



Australian Capital Territory

# Planning and Development (Consequential Amendments) Act 2007

A2007-25

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Australian Capital Territory

# Planning and Development (Consequential Amendments) Act 2007

A2007-25

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An Act to amend legislation because of the enactment of the *Planning and Development Act 2007*, and for other purposes

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

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J2005 -765

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

**1 Name of Act**

This Act is the *Planning and Development (Consequential Amendments) Act 2007*.

**2 Commencement**

This Act commences on the commencement of the *Planning and Development Act 2007*, section 428 (Repeals).

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

**3 Legislation amended—sch 1**

This Act amends the legislation mentioned in schedule 1.

## **Schedule 1      Consequential amendments**

(see s 3)

### **Part 1.1                      Administrative Appeals Tribunal Act 1989**

#### **[1.1]      Section 17 (4), note**

*substitute*

*Note*      Div 4.5 applies only to applications for review of decisions under the *Heritage Act 2004*, *Planning and Development Act 2007* and *Tree Protection Act 2005*.

#### **[1.2]      Section 24 (5)**

*omit*

#### **[1.3]      Section 28 (1) (d)**

*substitute*

(d) any other entity that has been made a party to the proceeding by the tribunal on application by the entity under subsection (2) or section 28A.

#### **[1.4]      Section 28 (2), new note**

*insert*

*Note*      If a form is approved under s 62A for this provision, the form must be used.

#### **[1.5]      Section 28 (3), (4) and (5)**

*omit*

**[1.6] New section 28A**

*insert*

**28A Entities notified about planning and development decisions may be joined**

- (1) This section applies if a person applies for the review of a decision under the *Planning and Development Act 2007*.
- (2) An interested entity for the decision may apply in writing to the tribunal to be made a party to the proceeding on the application for review.

*Note* If a form is approved under s 62A for this provision, the form must be used.

- (3) If an interested entity applies under subsection (2), the tribunal must, by order, make the interested entity a party to the proceeding.
- (4) In this section:

*interested entity*, for a reviewable decision—see the *Planning and Development Act 2007*, section 407 (Definitions—ch 13).

**[1.7] Section 37 (11), definition of *defined period*, paragraph (a)**

*substitute*

- (a) if the proceeding arises under the *Planning and Development Act 2007*—14 days; or

**[1.8] New section 37 (12), (13) and (14)**

*insert*

- (12) In subsection (11), a reference to the *Planning and Development Act 2007* includes a reference to the *Land (Planning and Environment) Act 1991*.
- (13) Subsection (12) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.



- (14) Subsections (12) and (13) and this subsection expire 6 months after the day this subsection commences.

**[1.9] Sections 49A and 49B**

*omit*

- *Land (Planning and Environment) Act 1991*

*substitute*

- *Planning and Development Act 2007*

**[1.10] New section 49DA**

*insert*

**49DA Applications for review if decision reconsidered**

- (1) This section applies if—
- (a) the planning and land authority refuses an application for development approval, or for the amendment of a development application, (the *application*), or approves the application subject to a condition; and
  - (b) the applicant for the application applies for review of the original decision; and
- Note* **Original decision**—see s (3).
- (c) the applicant applies for reconsideration of the original decision under the *Planning and Development Act 2007*, division 7.3.10 (Reconsideration of decisions on development applications), whether before or after the applicant applies for review of the original decision; and
  - (d) before the tribunal decides the application for review, the planning and land authority reconsiders the original decision and substitutes another decision (the *substitute decision*).

(2) The application for review of the original decision is taken to be an application for review of the substitute decision.

(3) In this section:

*development application*—see the *Planning and Development Act 2007*, dictionary.

*development approval*—see the *Planning and Development Act 2007*, dictionary.

*original decision* means a decision mentioned in subsection (1) (a).

## Part 1.2 Administrative Decisions (Judicial Review) Act 1989

### [1.11] Section 8 (2) (b) (iii)

*omit*

*Land (Planning and Environment) Act 1991*

*substitute*

*Planning and Development Act 2007*

### [1.12] New section 8 (4), (5) and (6)

*insert*

(4) In subsection (2) (b) (iii), a reference to the *Planning and Development Act 2007* includes a reference to the *Land (Planning and Environment) Act 1991*.

(5) Subsection (4) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

(6) Subsections (4) and (5) and this subsection expire 6 months after the day this subsection commences.

## **Part 1.3 Casino Control Act 2006**

### **[1.13] Section 62 (2)**

*substitute*

- (2) Subsection (1) has effect despite the following provisions of the *Planning and Development Act 2007*:
- (a) section 50 (Effect of territory plan);
  - (b) section 65 (Effect of draft plan variations publicly notified);
  - (c) section 72 (Effect of draft plan variations given to Minister).

## **Part 1.4 Cemeteries and Crematoria Regulation 2003**

### **[1.14] Section 18 (5), note**

*substitute*

*Note* The purpose for which land is used is important for the *Planning and Development Act 2007*.

## **Part 1.5 Civil Law (Sale of Residential Property) Act 2003**

### **[1.15] Section 7, definition of *lease***

*omit*

### **[1.16] Section 7, definition of *sublease***

*substitute*

*sublease*—see the *Planning and Development Act 2007*, section 234.

**[1.17] Section 7, definition of *unapproved structure***

*substitute*

*unapproved structure* means—

- (a) a structure—
  - (i) the building of which contravened the *Building Act 2004*, or other territory law regulating building work, at the time it was built; or
  - (ii) the use or occupancy of which contravenes the *Building Act 2004*; or
- (b) a structure—
  - (i) the building of which required development approval under the *Planning and Development Act 2007*, or other territory law regulating development, at the time it was built; and
  - (ii) that had no approval or, when built, did not comply with the approval.

**[1.18] Section 8 (1), definition of *residential property*, paragraph (a)**

*omit*

lease

*substitute*

territory lease relating to the land

**[1.19] Section 8 (2) (b)**

*omit*

the relevant lease

*substitute*

the territory lease relating to the land or unit

**[1.20] Section 8 (2) (d)**

*omit*

the relevant lease

*substitute*

the territory lease relating to the land

**[1.21] Section 11 (1) (g) (i)**

*substitute*

- (i) the seller will be, or will be able to be, the registered proprietor of the territory lease relating to the property (if any); and

**[1.22] Section 20, new definition of *energy efficiency rating guidelines***

*insert*

***energy efficiency rating guidelines*** means the guidelines made by the planning and land authority under section 20A.

**[1.23] Section 20, definition of *energy efficient rating statement***

*substitute*

*energy efficiency rating statement* means—

- (a) a statement prepared in accordance with the energy efficiency rating guidelines; or
- (b) if a regulation makes provision for energy efficiency rating statements—a statement prepared in accordance with the regulation.

**[1.24] Section 20, definition of *premises*, paragraph (g)**

*substitute*

- (g) premises in relation to which approval has been given under the *Planning and Development Act 2007*, chapter 7 for a development involving the demolition of the premises;
- (ga) premises in relation to which a controlled activity order has been made under the *Planning and Development Act 2007*, part 11.3 directing the demolition of the premises;

**[1.25] New section 20A**

*insert*

**20A Energy efficiency rating guidelines**

- (1) The planning and land authority may make guidelines for preparing an energy efficiency rating statement (the *energy efficiency rating guidelines*).
- (2) The energy efficiency rating guidelines are a disallowable instrument.

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

**[1.26] Dictionary, note 2, new dot point**

*insert*

- territory lease

**[1.27] Dictionary, new definition of *energy efficiency rating guidelines***

*insert*

*energy efficiency rating guidelines*, for part 3 (Energy efficiency ratings)—see section 20.

**[1.28] Dictionary, definition of *lease***

*omit*

**[1.29] Dictionary, definition of *sublease***

*substitute*

*sublease*, for part 2 (Sale of residential property)—see the *Planning and Development Act 2007*, section 234.

## **Part 1.6 Civil Law (Sale of Residential Property) Regulation 2004**

**[1.30] Section 7 (6) (g)**

*substitute*

- (g) if the person who prepared the report believes that a building approval is not required for the structure—a statement from the person about whether the person believes development approval is required for the structure under the *Planning and Development Act 2007*, chapter 7 (Development approvals).

**[1.31] Section 9**

*substitute*

**9 Lease conveyancing inquiry documents—Act, s 7, def  
*lease conveyancing inquiry documents***

The lease conveyancing inquiry documents for a property are the following statements or documents provided by the planning and land authority:

- (a) a statement about any entry in the heritage register in relation to the property;
- (b) a statement about whether any rent under the *Planning and Development Act 2007* for the lease of the property is owing;
- (c) a statement about any application for development approval under the *Planning and Development Act 2007* affecting the property;
- (d) a statement about any contravention of the *Planning and Development Act 2007* in relation to the lease of the property;
- (e) a statement about any order under the *Planning and Development Act 2007* made or proposed to be made by the planning and land authority in relation to the property;
- (f) a statement about any application for development approval for variation of a lease for dual occupancy made under the *Planning and Development Act 2007* affecting the property;
- (g) a statement about any certificate of compliance issued under the *Planning and Development Act 2007*;
- (h) a statement about whether there is any record of contaminated land on the property.



## **Part 1.7**                      **Commissioner for the Environment Act 1993**

### **[1.32]      Section 12 (2) (e)**

*substitute*

- (e) a panel conducting an inquiry under the *Planning and Development Act 2007*, chapter 8 (Environmental impact statements and inquiries); or

## **Part 1.8**                      **Community Title Act 2001**

### **[1.33]      Section 10 (2)**

*substitute*

- (2) The planning and land authority may refuse to approve a community title scheme if the lessee of a lot proposed to be included in the scheme is in breach of the lease, or a provision of (or requirement under) the *Planning and Development Act 2007* that applies to the lessee because the lessee is the lessee of the lot.

### **[1.34]      Section 21 (2)**

*substitute*

- (2) The planning and land authority may refuse to approve an application under the *Planning and Development Act 2007*, chapter 7 for approval to carry out an activity needed for the development of a stage of the scheme if an earlier stage of the scheme has not been finished as required by the scheme.

### **[1.35]      Dictionary, definition of *Land Act***

*omit*

## Part 1.9 Duties Act 1999

### [1.36] Section 52

*substitute*

#### 52 Refund if Crown lease surrendered

- (1) This section applies if—
  - (a) an amount of duty has been paid on a grant of a Crown lease; and
  - (b) the lease is surrendered or terminated; and
  - (c) part or all of the amount paid in relation to the grant of the lease is refunded under the *Planning and Development Act 2007*, section 299 (Refund on lease surrender or termination).

- (2) An amount calculated in accordance with the following formula must be refunded to the person who paid the duty:

$$\frac{D \times R}{P}$$

- (3) In subsection (2):

*D* means the amount of duty.

*R* means the amount that would be refundable under the *Planning and Development Act 2007*, section 299 if no deduction were made for administrative expenses.

*P* means the amount paid for the grant of the lease.

- (4) However, a refund of duty is payable to a person only if the person applies to the commissioner for the refund.
- (5) An application for a refund of duty must—
  - (a) be in writing; and

- (b) be made not later than 1 year after the refund mentioned in subsection (1) (c) is made; and
- (c) contain the information the commissioner requires to allow the amount of the refund to be worked out.

## **Part 1.10 Electoral Act 1992**

### **[1.37] Section 299 (4), definition of *lessee***

*substitute*

*lessee*—see the *Planning and Development Act 2007*, section 234.

### **[1.38] Section 303 (5)**

*substitute*

- (5) Subsection (4) does not authorise an officer to enter land that is subject to a territory lease.

### **[1.39] Dictionary, note 2, new dot point**

*insert*

- territory lease

## **Part 1.11 Emergencies Act 2004**

### **[1.40] Section 4, note 1**

*substitute*

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

For example, the signpost definition '*land management agreement*—see the *Planning and Development Act 2007*, dictionary.' means that the term 'land management agreement' is defined in that dictionary and the definition applies to this Act.

**[1.41] Section 77 (3)**

*substitute*

- (3) The strategic bushfire management plan has no effect to the extent to which it is inconsistent with any plan of management in force under the *Planning and Development Act 2007*, part 10.4 (Plans of management for public land) in relation to an area of unleased territory land or land occupied by the Territory.

**[1.42] Dictionary, definition of *land management agreement***

*substitute*

*land management agreement*—see the *Planning and Development Act 2007*, dictionary.

## Part 1.12 Environment Protection Act 1997

**[1.43] Section 49 (1) (d)**

*substitute*

- (d) request the Minister under section 94 to direct that an EIS be prepared in relation to the possible environmental impact of a specified activity.

**[1.44] Section 49 (5) and (6)**

*substitute*

- (5) Subsection (6) applies if—
- (a) before the authority makes a decision granting or refusing to grant an environmental authorisation under subsection (1), (2), (3) or (4), the Minister, on the Minister's own initiative under section 94, directs that an EIS be prepared in relation to the possible environmental impact of the specified activity; or

- (b) before the authority makes a decision granting or refusing to grant an environmental authorisation under subsection (3), the Minister agrees to a request under subsection (1) (d) or (2) (c).
- (6) The authority must, not later than 20 working days after the day the EIS is completed—
- (a) grant the environmental authorisation under subsection (1) (a);  
or
- (b) refuse to grant the environmental authorisation under subsection (1) (b).
- (7) In this section:
- completed*, for an EIS, means the day the EIS is completed under the *Planning and Development Act 2007*, section 209 as applied by this Act, section 94A.

**[1.45] New section 92B**

*in part 10, insert*

**92B Definitions—pt 10**

In this part:

*environmental impact statement* or *EIS*—see the *Planning and Development Act 2007*, section 206 (Definitions—ch 8).

*inquiry*—see the *Planning and Development Act 2007*, section 206 (Definitions—ch 8).

**[1.46] Section 94**

*substitute*

**94 Environmental impact statements and inquiries**

- (1) This section applies in relation to an application for an environmental authorisation in relation to an activity.
- (2) At the authority's request, or on the Minister's own initiative, the Minister may—
  - (a) direct that an EIS be prepared in relation to the possible environmental impact of the activity; and
  - (b) after the EIS is given to the Minister—establish a panel to conduct an inquiry into the activity.
- (3) For subsection (2)—
  - (a) the Minister must not direct that an EIS be prepared or establish a panel unless satisfied that the activity is not the subject of a development application under the *Planning and Development Act 2007*; and
  - (b) the authority must not make a request unless the authority—
    - (i) is satisfied that the activity is not the subject of a development application under the *Planning and Development Act 2007*; and
    - (ii) has reasonable grounds for believing the activity has the potential to cause serious or material environmental harm.
- (4) The Minister must give the authority a copy of—
  - (a) any EIS prepared as directed under subsection (2) (a); and
  - (b) the report of any inquiry panel established under subsection (2) (b).

**94A Application of Planning and Development Act, pt 8.2 and pt 8.3**

- (1) The *Planning and Development Act 2007*, part 8.2 applies to an EIS prepared in accordance with a direction under section 94 (2) (a) as if—
  - (a) a reference to a development proposal were a reference to an activity; and
  - (b) a reference to the Minister were a reference to the Minister administering section 94; and
  - (c) a reference to the planning and development authority were a reference to the authority; and
  - (d) any other necessary changes, and any change prescribed by regulation, were made.
- (2) The *Planning and Development Act 2007*, part 8.3 applies to an inquiry panel established under section 94 (2) (b) as if—
  - (a) a reference to the Minister were a reference to the Minister administering section 94; and
  - (b) a reference to the planning and development authority were a reference to the authority; and
  - (c) any other necessary changes, and any change prescribed by regulation, were made.

**[1.47] Section 149 (2) (a)**

*substitute*

- (a) the application under the *Planning and Development Act 2007*, chapter 7 for approval to undertake the development; or

**[1.48] Schedule 1, table 1.2, item 8**

*substitute*

8	<p>the acceptance of more than 100m<sup>3</sup> of soil for placement on land by a lessee or occupier of the land if the land is in—</p> <p>(a) an area identified in the territory plan as land in any of the following zones: Broadacre; Rural; Hills, Ridges and Buffer Areas; River Corridors; Mountains and Bushlands; or</p> <p>(b) a plantation forestry precinct, within the meaning of the territory plan; or</p> <p>(c) an area identified in the national capital plan as any of the following: Broadacre Areas; Rural Areas; Hills, Ridges and Buffer Spaces; River Corridors; Mountains and Bushland</p>
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**[1.49] Dictionary, definition of *area of high conservation value*, paragraph (c)**

*substitute*

- (c) the area identified in the territory plan as the river corridor zone for the Murrumbidgee River; or

**[1.50] Dictionary, definition of *development***

*substitute*

***development***—see the *Planning and Development Act 2007*, section 7.



**[1.51] Dictionary, new definition of *EIS***

*insert*

*EIS*, for part 10—see the definition of *environmental impact statement*.

**[1.52] Dictionary, new definition of *environmental impact statement***

*insert*

*environmental impact statement*, for part 10—see the *Planning and Development Act 2007*, section 206 (Definitions—ch 8).

**[1.53] Dictionary, definition of *inquiry***

*substitute*

*inquiry* means an inquiry conducted under the *Planning and Development Act 2007*, part 8.3 (Inquiry panels).

**[1.54] Dictionary, definition of *Land Act***

*omit*

## **Part 1.13 Environment Protection Regulation 2005**

**[1.55] Section 21, definition of *territory lease***

*omit*

**[1.56] Section 41**

*omit*

appendix 1, Water Use and Catchment Policies,

*substitute*

Water Use and Catchment Code,

**[1.57] Schedule 2, section 2.1, new definitions**

*insert*

***broadacre zone*** means an area designated as a broadacre zone in the territory plan.

***city centre*** means the area designated as the city centre in the Commercial Zones Development Code of the territory plan.

***commercial C4 zone*** means the area designated as the commercial C4 zone in the territory plan.

***commercial C5 zone*** means the area designated as the commercial C5 zone in the territory plan.

***community facility zone*** means an area designated as a community facility zone in the territory plan.

***group centre*** means an area designated as a group centre in the Commercial Zones Development Code of the territory plan.

***industrial zone*** means an area designated as an industrial zone in the territory plan.

***office site*** means an area designated as an office site outside the city centre, group centres and town centres in the Commercial Zones Development Code of the territory plan.

***restricted access recreation zone*** means an area designated as a restricted access recreation zone in the territory plan.

***town centre*** means an area designated as a town centre in the Commercial Zones Development Code of the territory plan.

***TS2 services zone*** means an area designated as a TS2 services zone in the territory plan.

**[1.58] Schedule 2, table 2.1**

*substitute*

**Table 2.1**

<b>column 1 item</b>	<b>column 2 noise zone</b>	<b>column 3 ACT land</b>	<b>column 4 NSW land</b>
1	zone A	land in an industrial zone	land in the Queanbeyan city industrial zone
2	zone B	land in the city centre and town centres	land in the Queanbeyan city business zone
		land in the Central National Area (City)	
3	zone C	land in group centres and office sites	
		land in the Central National Area (The Parliamentary Zone; Barton; sections 39, 40 and 41 of Yarralumla; Acton; Anzac Parade and Constitution Avenue; Russell; Duntroon, ADFA and Campbell Park; Development Nodes and Clubs of Lake Burley Griffin and Foreshores)	
4	zone D	land in the commercial C4 zone	
5	zone E	land in— <ul style="list-style-type: none"> <li>• the restricted access recreation zone</li> <li>• the broadacre zone</li> </ul>	

column 1 item	column 2 noise zone	column 3 ACT land	column 4 NSW land
6	zone F	land in— <ul style="list-style-type: none"> <li>the commercial C5 zone</li> <li>the TS2 services zone</li> <li>the community facility zone</li> </ul>	land in the Queanbeyan city special uses zone
7	zone G	all areas other than Central National Area (Fairbairn)	other NSW land

*Note* The territory plan is available at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).

**[1.59] Schedule 2, section 2.2, definition of *major road***

*substitute*

***major road*** means an area identified in the territory plan as being in the transport zone.

*Note* The territory plan is available at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).

**[1.60] Dictionary, note 2, new dot point**

*insert*

- territory lease

**[1.61] Dictionary, new definitions**

*insert*

***broadacre zone***, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

***city centre***, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

***commercial C4 zone***, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

*commercial C5 zone*, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

*group centre*, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

*industrial zone*, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

*major road*, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.3, section 2.2.

*office site*, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

#### **[1.62] Dictionary, definition of *residential land***

*substitute*

*residential land* means an area identified in the territory plan as being in a residential zone.

*Note* The territory plan is available at [www.actpla.act.gov.au](http://www.actpla.act.gov.au).

#### **[1.63] Dictionary, new definitions**

*insert*

*restricted access recreation zone*, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

*town centre*, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

*TS2 services zone*, for schedule 2 (Noise zones, noise standards and conditions)—see schedule 2, part 2.1, section 2.1.

## Part 1.14 Gaming and Betting Act 1906

### [1.64] Dictionary, new notes

*insert*

*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:

- ACT
- indictable offence (see s 190)
- judge
- police officer
- territory lease
- under.

### [1.65] Dictionary, definition of *owner*, paragraph (a) (i)

*substitute*

- (i) a lessee under a territory lease; or

## Part 1.15 Gungahlin Drive Extension Authorisation Act 2004

### [1.66] Section 6A (6), examples 1 and 2

*substitute*

- 1 A declaration under s (2) may be made despite the *Planning and Development Act 2007*, s 50.
- 2 A variation under s (5) (a) (ii) may be made despite the *Planning and Development Act 2007*, ch 5.

**[1.67] Section 8**

*substitute*

**8 Environmental assessments for GDE**

(1) In this section:

*environmental impact statement*—see the *Planning and Development Act 2007*, dictionary.

*GDE* includes works that are part of, or related to, the construction of the GDE (see s 6).

(2) Nothing in the *Planning and Development Act 2007* is to be taken to require—

(a) an environmental impact statement to be prepared or completed for the GDE; or

(b) any other action in relation to the GDE to be taken under the *Planning and Development Act 2007*, part 5.6 or chapter 8.

(3) Subsection (2) applies whether or not an assessment (however described) of the environmental impact of the GDE already undertaken complies with the *Planning and Development Act 2007*.

(4) This section has effect despite any other Territory law, whether passed before or after the commencement of this Act.

**[1.68] Section 9 (1), definition of *relevant law*, paragraph (c)**

*substitute*

(c) the *Planning and Development Act 2007*;

**[1.69] Section 9 (4), example**

*substitute*

**Example**

In deciding an application under the *Planning and Development Act 2007*, s 162 for a development approval in relation to the GDE, the Minister is not required to consider any comment by a referral entity to which the application has been referred under the *Planning and Development Act 2007*, div 7.3.3 (Referral of development applications). However, the Minister may consider some or all of those comments if the Minister chooses to do so.

**[1.70] Section 10 (6) (b)**

*substitute*

- (b) the *Planning and Development Act 2007*, chapter 13 (Review of decisions);

## **Part 1.16 Hawkers Act 2003**

**[1.71] Section 4 (a) (i)**

*substitute*

- (i) a licence under the *Planning and Development Act 2007*;  
or



---

## Part 1.17 Heritage Act 2004

### [1.72] Section 18, examples

*substitute*

#### Examples of other council functions

- 1 making recommendations and submissions to the planning and land authority about draft variations to the territory plan (see *Planning and Development Act 2007*, s 61 (b) (iv))
- 2 giving advice to the planning and land authority about development applications (see *Planning and Development Act 2007*, s 119 (2), s 120 (d), s 128 (2) and s 129 (e))

### [1.73] Section 25 (1), example 9

*substitute*

- 9 when, and when not, to undertake a development affecting the heritage significance of a place

### [1.74] Sections 58 and 59

*substitute*

#### 58 Meaning of *development*—pt 10

In this part:

*development* means a proposed development to which a development application under the *Planning and Development Act 2007*, chapter 7 applies.

## 59 Simplified outline

The following notes provide a simplified outline of this part and the *Planning and Development Act 2007*, chapter 7:

*Note 1 Council to be given copy of certain development applications*

The planning and land authority may be required to give the council a copy of each development application for a development proposal in the merit or impact track (see *Planning and Development Act 2007*, s 148). This requirement would not apply to a development application for a development proposal in the code track (see *Planning and Development Act 2007*, s 117 (c)).

*Note 2 Council to give advice on application*

The council gives advice to the planning and land authority about the effect of a development on the heritage significance of a place or object if the development application is referred to the council (see *Planning and Development Act 2007*, s 149, s 150 and s 151).

*Note 3 Council's advice to be considered*

The council's advice must be considered by the planning and land authority in approving or refusing to approve a development application referred to the council (see *Planning and Development Act 2007*, s 119 (2), s 120 (d), s 128 (2) and s 129 (e)).

*Note 4 Council may apply for review of decision to approve application*

The council may apply to the AAT for review of the planning and land authority's decision to approve a development application if the council—

- (a) made a representation about the proposal under the *Planning and Development Act 2007*, s 156; and
- (b) is an eligible entity under that Act, ch 13 (Review of decisions) (see *Planning and Development Act 2007*, s 408 and s 419, and sch 1, item 4 and item 6).

---

**[1.75] Section 60 (3)**

*substitute*

*Note 1* If the planning and land authority refers a development application to the council under the *Planning and Development Act 2007*, s 148, the council must, not later than 15 working days after being given the application, give the planning and land authority its advice in relation to the development application (see *Planning and Development Act 2007*, s 149).

*Note 2* The council may apply to the AAT for review of the planning and land authority's decision to approve a development application if the council—

- (a) made a representation about the proposal under the *Planning and Development Act 2007*, s 156; and
- (b) is an eligible entity under that Act, ch 13 (Review of decisions) (see *Planning and Development Act 2007*, s 408 and s 419, and sch 1, item 4 and item 6).

**[1.76] Section 61**

*substitute*

**61 Requirements for council's advice about development**

- (1) This section applies if the council gives advice—
  - (a) under section 60 about the effect of a development on the heritage significance of a place or object; or
  - (b) under the *Planning and Development Act 2007*, section 149 in relation to a development application.
- (2) The council's advice must include the following:
  - (a) an outline of the effect of the development on the heritage significance of the place or object;
  - (b) advice about ways of avoiding or minimising the impact of the development on the heritage significance of the place or object.

- (3) Without limiting subsection (2), the advice may set out proposed conditions on any approval of the development, including conditions requiring compliance with all or any of the following:
- (a) prudent and feasible measures to conserve the heritage significance of the place or object;
  - (b) conservation requirements under applicable heritage guidelines;
  - (c) a conservation management plan approved by the council.

**[1.77] Section 62 (1), example 3**

*substitute*

3 not to undertake a development affecting the heritage significance of a place

**[1.78] Section 76 (2) (a) (v)**

*substitute*

(v) development approval under the *Planning and Development Act 2007*, chapter 7; or

**[1.79] Dictionary, definition of *Land Act***

*omit*

**[1.80] Dictionary, definition of *owner*, paragraph (a)**

*substitute*

(a) the registered proprietor of a lease granted under the *Planning and Development Act 2007* over land that includes the place; or

## **Part 1.18                      Lands Acquisition Act 1994**

### **[1.81]      Section 50 (1) (e)**

*substitute*

- (e) for an acquisition of land the subject of a rural lease granted for a term shorter than 21 years—the possibility of a further lease being granted in relation to the land under the *Planning and Development Act 2007*, section 254.

### **[1.82]      Section 50 (2)**

*substitute*

- (2) In this section:

*rural lease*—see the *Planning and Development Act 2007*, section 234.

## **Part 1.19                      Land Titles Act 1925**

### **[1.83]      New section 14 (1) (ba)**

*insert*

- (ba) keep a record of administrative interests on the register;

*Note*      *Administrative interest*—see s 69A.

**[1.84] New part 8A**

*insert*

## **Part 8A Record of administrative interests**

### **69A Meaning of *administrative interest*—Act**

In this Act:

*administrative interest*, in relation to a parcel of land—

- (a) means a decision under a law in force in the Territory by an authorised entity in relation to the use of land that may affect a decision of a person proposing to deal with land, whether or not the land is the parcel affected or another parcel; and
- (b) if an authorised entity may or must give notice to the registrar-general of the happening of a thing that relates to the use of the land and may affect a decision of a person proposing to deal with land, whether or not the land is the parcel affected or another parcel—includes the happening of the thing; but
- (c) does not include an interest in land registrable under another part of this Act.

#### **Examples of administrative interests**

- 1 a development approval under the *Planning and Development Act 2007* for the use of land
- 2 if notice of a development approval is given to the registrar-general under the *Planning and Development Act 2007*—the ending, by surrender, of the development approval.

*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).

**69B**      **Meaning of *authorised entity*—pt 8A**

In this part:

*authorised entity* means any of the following:

- (a) the registrar-general;
- (b) the Territory;
- (c) a territory authority;
- (d) an entity prescribed by regulation;
- (e) an employee of an entity mentioned in paragraph (a), (b), (c) or (d).

**69C**      **Record of administrative interests**

- (1) This section applies if the registrar-general keeps a record of administrative interests on the register.
- (2) The registrar-general may include, in the record, the following information about an administrative interest that is a decision:
  - (a) the date of the decision;
  - (b) the particulars of the decision;
  - (c) the law under which the decision was made.
- (3) The registrar-general may include, in the record, the following information about a parcel of land to which an administrative interest relates:
  - (a) if the parcel is leased—the name of the lessee;
  - (b) the block and section;
  - (c) the address of the parcel;
  - (d) any other information the registrar-general considers necessary in relation to the parcel.

- (4) However, if the registrar-general includes information mentioned in subsection (3) in relation to the parcel of land, the information must not include information other than information already available on the register in relation to the parcel.

**69D Protection from liability—administrative interests**

- (1) This section applies if the registrar-general takes reasonable steps to bring the effect of subsection (2) to the attention of people given access to the record of administrative interests in accordance with section 66 (Searches).
- (2) Neither the registrar-general nor an authorised entity incurs liability for any omission, misstatement or inaccuracy in the information.
- (3) A regulation may prescribe what are reasonable steps for subsection (1).

**[1.85] Section 72A (1)**

*substitute*

- (1) If the planning and land authority has executed a variation of a Crown lease under the *Planning and Development Act 2007*, the authority must lodge a copy of the variation with the registrar-general.

**[1.86] Section 72AB heading**

*substitute*

**72AB Registration etc of orders under *Planning and Development Act 2007***



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**[1.87] Section 72AB (1)**

*substitute*

- (1) This section applies if the registrar-general receives a notice under either of the following provisions of the *Planning and Development Act 2007* about an order under that Act that appears to affect a Crown lease:
  - (a) section 359 (Notice of making of controlled activity orders);
  - (b) section 364 (Notice ending controlled activity orders).

**[1.88] Section 72C**

*substitute*

**72C Memorial of compliance with building and development provision in lease**

- (1) This section applies if—
  - (a) a Crown lease is registered under this Act; and
  - (b) a building and development provision of the lease has been fully complied with and the lessee has applied, under the *Planning and Development Act 2007*, section 296 (1) (Certificates of compliance) for a certificate of compliance; and
  - (c) the registrar-general is satisfied that the planning and land authority has issued a certificate of compliance under the *Planning and Development Act 2007*, section 296 in relation to the lease.
- (2) The registrar-general may enter in the register a memorial to the effect that the building was completed in accordance with the building and development provision of the lease.

(3) A memorial under subsection (2) is, for the *Planning and Development Act 2007*, section 296, conclusive evidence of the matter in relation to which the registrar-general has stated in the memorial that the registrar is satisfied.

(4) In this section:

*building and development provision*—see the *Planning and Development Act 2007*, section 234.

**[1.89] Dictionary, note 2, new dot point**

*insert*

- territory lease

**[1.90] Dictionary, new definitions of *administrative interest* and *authorised entity***

*insert*

*administrative interest*—see section 69A (Meaning of *administrative interest*—Act).

*authorised entity*—see section 69B (Meaning of *authorised entity*—pt 8A).

**[1.91] Dictionary, definition of *Crown lease***

*substitute*

*Crown lease* means—

- a territory lease; and
- includes a lease granted by the Commonwealth or the Federal Capital Commission.

**[1.92] Dictionary, definition of *Land Act***

*omit*

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## Part 1.20 Land Titles (Unit Titles) Act 1970

### [1.93] Section 29 (1)

*substitute*

- (1) This section applies if the planning and land authority grants further leases under the *Planning and Development Act 2007*, section 254 (Grant of further leases) of the units and the common property forming part of the registered units plan.

## Part 1.21 Leases (Commercial and Retail) Act 2001

### [1.94] Dictionary, note 2, new dot point

*insert*

- territory lease

### [1.95] Dictionary, definition of *territory lease*

*omit*

## Part 1.22 Legislation Act 2001

### [1.96] Dictionary, part 1, definition of *chief planning executive*

*substitute*

*chief planning executive* means the Chief Planning Executive under the *Planning and Development Act 2007*.

### [1.97] Dictionary, part 1, definition of *land development agency*

*substitute*

*land development agency* means the Land Development Agency established under the *Planning and Development Act 2007*.

**[1.98] Dictionary, part 1, definition of *planning and land authority***

*substitute*

*planning and land authority* means the Planning and Land Authority established under the *Planning and Development Act 2007*.

**[1.99] Dictionary, part 1, new definition of *territory lease***

*insert*

*territory lease*—

(a) means—

(i) a lease granted under the *Planning and Development Act 2007*; or

(ii) a lease under the *Unit Titles Act 2001*; but

(b) does not include a sublease.

**[1.100] Dictionary, part 1, definition of *territory plan***

*substitute*

*territory plan* means the territory plan under the *Planning and Development Act 2007*.

## **Part 1.23 Nature Conservation Act 1980**

**[1.101] Section 30 (1) (b) (ii)**

*omit*

*Land (Planning and Environment) Act 1991*

*substitute*

*Planning and Development Act 2007*

**[1.102] Sections 80 (b) and 89 (b)**

*substitute*

- (b) in accordance with a development approval under the *Planning and Development Act 2007*, chapter 7; or

**[1.103] Section 98, definition of *controlled land*, paragraph (b)**

*substitute*

- (b) Territory land that is not subject to a territory lease.

**[1.104] Section 98, definition of *Land Act***

*omit*

**[1.105] Section 98, definition of *land management objectives*, paragraph (a)**

*substitute*

- (a) in relation to public land—the management objectives applying to the land under the *Planning and Development Act 2007*, section 317; and

**[1.106] Section 99 (4)**

*substitute*

- (4) A management agreement must not conflict with a development approval given under the *Planning and Development Act 2007*, chapter 7.

**[1.107] Dictionary, note 2, new dot point**

*insert*

- territory lease

**[1.108] Dictionary, definition of *Land Act***

*omit*

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## Part 1.24 Planning and Development Act 2007

### [1.109] Section 50, note 2

*substitute*

*Note 2* The Territory, the Executive, a Minister or a territory authority are also prevented from doing anything inconsistent with some draft variations of the territory plan (see s 65 and s 72).

### [1.110] Section 125 (1) (a)

*substitute*

- (a) the Public Health Act Minister makes a declaration for this section in relation to a development application for a development proposal; and

*Note* The Public Health Act Minister is the Minister responsible for the *Public Health Act 1997*, section 134 (see dict, def **Public Health Act Minister**).

### [1.111] Section 126 (1) (a)

*substitute*

- (a) either—
- (i) the Minister makes a declaration under section 124 in relation to the development proposal to which the application relates; or
  - (ii) the Public Health Act Minister makes a declaration for section 125 in relation to the application; and

**[1.112] Section 156 (1)**

*omit*

a representation

*substitute*

a written representation

**[1.113] Section 159 (3), new note**

*insert*

*Note* Section 162 applies to an application referred back to the planning and land authority under s (3) (see s 162 (3A)).

**[1.114] New section 162 (3A)**

*insert*

- (3A) To remove any doubt, the time for deciding a development application is not affected by—
- (a) the referral of the application to the Minister by the planning and land authority under section 158; or
  - (b) the referral of the application back to the authority by the Minister under section 159.

**[1.115] Section 163 (2)**

*after*

planning and land

*insert*

authority

**[1.116] Section 182 (1) (a) and (b)**

*substitute*

- (a) the planning and land authority or Minister approves a development application (the *original decision*) under section 162; and
- (b) application is made under section 191 for reconsideration of the original decision; and

**[1.117] Section 199, new note**

*insert*

*Note* A person also commits an offence if the person occupies or uses, or allows someone else to occupy or use, a building, or part of a building, if a certificate of occupancy has not been issued for the building or part of the building (see *Building Act 2004*, s 76 (1)).

**[1.118] Section 208**

*substitute*

**208 What is an *EIS* and a *s 125-related EIS*?**

- (1) An *EIS* is an environmental impact statement prepared as prescribed by regulation.
- (2) A *s 125-related EIS* is an environmental impact statement prepared for a development proposal in a development application in relation to which the Public Health Minister has made a declaration for section 125 (Declaration by Public Health Act Minister affects assessment track).



**[1.119] Section 209 (1)**

*omit everything before paragraph (a), substitute*

- (1) For this Act, an EIS (other than a s 125-related EIS) is **completed** if—

**[1.120] New section 209A**

*insert*

**209A When is a s 125-related EIS completed?**

- (1) For this Act, a s 125-related EIS is **completed** if—
- (a) notice in relation to the EIS is given to the planning and land authority by—
- (i) the Minister under section 226 (Notice of no action on EIS given to Minister); and
- (ii) the Public Health Act Minister under the *Public Health Act 1997*, section 134 (3) (b); or
- (b) at least 15 working days have elapsed since the EIS was given to the Minister and the Public Health Act Minister and—
- (i) the Minister has not decided under section 228 to establish a panel to conduct an inquiry about the EIS; and
- (ii) the Public Health Act Minister has not decided under the *Public Health Act 1997* that a panel to conduct an inquiry about the EIS must be established under section 228; or
- (c) both of the following apply:
- (i) notice in relation to the EIS is given to the authority by—
- (A) the Minister under section 226; or
- (B) the Public Health Act Minister under the *Public Health Act 1997*, section 134 (3) (b);

- (ii) at least 15 days have elapsed since the EIS was given to the Minister and the Public Health Minister and—
  - (A) if the Minister gave the authority notice in relation to the EIS under section 226—the Public Health Act Minister has not decided that a panel to conduct an inquiry about the EIS must be established; or
  - (B) in any other case—the Minister has not decided to establish a panel to conduct an inquiry about the EIS; or
- (d) the Minister has established an inquiry panel in relation to the EIS and—
  - (i) the panel has reported the results of the inquiry; or
  - (ii) the time for reporting under section 230 has ended.
- (2) To remove any doubt, for subsection (1), it does not matter whether or not the Minister intends to present, or has presented, a copy of the EIS to the Legislative Assembly under section 227.

**[1.121] Section 214 (2) (a)**

*omit*

30 days

*substitute*

30 working days

**[1.122] Section 225 (2)**

*substitute*

- (2) The planning and land authority must give the EIS to—
- (a) the Minister; and
  - (b) for a s 125-related EIS—the Public Health Act Minister.

*Note* The Minister may establish a panel to consider the EIS for the proposal (see pt 8.3).

**[1.123] New section 228 (2A)**

*insert*

- (2A) However, if the Public Health Act Minister gives notice, under the *Public Health Act 1997*, section 134 that a panel to conduct an inquiry about an EIS should be established, the Minister must establish a panel to conduct an inquiry in relation to the effects on public health of the proposal that is the subject of the EIS.

**[1.124] Section 235 (1) (c) (iii)**

*omit*

commissioner for housing under the *Housing Assistance Act 1987*

*substitute*

housing commissioner under the *Housing Assistance Act 2007*

**[1.125] Section 240 (1)**

*substitute*

- (1) The planning and land authority must not grant a lease under section 238 (1) (d) unless—
- (a) for a lease prescribed by regulation for this paragraph—
    - (i) the grant is in accordance with criteria prescribed by regulation for this paragraph; and
    - (ii) the Executive approves the grant; or
  - (b) for a lease prescribed by regulation for this paragraph—
    - (i) the grant is in accordance with criteria prescribed by regulation for this paragraph; and
    - (ii) the Minister approves the grant; or
  - (c) the Executive approves the grant under subsection (2); or
  - (d) the grant is to give effect to a lease variation (whether by consolidation, subdivision or otherwise); or
  - (e) the grant is in accordance with—
    - (i) section 241 (Direct sale if single person in restricted class); or
    - (ii) section 254 (Grant of further leases).

*Note* Power to make a statutory instrument (including a regulation) includes power to make different provision for different categories (see Legislation Act, s 48).

**[1.126] Section 249, new note**

*insert*

*Note* This section does not apply in relation to leases or further leases granted before 11 December 1998 (see s 455).

**[1.127] Section 257 (4)**

*omit*

subsection (2)

*substitute*

subsection (3)

**[1.128] Section 257 (5)**

*after*

subsection

*insert*

(1)

**[1.129] Section 278**

*omit*

in the circumstances

*insert*

as

**[1.130] New section 278 (2)**

*insert*

- (2) A regulation may prescribe the amount to be remitted under subsection (1).

**[1.131] Section 279**

*omit*

in the circumstances

*substitute*

as

**[1.132] New section 279 (2)**

*insert*

- (2) A regulation may prescribe the amount of the increase under subsection (1).

**[1.133] Section 282, definition of *holding period*, paragraph (a)**

*substitute*

- (a) if the discharge amount is paid—when the discharge amount is paid; or

**[1.134] Section 298 (1)**

*omit*

assigned or transferred, either at law or in equity unless

*substitute*

transferred or assigned, either at law or in equity, unless

**[1.135] Section 298 (2)**

*omit*

equitable assignment or transfer

*substitute*

equitable transfer or assignment

---

**[1.136] Section 298 (2) (a)**

*omit*

assignee or transferee

*substitute*

transferee or assignee

**[1.137] Section 298 (5)**

*omit*

an assignment or transfer

*substitute*

a transfer or assignment

**[1.138] Section 299 (3)**

*substitute*

- (3) A regulation may prescribe when the land and planning authority may authorise a payment under this section.

**[1.139] New section 395A**

*insert*

**395A Authority may ask for information from commissioner for revenue in certain cases**

- (1) This section applies if the planning and land authority may or must notify, or intends to take action under this Act in relation to, an uncontactable person or a person the authority reasonably believes is an uncontactable person.

**Examples**

- 1 giving a person notice of the making of a development application under div 7.3.4 (Public notification of development applications and representations)

- 2 giving a person who made a representation about a development application notice of the approval of the application
- 3 action under—
- (a) s 312 (How land may be recovered if former lessee or licensee in possession); or
  - (b) ch 11 (Controlled activities); or
  - (c) ch 12 (Enforcement).

*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) The planning and land authority may, in writing, ask the commissioner for revenue for either of the following:

- (a) the person's name;
- (b) the person's home address or other contact address.

- (3) The commissioner for revenue must disclose the information required in a request made in accordance with subsection (2).

*Note* See also the *Taxation Administration Act 1999*, s 97 (c) for power to disclose the information.

- (4) In this section:

***uncontactable person***—a person is an ***uncontactable person*** if the planning and land authority does not have, or only has incomplete or outdated information about, either of the following:

- (a) the person's name;
- (b) a contact address for the person.

**[1.140] Section 407, definition of *interested person***

*substitute*

***interested entity***, for a reviewable decision, means an entity mentioned in schedule 1, column 5 for the decision.



**[1.141] Section 408**

*omit*

eligible person

*substitute*

eligible entity

**[1.142] Section 408 (2) (b)**

*omit*

person

*insert*

entity

**[1.143] Section 421 (1)**

*substitute*

- (1) This section applies to a notifiable instrument under any of the following provisions:
- section 63 (Public consultation—notification)
  - section 68 (Revision and withdrawal of draft plan variations)
  - section 70 (Public notice of documents given to Minister)
  - section 76 (Minister’s powers in relation to draft plan variations)
  - section 82 (Consequences of rejection of plan variations by Legislative Assembly)
  - section 84 (Partial rejection of plan variations by Legislative Assembly)
  - section 102 (Consideration of whether review of territory plan necessary).

**[1.144] Section 426 (2), example heading**

*substitute*

Examples of what may be prescribed for par (d)

**[1.145] Section 426 (3)**

*substitute*

- (3) A regulation may create offences and fix maximum penalties of not more than 10 penalty units for the offences.

**[1.146] Schedule 1, heading**

*substitute*

## Schedule 1 Reviewable decisions, eligible entities and interested entities

(see s 407)

**[1.147] Schedule 1, column 5, heading**

*substitute*

column 5

interested entities

**[1.148] Schedule 1, item 2, column 5**

*omit*

**[1.149] Schedule 1, column 5**

*omit*

person who

*insert*

entity that

**[1.150] Dictionary, note 2**

*omit*

- commissioner for surveys

*substitute*

- commissioner for revenue

**[1.151] Dictionary, definition of *connected***

*omit*

part 11.8

*substitute*

chapter 12

**[1.152] Dictionary, definition of *interested person***

*substitute*

*interested entity*, for chapter 13 (Review of decisions)—see section 407.

**[1.153] Dictionary, definition of *occupier, offence and premises***

*omit*

part 11.8

*substitute*

chapter 12

**[1.154] Dictionary, new definitions of *Public Health Act Minister* and *s 125-related EIS***

*insert*

***Public Health Act Minister*** means the Minister responsible for the *Public Health Act 1997*, section 134 (Development approvals under Planning and Development Act, s 125).

***s 125-related EIS***—see section 208.

## Part 1.25 Public Health Act 1997

**[1.155] Section 124 (4)**

*substitute*

- (4) The chief health officer must not hold an investigation under subsection (1) in relation to a matter that is capable of forming the subject of an environmental impact statement or inquiry under the *Planning and Development Act 2007*, chapter 8 (Environmental impact statements and inquiries).

**[1.156] Section 134**

*substitute*

**134 Development approvals under Planning and Development Act, s 125**

- (1) The Minister may make a declaration (a ***s 125 declaration***) for the *Planning and Development Act 2007*, section 125 (Declaration by Public Health Minister affects assessment track) in relation to a development application for a development proposal under that Act.

*Note* If the Minister makes a declaration in accordance with this Act and the *Planning and Development Act 2007*, the development proposal must be considered in the impact assessable track under the *Planning and Development Act 2007* and an environmental impact statement under that Act will be required for it.

- (2) However, the Minister must not make the s 125 declaration unless the Minister considers that the proposed development would be likely to have a significant effect on public health.

*Note* The *Planning and Development Act 2007*, s 125 provides that a declaration for that section must be made during the public consultation period for the development application to which the declaration relates.

- (3) If the planning and land authority gives the Minister an EIS under the *Planning and Development Act 2007*, section 225 (2) for a development proposal in relation to which a s 125 declaration has been made, the Minister may—

- (a) decide that a panel to conduct an inquiry about the EIS must be established under the *Planning and Development Act 2007*, section 228 (Establishment of inquiry panels); or

*Note* A notice about a decision under paragraph (a) must be given to the Minister administering the *Planning and Development Act 2007*, s 228—see s (5).

- (b) give the planning and land authority written notice that the Minister has decided to take no action in relation to the EIS.

- (4) The Minister may only make a decision under subsection (3) (a) about an EIS if—

- (a) the decision is made not later than 15 working days after the planning and development authority gives the Minister the EIS; and

- (a) the Minister administering the *Planning and Development Act 2007*, section 228 has not made a decision under that section to establish a panel to conduct an inquiry about the EIS.

- (5) If the Minister makes a decision under subsection (3) (a) about an EIS, the Minister must give the Minister administering the *Planning and Development Act 2007*, section 228 written notice that an inquiry about the EIS must inquire into the effect on public health of the development proposal to which the EIS relates.

**[1.157] Dictionary, new definition of *EIS***

*insert*

*EIS*—see the *Planning and Development Act 2007*, dictionary, definition of *environmental impact statement*.

**[1.158] Dictionary, new definition of *environmental impact statement***

*insert*

*environmental impact statement*—see the *Planning and Development Act 2007*, dictionary, definition of *environmental impact statement*.

## **Part 1.26 Public Roads Act 1902**

**[1.159] Section 19 (1) and (2)**

*substitute*

- (1) If the Minister is satisfied that a road should be closed, completely or partly, the Minister may prepare a written notice to that effect and send a copy of the notice by post to each owner or occupier of land with frontage to the road or part whose name and address is known.
- (2) However, subsection (1) does not apply if—
  - (a) the Minister is satisfied that it is necessary to partly close the road; and
  - (b) the closure of the road is only to give effect to a variation of a lease under the *Planning and Development Act 2007*, chapter 7 (Development approvals); and
  - (c) the variation is only to incorporate into an existing lease an envelope of land that contains an encroachment onto, over or under unleased territory land; and

- (d) the closure of the road would not—
  - (i) impede the flow of vehicle or pedestrian traffic; or
  - (ii) otherwise present a risk to public safety; and
- (e) because of the size, location or configuration of the area of road to be closed, granting a separate territory lease over the land would not be reasonable or appropriate.

**Example—par (d)**

If the road to be closed allows vehicle traffic in 2 directions, then part of the road cannot be closed if traffic flow in either direction would be impeded.

**Example—par (e)**

It would not be reasonable or appropriate to grant a lease over a parcel of land with an area of 0.05m x 50m located between an existing lease and a public road as it is unlikely that the parcel of land could be separately leased.

*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).

**[1.160] Section 20 (2)**

*substitute*

- (2) However, subsection (1) does not apply if—
  - (a) the Minister is satisfied that it is necessary to partly close the road; and
  - (b) the closure of the road is to give effect only to a variation of a lease under the *Planning and Development Act 2007*, chapter 7 (Development approvals); and
  - (c) the variation is only to incorporate into an existing lease an envelope of land that contains an encroachment onto, over or under unleased territory land; and

- (d) the closure of the road would not—
- (i) impede the flow of vehicle or pedestrian traffic; or
  - (ii) otherwise present a risk to public safety; and
- (e) because of the size, location or configuration of the area of road to be closed, granting a separate territory lease over the land would not be reasonable or appropriate.

**Example—par (d)**

If the road to be closed allows vehicle traffic in 2 directions, then part of the road cannot be closed if traffic flow in either direction would be impeded.

**Example—par (e)**

It would not be reasonable or appropriate to grant a lease over a parcel of land with an area of 0.05m x 50m located between an existing lease and a public road as it is unlikely that the parcel of land could be separately leased.

*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).

**[1.161] Dictionary, note 2, new dot point**

*insert*

- territory lease



## **Part 1.27                      Roads and Public Places    Act 1937**

### **[1.162]    Section 15T heading**

*substitute*

### **15T            Occupation etc of public land under Planning and                          Development Act licence**

### **[1.163]    Section 15T (a)**

*substitute*

- (a) the person holds a licence under the *Planning and Development Act 2007* to occupy or use the public place; and

## **Part 1.28                      Road Transport (Offences)    Regulation 2005**

### **[1.164]    Schedule 1, part 1.13, item 58, column 3**

*substitute*

park commercial vehicle with length > 6m/  
height > 2.6m / GVM > 3.75t on residential  
land with multi-unit housing

## Part 1.29 Road Transport (Safety and Traffic Management) Regulation 2000

### [1.165] Section 87 heading

*substitute*

### 87 Parking of certain commercial vehicles on land with multi-unit housing

### [1.166] Section 87 (2)

*omit*

a multi-unit development

*substitute*

multi-unit housing

### [1.167] Section 87 (4)

*substitute*

- (4) For this section, residential land has multi-unit housing if the land has more than 1 dwelling on it.
- (5) In this section:

***dwelling***—see the territory plan.

*Note* The territory plan defines ***dwelling*** as meaning ‘a building or part of a building used as a self contained residence which must include food preparation facilities, a bath or shower, and a closet pan and wash basin’.

**[1.168] Section 88**

*omit*

multi-unit developments

*substitute*

multi-unit housing

**[1.169] Dictionary, note 2, new dot point**

*insert*

- territory plan

## **Part 1.30 Tree Protection Act 2005**

**[1.170] Section 19 (2), definition of *development approval***

*substitute*

*development approval*—see the *Planning and Development Act 2007*, dictionary.

**[1.171] Section 20 (1) (b)**

*substitute*

(b) the development has development approval; and

**[1.172] Sections 80 and 81**

*substitute*

### **80 Meaning of *development*—pt 11**

In this part:

*development* means a proposed development to which an application for development approval under the *Planning and Development Act 2007*, chapter 7 applies.

## 81 Simplified outline

The following notes provide a simplified outline of this part and the *Planning and Development Act 2007*, chapter 7 (Development approvals):

*Note 1 Conservator to be given copy of development application*

The planning and land authority may be required to give the conservator a copy of each development application for a development proposal in the merit or impact track (see *Planning and Development Act 2007*, s 148). This requirement would not apply to a development application for a development proposal in the code track (see *Planning and Development Act 2007*, s 117 (c)).

*Note 2 Conservator to give advice on application*

The conservator gives advice to the planning and land authority in relation to tree protection and the development (see s 82 and s 83) (see also *Planning and Development Act 2007*, s 149, s 150 and s 151).

*Note 3 Conservator's advice to be considered*

The conservator's advice is to be considered by the planning and land authority (or the Minister) in approving or refusing to approve a development application (see *Planning and Development Act 2007*, s 119 (2), s 120 (d), s 128 (2) and s 129 (e)).

*Note 4 Approvals*

A development approval that is inconsistent with the conservator's advice in relation to a registered tree must not be given. A development approval that is inconsistent with the conservator's advice in relation to a regulated tree may be given only in the circumstances prescribed in the *Planning and Development Act 2007*, s 119 (2) and s 128 (1) (b) (iii).

**[1.173] Section 82 (3)**

*substitute*

*Note* If the planning and land authority refers a development application to the conservator under the *Planning and Development Act 2007*, s 148, the conservator must, not later than 15 working days after being given the application, give the planning and land authority its advice in relation to the development application (see *Planning and Development Act 2007*, s 149).

**[1.174] Section 83**

*substitute*

**83 Requirements for conservator's advice about tree protection**

- (1) This section applies if the conservator gives advice—
  - (a) under section 82 in relation to a development; or
  - (b) under the *Planning and Development Act 2007*, section 149 in relation to a development application.
- (2) The advice must include advice about tree protection requirements for each protected tree with a protection zone on, or partly on, the land subject to the development.
- (3) Without limiting subsection (2), the advice may—
  - (a) include information about the trees on the land; and
  - (b) set out the changes (if any) the conservator considers should be made to any tree management plan or proposed tree management plan that relates to the development application, having regard to—
    - (i) the guidelines approved under section 31; and
    - (ii) the advice (if any) of the advisory panel; and
    - (iii) anything else the conservator considers relevant.

**[1.175] Dictionary, new definition of *development approval***

*insert*

*development approval*, for section 19 (Exceptions—tree damaging and prohibited groundwork offences)—see the *Planning and Development Act 2007*, dictionary.

**[1.176] Dictionary, definition of *Land Act***

*omit*

**[1.177] Dictionary, definition of *tree management plan***

*substitute*

*tree management plan*—

- (a) for this Act generally—means a tree management plan approved under section 35; and
- (b) in parts 2 to 4—includes a tree management plan approved under the *Planning and Development Act 2007*, section 162 (4) (b) (Deciding development applications).

## Part 1.31 Trustee Act 1925

**[1.178] Section 27D (1)**

*substitute*

- (3) The rule in *Howe v Earl of Dartmouth* (1802) (7 Ves 137) does not apply in relation to property consisting of a territory lease.

**[1.179] Dictionary, note 2, new dot point**

*insert*

- territory lease

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## **Part 1.32**                      **Unit Titles Act 2001**

### **[1.180] Section 17 (3), note**

*substitute*

*Note* An application for a staged development may be approved only if—

- (a) the development has development approval under the *Planning and Development Act 2007* (see s 20 (2) and *Planning and Development Act 2007*, ch 7); and
- (b) for developments of class A units, the boundary floors, walls and ceilings of each unit have already been built in accordance with the development statement (see s 20 (2)).

### **[1.181] Section 20 (2) (a)**

*substitute*

- (a) the development has development approval under the *Planning and Development Act 2007*, chapter 7; and

### **[1.182] Sections 20 (3) and 27 (3) (b)**

*omit*

Land Act

*substitute*

*Planning and Development Act 2007*

### **[1.183] Section 31 (2)**

*substitute*

- (2) A change of unit or common property boundaries under this section is not a variation of a lease for the *Planning and Development Act 2007*, chapter 7 (Development approvals).

**[1.184] Section 33 (2) and (3)**

*omit*

by the Commonwealth under the Land Act

*substitute*

by the Territory under the *Planning and Development Act 2007*

**[1.185] Section 34 (a) (ii)**

*omit*

development covenant

*substitute*

building and development provision

**[1.186] Section 51 (7)**

*substitute*

- (7) If the lease of a unit or the common property is subject to a building and development provision, subsection (3) does not apply to the owners corporation until the planning and land authority issues a certificate under the *Planning and Development Act 2007*, section 296 (Certificates of compliance)—
- (a) for the building and development provision; and
  - (b) for any building and development provision to which any of the other leases are subject.

**[1.187] Section 151 (2)**

*substitute*

- (2) A change of unit or common property boundaries under this section is not a variation of a lease for the *Planning and Development Act 2007*, chapter 7 (Development approvals).



**[1.188] Section 154 (1) (b)**

*substitute*

- (b) the planning and land authority has given—
- (i) a development approval under the *Planning and Development Act 2007*, chapter 7 for a development consisting of the reinstatement or elimination of any unit or building (or part of a unit or building) on the parcel (a *unit redevelopment*); or
  - (ii) if the unit redevelopment is exempt from the requirement to obtain development approval under the *Planning and Development Act 2007*, chapter 7—a certificate under subsection (4); and

**[1.189] Section 159 (3)**

*substitute*

- (3) A change of unit or common property boundaries under this section is not a variation of a lease for the *Planning and Development Act 2007*, chapter 7 (Development approvals).

**[1.190] Section 166 heading**

*substitute*

**166 Development applications to vary lease under Planning and Development Act**

**[1.191] Section 166 (1)**

*omit everything before paragraph (a), substitute*

- (1) An application for development approval for the variation of a unit or common property lease may be made under the *Planning and Development Act 2007*, chapter 7 (Development approvals) only if—

**[1.192] Section 166 (3)**

*substitute*

- (3) If an application for development approval for the variation of a unit lease or common property lease is approved under the *Planning and Development Act 2007*, chapter 7, the planning and land authority must give each member of the owners corporation written notice of the approval stating the date the approval is to take effect.

**[1.193] Section 170, note**

*substitute*

*Note* This section does not apply to a lease surrendered under the *Planning and Development Act 2007*, s 254 (see dict, def *termination*).

**[1.194] Section 171 (1)**

*omit*

Land Act

*substitute*

*Planning and Development Act 2007*

**[1.195] Section 171 (2)**

*omit*

by the Commonwealth under the Land Act

*substitute*

by the Territory under the *Planning and Development Act 2007*

**[1.196] Section 171, note**

*substitute*

*Note* This section does not apply to a new lease granted after a lease has been surrendered under the *Planning and Development Act 2007*, s 254 (see dict, def *termination*).

**[1.197] Section 172 (1)**

*omit*

Land Act

*substitute*

*Planning and Development Act 2007*

**[1.198] Section 172, note**

*substitute*

*Note* This section does not apply to a new lease granted after a lease has been surrendered under the *Planning and Development Act 2007*, s 254 (see dict, def *termination*).

**[1.199] Dictionary, new definition of *building and development provision***

*insert*

*building and development provision*, in relation to a lease—see the *Planning and Development Act 2007*, section 234.

**[1.200] Dictionary, definition of *development covenant***

*omit*

**[1.201] Dictionary, definition of *Land Act***

*omit*

**[1.202] Dictionary, definition of *lease*, paragraph (c)**

*substitute*

(c) for a parcel—the lease of the parcel granted under the *Planning and Development Act 2007*, or the lease arising under section 162 (Cancellation of units plan—effects) of this Act.

**[1.203] Dictionary, definition of *termination***

*substitute*

*termination*, of a lease of a unit, does not include the termination of the lease on surrender under the *Planning and Development Act 2007*, section 254 (Grant of further leases).

## **Part 1.33 Unit Titles Regulation 2001**

**[1.204] Section 8 (1) (b)**

*substitute*

- (b) include a copy of the plans relating to the development, and any amendment of the plans, as approved in the development approval under the *Planning and Development Act 2007*, chapter 7; and

## **Part 1.34 Utilities Act 2000**

**[1.205] Section 20 (2) (i)**

*omit*

**[1.206] New section 20 (2) (ja)**

*insert*

- (ja) the *Planning and Development Act 2007*;

---

## Part 1.35 Utilities (Telecommunications Installations) Act 2001

### [1.207] Section 6

*substitute*

#### 6 Installations to which Act applies

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

***authorised network plan*** means—

- (a) a plan for a reticulated service authorised by a development approval under the *Planning and Development Act 2007*; or
- (b) the 3GIS ACT Network Plan as in force immediately before the commencement of the *Planning and Development Act 2007*.

***installation***, of a telecommunications facility, includes—

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

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

## Part 1.36 Water Resources Act 2007

### [1.208] Section 28 (6) (b)

*substitute*

- (b) the taking of rainwater from a rainwater tank that—
- (i) has been installed in accordance with a development approval under the *Planning and Development Act 2007*, chapter 7 (Development approvals); or
  - (ii) is an exempt development within the meaning of that Act.

### [1.209] Section 204

*substitute*

#### 204 References to Planning and Development Act

- (1) A reference in this Act to the *Planning and Development Act 2007* includes a reference to the *Land (Planning and Environment) Act 1991* (as in force at any time before its repeal).
- (2) A reference in this Act to the *Planning and Development Act 2007*, chapter 7 (Development approvals) includes a reference to the *Land (Planning and Environment) Act 1991*, part 6 (Approvals and orders) (as in force at any time before its repeal).

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 31 May 2007.

**2 Notification**

Notified under the Legislation Act on 13 September 2007.

**3 Republications of amended laws**

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

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I certify that the above is a true copy of the Planning and Development (Consequential Amendments) Bill 2007, which was passed by the Legislative Assembly on 23 August 2007.

Clerk of the Legislative Assembly

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