



AUSTRALIAN CAPITAL TERRITORY

# Land (Planning and Environment) Amendment Act 2000 (No 3)

No 37 of 2000

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# Land (Planning and Environment) Amendment Act 2000 (No 3)

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## **An Act to amend the *Land (Planning and Environment) Act 1991***

[Notified in ACT Gazette No. 29: 20 July 2000]

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

**1 Name of Act**

This Act is the *Land (Planning and Environment) Amendment Act 2000 (No 3)*.

**2 Commencement**

This Act commences on a day fixed by the Minister by notice in the Gazette.

**3 Act amended**

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

**4 Effect of draft plan variation**

Section 9 is amended—

- (a) by inserting before subsection (1) the following subsection:

“(1A) This section applies to a draft plan variation if a notice under section 19 states that it so applies.”; and

- (b) by inserting in subsection (2) “to which this section applies” after “variation” (first occurring).

## **5 Public consultation**

Section 19 is amended—

- (a) by omitting from paragraphs (1) (a), (b) and (ba) “21 days” and substituting “15 business days”;
- (b) by adding at the end of paragraph (1) (ba) “and”; and
- (c) by omitting paragraphs (1) (c) and (d) and substituting the following paragraph:
  - “(c) complying with subsection (1A) and, if applicable, subsections (1B) and (1C).”; and
- (d) by inserting after subsection (1) the following subsections:
  - “(1A) A notice under subsection (1) must state—
    - (a) whether or not section 9 applies in relation to the draft variation; and
    - (b) in relation to section 11—
      - (i) if the draft variation is to the heritage places register—that the section applies; or
      - (ii) if the draft variation is not to the heritage places register—that the section does not apply.
  - “(1B) A notice that states that section 9 applies must also state—
    - (a) for paragraph 9 (1) (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.
  - “(1C) A notice that states that section 11 applies must state the effect of that section.
  - “(1D) The authority may, by notice published in the Gazette and in a daily newspaper, extend or further extend a period mentioned in paragraph (1) (a) or (b).
  - “(1E) The power under subsection (1D) may be exercised after the expiry of the period to be extended.”; and
- (e) by inserting in subsection (2) “mentioned in a notice under subsection (1)” after “papers”.

## **6 Public inspection**

Section 117 is amended—

- (a) by omitting from subsection (1) “21 days” and substituting “15 business days”; and
- (b) by inserting after subsection (1) the following subsections:
  - “(1A) The Environment Minister may, by notice published in the Gazette and in a daily newspaper, extend or further extend a period specified for subsection (1).
  - “(1B) The power under subsection (1A) may be exercised after the expiry of the period to be extended.”; and
- (c) by omitting from subsection (2) “the notice” and substituting “a notice under subsection (1)”; and
- (d) by inserting in paragraph (2) (a) “mentioned in the notice” after “assessment”; and
- (e) by inserting in subsection (3) “mentioned in the notice under subsection (1)” after “assessment”.

## **7 Decisions to direct assessments**

Section 121 is amended—

- (a) by omitting from subsection (1) “Within the prescribed period after a proponent submits a preliminary assessment to the Environment Minister, the” and substituting “The”; and
- (b) by inserting after subsection (1) the following subsection:
  - “(1A) 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.”.

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

Section 125 is amended by omitting from paragraph (1) (b) “28 days” and substituting “20 business days”.

## **9 Payment for leases**

Section 169 is amended by inserting in paragraph (2) (b) “, 171A” after “171”.

**10 Interpretation**

Section 222 is amended by omitting subsection (4).

**11 Register of applications, approvals and orders**

Section 227 is amended—

- (a) by omitting the heading and substituting the following heading  
“227 **Register of applications, approvals, orders and lease and development conditions**”; and
- (b) by omitting paragraph (1) (e) and substituting the following paragraphs:
  - “(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
- (c) by inserting after subsection (1) the following subsection:  
“(1A) The Minister may enter in the register details of lease and development conditions applicable to a lease granted before the commencement of paragraph (1) (f).”; and
- (d) by adding at the end the following subsection:  
“(3) 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.”.

**12 Notice of application**

Section 229 is amended—

- (a) by inserting in paragraph (1) (a) “other than unleased land” after “if a place”; and
- (b) by omitting subsection (2) and substituting the following subsection:  
“(2) Paragraph (1) (a) does not apply—

- (a) if, in the opinion of the Minister, 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.”; and
- (c) by inserting after paragraph (4) (ab) the following paragraph:
  - “(ac) must give to the Gungahlin Development Authority for comment a copy of each application that relates to land within the Gungahlin Central Area; and”;
- (d) by omitting subsection (8).

### **13 Approvals**

Section 230 is amended by omitting from subsection (3) “after the expiration of the period prescribed for the purpose of that subsection in relation to the application”.

### **14 Objections—general**

Section 237 is amended—

- (a) by inserting in subsection (1) “(or that period as extended under this section)” after “period”; and
- (b) by inserting after subsection (1) the following subsections:
  - “(1A) The Minister 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.
  - “(1B) The power under subsection (1A) may be exercised after the expiry of the period to be extended.”.

### **15 Notification of approval or refusal of application**

Section 243 is amended—

- (a) by omitting subsections (1) and (2) and substituting the following subsections:
  - “(1) If a relevant authority approves an application, the Minister must cause notice of the approval to be given to each person who objected under subsection 237 (1).

“(2) Subsection (1) does not apply to an approval for which the relevant 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.”; and

- (b) by omitting from subsection (3) “paragraph (1) (b) shall” and substituting “subsection (1) must”; and
- (c) by omitting subsection (4) and substituting the following subsection:

“(4) If a relevant authority refuses an application, the Minister must cause notice of the refusal to be given to the applicant and to each person who objected under subsection 237 (1).”; and
- (d) by omitting from subsection (6) “paragraph (1) (b) or subsection (4) shall” and substituting “subsection (1) or (4) must”.

#### **16 Review—objectors, third parties**

Section 276 is amended by omitting subsection (4).

#### **17 Regulations**

Section 282 is amended—

- (a) by omitting “in relation to” and substituting “for”; and
- (b) by omitting paragraphs (da) and (e) and substituting the following paragraphs:
  - “(da) 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
  - (e) 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”;
- (c) by adding at the end the following subsections:

“(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 for the *Subordinate Laws Act 1989*.

“(4) An exemption that relates to a development mentioned in subsection (2), whether given under a regulation or an instrument under a regulation, may be conditional.”.

## **18 Schedule**

Schedule 5 is amended by inserting after item 1 the following item:

- “2 Failure to comply with— 50 penalty units”.
- (a) a lease; or
  - (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



**Endnote**

**Act amended**

- 1 Republished as in force on 28 February 1999. See also Acts 1999 Nos 40, 73, 79 and 87; 2000 Nos 14 and 15.

*[Presentation speech made in Assembly on 17 February 2000]*