public environment report** ins 2002 No 30 amdt 3.507
- def **public land** ins 2002 No 30 amdt 3.507
- def **rectification work** ins A2003-34 amdt 1.15
- def **registered** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.50
- def **registered lease** ins 2002 No 30 amdt 3.507
- def **registered proprietor** ins 2002 No 30 amdt 3.507
- def **registration** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.50
- def **relevant Aboriginal organisation** ins 2002 No 30  
amdt 3.507  
om A2004-56 amdt 1.50
- def **relevant authority** ins 2002 No 30 amdt 3.507
- def **relevant Minister** ins 2002 No 30 amdt 3.507
- def **rental lease** ins 2002 No 30 amdt 3.507
- def **residential lease** ins 2002 No 30 amdt 3.507
- def **restricted information** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.50
- def **rural lease** ins 2002 No 30 amdt 3.507
- def **secretary** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.50
- def **short lease** ins 2002 No 30 amdt 3.507
- def **special Pialligo lease** ins 2002 No 30 amdt 3.507
- def **structure** ins 2002 No 30 amdt 3.507
- def **subdivision** ins 2002 No 30 amdt 3.507
- def **sublease** ins 2002 No 30 amdt 3.507
- def **sublessee** ins 2002 No 30 amdt 3.507
- def **Territory authority** ins 2002 No 30 amdt 3.507
- def **unregistered** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.50
- def **variation** ins 2002 No 30 amdt 3.507  
om A2004-56 amdt 1.50



## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to    | Republication date |
|------------------|------------------|--------------------|
| 1                | Act 1993 No 90   | 31 January 1994    |
| 2                | Act 1994 No 97   | 28 February 1995   |
| 3                | Act 1997 No 7    | 24 June 1997       |
| 4                | Act 1998 No 65   | 28 February 1999   |
| 5                | Act 2000 No 15   | 30 May 2000        |
| 6*               | Act 2001 No 80   | 5 October 2001     |
| 7                | Act 2001 No 80   | 11 March 2002      |
| 8                | Act 2002 No 11   | 28 May 2002        |
| 9                | Act 2002 No 30   | 17 September 2002  |
| 10               | Act 2002 No 39   | 11 October 2002    |
| 10 (RI)          | Act 2002 No 39 ‡ | 11 October 2002    |
| 11               | A2003-14         | 28 March 2003      |
| 12               | A2003-30         | 1 July 2003        |
| 13               | A2003-34         | 1 September 2003   |
| 14*              | A2003-34         | 27 September 2003  |
| 15               | A2003-34         | 2 December 2003    |
| 16               | A2004-2          | 22 March 2004      |
| 17               | A2004-15         | 9 April 2004       |
| 18               | A2004-27         | 27 May 2004        |
| 19               | A2004-27         | 2 July 2004        |

## Endnotes

6 Uncommenced amendments

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| Republication No | Amendments to | Republication date |
|------------------|---------------|--------------------|
| 20               | A2004-42      | 25 August 2004     |
| 21               | A2004-42      | 1 September 2004   |

‡ includes retrospective amendments by Act 2002 No 49

## 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

### Heritage Act 2004 A2004-57 sch 1 pt 1.5

#### [1.8] Section 5, definition of *background papers*, paragraph (b) (iii)

*substitute*

- (iii) any recommendation or submission made by the heritage council and mentioned in section 17 (Consultation with heritage council); and

#### [1.9] Section 5, definition of *background papers*, paragraph (c) (i)

*substitute*

- (i) a direction mentioned in paragraph (b) (i); or

#### [1.10] Section 5, definition of *background papers*, paragraph (c) (iii) and note

*substitute*

- (iii) any recommendation or submission made by the heritage council and mentioned in section 17 (Consultation with heritage council); and

#### [1.11] Section 5, definition of *background papers*, paragraph (d)

*omit*

**[1.12] Section 5, definition of background papers**

*renumber paragraphs when Act next republished under the Legislation Act*

**[1.13] Section 7 heading**

*substitute*

**7 Object of Territory plan****[1.14] Section 7 (3) (d)**

*omit*

**[1.15] Section 7 (3)**

*renumber paragraphs when Act next republished under the Legislation Act*

**[1.16] Section 9 (3)**

*omit*

**[1.17] Section 9**

*renumber subsections when Act next republished under the Legislation Act*

**[1.18] Sections 10 and 11**

*omit*

**[1.19] Section 17**

*substitute*

**17 Consultation with heritage council**

In preparing a draft plan variation, the planning and land authority must consult the heritage council and consider any recommendation or submission made by the council in relation to the variation.

## Endnotes

6 Uncommenced amendments

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### **[1.20] Section 19A (1)**

*substitute*

- (1) A consultation notice under section 19 must state whether or not section 9 (Effect of draft plan variation) applies in relation to the draft variation.

### **[1.21] Section 24 (1) (e)**

*omit*

or the heritage council

### **[1.22] Part 3**

*Omit*

### **[1.23] Section 193 (h)**

*substitute*

- (h) a sport and recreation reserve;  
(i) a heritage area.

### **[1.24] Section 222, definition of development, paragraph (c)**

*substitute*

- (c) the carrying out of work that would affect the landscape of the land except if the land—  
(i) is leased for residential purposes only; and  
(ii) is not registered, or nominated for provisional registration, under the *Heritage Act 2004*;

### **[1.25] New section 227 (1) (ba) and (bb)**

*insert*

- (ba) each notice given to the heritage council under section 229 of a development application that relates to a place or object

registered, or nominated for provisional registration, under the *Heritage Act 2004*; and

- (bb) each advice given to the planning and land authority by the heritage council under the *Heritage Act 2004*, section 60 (Advice about effect of development on heritage significance); and

**[1.26] Section 227 (1)**

*renumber paragraphs when Act next republished under the Legislation Act*

**[1.27] Section 229 (4) (a)**

*substitute*

- (a) must give the heritage council—
- (i) notice of each application that relates to a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*; and
  - (ii) a copy of each application mentioned in subparagraph (i); and
  - (iii) a copy of each objection, or document containing comments about the development, received by the authority that relate to the effect of the development on the heritage significance of the place or object; and

**[1.28] New section 229A (1A)**

*insert*

- (1A) If the application relates to a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*, the planning and land authority must give a copy of the direction to the heritage council.

**[1.29] Section 229A (2) (a)**

*substitute*

- (a) the information and documents received by the authority in relation to the application, including any advice under the *Heritage Act 2004*, section 60 (Advice about effect of development on heritage significance); and

**[1.30] Section 229A**

*renumber subsections when Act next republished under Legislation Act*

**[1.31] Section 229B (6)**

*substitute*

- (6) If the Minister decides to consider an application, the Minister must—
  - (a) tell the applicant in writing about the decision and the grounds on which the decision was made; and
  - (b) if the application relates to a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*—ensure that the Minister has the advice of the heritage council under that Act, section 60 (Advice about effect of development on heritage significance); and
  - (c) ensure that the Minister has the comments of the planning and land authority and the planning and land council on the application; and
  - (d) approve or refuse the application under section 230.

**[1.32] Section 231**

*substitute*

**231 Matters to be considered by relevant authority**

- (1) In approving or refusing to approve an application, the relevant authority must consider the following:
  - (a) the comments of any entity to which the authority referred the application for comment;
  - (b) each objection or other submission received by the authority in relation to the application that has not been withdrawn;
  - (c) a preliminary assessment under division 4.2, or a report under section 128, in relation to the environmental impact of the proposed development;
  - (d) any assessment made, or the report of any inquiry conducted, in relation to the proposed development;
  - (e) any advice given to the authority by the heritage council under the *Heritage Act 2004*, section 60 (Advice about effect of development on heritage significance) within 15 working days after the day the council is given notice of the application by the authority;
  - (f) if the relevant authority is the Minister—the comments of the planning and land authority and the planning and land council.
- (2) The relevant authority may make a decision under section 230 that is inconsistent with any heritage council advice under the *Heritage Act 2004*, section 60 only if satisfied that—
  - (a) the following have been considered—
    - (i) all applicable heritage guidelines;
    - (ii) all reasonable development options and design solutions;
    - (iii) any prudent and feasible alternative to the proposed development, or relevant aspects of it; and
  - (b) as far as practicable, the decision avoids or minimises any adverse impact on the heritage significance of the place; and

- (c) on balance, the decision is consistent with the objects of the Territory plan.
- (3) Also, if the proposed development would be affected by heritage guidelines relating to the heritage significance of an Aboriginal place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*, the relevant authority must consult each representative Aboriginal organisation and consider any further comments by the heritage council about the development.
- (4) In this section:
- Aboriginal object*—see the *Heritage Act 2004*, section 9.
- Aboriginal place*—see the *Heritage Act 2004*, section 9.
- representative Aboriginal organisations*—see the *Heritage Act 2004*, section 14.

**[1.33] New section 244A**

*insert*

**244A Notice of decision to heritage council**

If an application relates to a place registered, or nominated for provisional registration, under the *Heritage Act 2004*, the planning and land authority must give the heritage council—

- (a) written notice of the decision to approve or refuse the application; and
- (b) a copy of the decision.

**[1.34] Section 245 (3) (g)**

*substitute*

- (g) if the approval is in relation to a place registered, or nominated for provisional registration, under the *Heritage Act 2004*—that



the applicant enter into a heritage agreement under that Act for the conservation of the heritage significance of the place; or

**[1.35] New section 253 (b)**

*substitute*

- (b) if the approval is in relation to a place registered, or nominated for provisional registration, under the *Heritage Act 2004*—the applicant is convicted of an offence against this part or the *Heritage Act 2004*.

**[1.36] New section 254 (3) (ba)**

*insert*

- (ba) if the order sought relates to a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*—the heritage council; and

**[1.37] Section 254 (3)**

*renumber paragraphs when Act next republished under the Legislation Act*

**[1.38] New section 255 (2) (ba)**

*insert*

- (ba) if the proposed order relates to a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*—the heritage council; and

**[1.39] Section 255 (2)**

*renumber paragraphs when Act next republished under the Legislation Act*

**[1.40] New section 275 (1A)**

*insert*

## Endnotes

6 Uncommenced amendments

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- (1A) To remove any doubt, the heritage council may apply to the AAT for review of a decision mentioned in subsection (1).

### **[1.41] Section 275**

*renumber subsections when Act next republished under the Legislation Act*

### **[1.42] Section 282A (1)**

*substitute*

- (1) Application may be made to the AAT for review of the following decisions:
- (a) a decision mentioned in subsection (3) or (4);
  - (b) a decision mentioned in schedule 4, part 4.2, column 4.

### **[1.43] New section 294**

*insert*

#### **294 Territory plan variation—omission of heritage places register**

- (1) The planning and land authority must, in writing, make amendments of the plan that are necessary or convenient because of the omission of the heritage places register by the *Heritage Act 2004*.
- (2) An instrument under subsection (1) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

### **[1.44] Schedule 2**

*omit*

### **[1.45] Schedule 4, part 4.2, items 1-9**

*omit*

**[1.46] Schedule 4, part 4.2**  
*renumber items when Act next republished under Legislation Act*

**[1.47] Schedule 5, item 1**

*substitute*

|   |   |                      |
|---|---|----------------------|
| 1 | work affecting a conservation<br>requirement under a heritage direction<br>conducted otherwise than in<br>accordance with an approval | 200 penalty<br>units |
|---|---|----------------------|

**[1.48] Dictionary, definitions of Aboriginal object, Aboriginal place, Aboriginal tradition, chairperson, compensation, conservation, deputy chairperson and expert member**

*omit*

**[1.49] Dictionary, definitions of heritage council, heritage object, heritage objects register, heritage place, heritage places register and heritage significance**

*substitute*

*heritage direction*—see the *Heritage Act 2004*, section 62.

*heritage significance*—see the *Heritage Act 2004*, section 62.

**[1.50] Dictionary, definitions of interim heritage places register, interim variation, member, permanent member, registered, registration, relevant Aboriginal organisation, restricted information, secretary, unregistered and variation**

*omit*

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