



Australian Capital Territory

Planning, Building and Environment Legislation Amendment Act 2013 (No 2)

A2013-40

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
Part 2	Environment Protection Act 1997	
4	Section 13	3
5	Dictionary, note 2	3

J2013-195

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

	Page
Part 3	Environment Protection Regulation 2005
6	Sections 34 to 36 4
Part 4	Lakes Act 1976
7	Schedule 1 5
8	Dictionary, definition of <i>foreshores</i> 5
9	Dictionary, definition of <i>lake</i> 5
10	Dictionary, definition of <i>Lake Ginninderra</i> 5
Part 5	Planning and Development Act 2007
11	What is an <i>estate development plan</i> ? Section 94 (3) (g) and examples and note 6
12	When development approval takes effect—reconsideration and review right Section 183 (2) 7
13	ACAT review—people who made representations etc New section 409 (2) (c) 7
14	Section 409 (4) 8
Part 6	Planning and Development Regulation 2008
15	Permitted variations to approved and exempt developments Schedule 1A, part 1A.2, section 1A.10 (4) 9
16	Schedule 1A, part 1A.2, section 1A.11 (4) 9
Part 7	Public Place Names Act 1989
17	Minister to determine names New section 3 (2A) 10
18	New section 4A 10
Part 8	Utilities Act 2000
19	Dictionary, definition of <i>customer contract</i> , new paragraph (c) 11



Australian Capital Territory

Planning, Building and Environment Legislation Amendment Act 2013 (No 2)

A2013-40

An Act to amend legislation about planning, building and the environment

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

Part 1 Preliminary

1 Name of Act

This Act is the *Planning, Building and Environment Legislation Amendment Act 2013 (No 2)*.

2 Commencement

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

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

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

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

3 Legislation amended

This Act amends the following legislation:

- *Environment Protection Act 1997*
- *Environment Protection Regulation 2005*
- *Lakes Act 1976*
- *Planning and Development Act 2007*
- *Planning and Development Regulation 2008*
- *Public Place Names Act 1989*
- *Utilities Act 2000*.

Part 2 Environment Protection Act 1997

4 Section 13

substitute

13 Delegation by authority

The authority may delegate the authority's functions under this Act or another territory law to—

- (a) a public servant; or
- (b) an officer or employee of a State or Commonwealth agency, if the functions of the State or Commonwealth agency relate, directly or indirectly, to the protection of the environment in the State or Commonwealth.

Note 1 **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Note 2 For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

Note 3 In exercising the delegation, the delegate is subject to any conditions, limitations or directions in the instrument making or evidencing the delegation (see [Legislation Act](#), s 239).

5 Dictionary, note 2

insert

- Commonwealth

Part 3 Environment Protection Regulation 2005

6 Sections 34 to 36

omit

a compliance point, the stated point is the *compliance point*

substitute

1 or more compliance points, each stated point is a *compliance point*

Part 4 Lakes Act 1976

7 Schedule 1

omit

8 Dictionary, definition of *foreshores*

substitute

foreshores, in relation to a lake—

- (a) means the area of land bounded by the level of the lake and an imaginary line drawn at a distance of 100m from the high water level of the lake; but
- (b) does not include land held under lease from the Commonwealth or occupied with the authority of the Territory or the Commonwealth or under a law in force in the ACT.

9 Dictionary, definition of *lake*

omit

, Lake Ginninderra

10 Dictionary, definition of *Lake Ginninderra*

omit

Part 5 Planning and Development Act 2007

11 What is an *estate development plan*? Section 94 (3) (g) and examples and note

substitute

- (g) a provision, which is consistent with the [territory plan](#), that is proposed to apply to the ongoing development of a block in the estate (an *ongoing provision*) that—
- (i) relates to the subject matter addressed by an existing mandatory rule or criteria applying to the block; and
 - (ii) does not permit the development of the block in a way that would not be permitted by the existing mandatory rule or criteria.

Example—par (c)

An area zoned for community purposes may be stated in an estate development plan to be proposed for a primary school.

Examples—par (g)

- 1 a building requirement in relation to potential bushfire attack
- 2 building envelopes

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) In this section:

mandatory rule, in relation to a code, means a rule that is described in the code as being mandatory.

12 **When development approval takes effect—
reconsideration and review right**
Section 183 (2)

substitute

- (2) The approval of the development application takes effect on the latest of the following days:
- (a) the day the approval would take effect under this division if—
 - (i) the substituted decision were the original decision; and
 - (ii) there were no application for reconsideration;
 - (b) the day after the day the substituted decision is made;
 - (c) if an application for review has been made in relation to the substituted decision—
 - (i) the day that the decision by the ACAT in relation to the substituted decision takes effect under the *ACT Civil and Administrative Tribunal Act 2008*, section 69 (Effect of orders for administrative review); or
- Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 69 provides that an order of the ACAT made under s 68 (3) is taken to be a decision of the decision-maker and takes effect from the day the order is made unless the ACAT orders otherwise.
- (ii) the day after the day the application for review is withdrawn, dismissed or struck out.

13 **ACAT review—people who made representations etc**
New section 409 (2) (c)

insert

- (c) for a decision to which section 195 (Notice of decisions on reconsideration) applies—the day final notice of the decision has been given.

14 Section 409 (4)

substitute

(4) In this section:

final notice—

- (a) of a decision to which section 177 applies—see section 177 (3); and
- (b) of a decision to which section 195 applies—means the day when every person who made a representation on the reconsideration application has been given notice of the decision.

Part 6 Planning and Development Regulation 2008

15 Permitted variations to approved and exempt developments Schedule 1A, part 1A.2, section 1A.10 (4)

omit

section 1.100A (1) (e)

substitute

section 1.100A (1) (b)

16 Schedule 1A, part 1A.2, section 1A.11 (4)

omit

section 1.100A (1) (e)

substitute

section 1.100A (1) (b)

Part 7 Public Place Names Act 1989

17 Minister to determine names New section 3 (2A)

insert

- (2A) If the Minister is making a determination about the naming of a public place, the Minister must consider any guideline made under—
- (a) section 4A (Guidelines about naming of public places); and
 - (b) the *Districts Act 2002*, section 14 (Guidelines about allocation of street addresses).

18 New section 4A

insert

4A Guidelines about naming of public places

- (1) The Minister may make guidelines about the naming of public places.
- (2) A guideline may make provision about a matter by applying, adopting or incorporating an Australian Standard, or a provision of an Australian Standard, as in force from time to time.
- (3) The *Legislation Act*, section 47 (5) or (6) does not apply to an Australian Standard, or a provision of an Australian Standard, applied, adopted or incorporated in a guideline.

Note An Australian Standard does not need to be notified under the *Legislation Act* because s 47 (5) and (6) do not apply (see *Legislation Act*, s 47 (7)). The standard may be purchased at www.standards.org.au.

- (4) A guideline is a notifiable instrument.

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

Part 8 Utilities Act 2000

19 Dictionary, definition of *customer contract*, new paragraph (c)

insert

(c) a customer connection contract under the *National Energy Retail Law (ACT)*.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 19 September 2013.

2 Notification

Notified under the [Legislation Act](#) on 6 November 2013.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Planning, Building and Environment Legislation Amendment Bill 2013 (No 2), which was passed by the Legislative Assembly on 22 October 2013.

Clerk of the Legislative Assembly

© Australian Capital Territory 2013