



Australian Capital Territory

Planning, Building and Environment Legislation Amendment Act 2014 (No 2)

A2014-45

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A2014-45

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 2014 (No 2)*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

This Act amends the following legislation:

- *Building Act 2004*
- *Building (General) Regulation 2008*
- *Planning and Development Act 2007*
- *Planning and Development Regulation 2008*.

Part 2 Building Act 2004

4 New section 25AA

after section 25A, insert

25AA Meaning of *site work notice*—div 3.3

In this division:

site work notice means a notice issued by a certifier under section 28 (1A)—

- (a) stating—
 - (i) that the plans for the building work to which the application for building approval relates show all the information necessary to establish that site work to which the building work relates is exempt development under the *Planning and Development Act 2007*, section 133; and
 - (ii) that the site work is exempt development; and
 - (iii) the certifier's reasons for assessing that the site work is exempt development; and
- (b) including any document or information prescribed by regulation.

**5 Issue of building approvals
New section 28 (1A)**

insert

- (1A) As soon as practicable after receiving the application for building approval, the certifier must issue a site work notice—
- (a) if an exemption assessment D notice stating that the site work is exempt development has not been issued for the site work; and
 - (b) if the planning and land authority has not made an exemption declaration under the *Planning and Development Regulation 2008*, schedule 1, section 1.100A (1) (b) or section 1.100AB (1) (b); and
 - (c) if a development approval has not been issued in relation to the site work; and
 - (d) if satisfied on reasonable grounds that—
 - (i) the plans show all the information necessary to establish that the site work to which the building work relates is exempt development under the *Planning and Development Act 2007*, section 133; and
 - (ii) the site work is exempt development.

**6 Marking building approval
New section 28A (4) (a) (iia)**

insert

- (iia) if the certifier issues a site work notice in relation to the site work to which the building work relates—the site work notice; and

7 New section 28A (4) (b) (iiia)

insert

- (iiia) if the certifier issues a site work notice in relation to the site work to which the building work relates—a copy of the site work notice; and

**8 Approval requirements
Section 29 (1) (g), except example and notes**

substitute

- (g) if the plans show site work that, if carried out in accordance with the plans, might be exempt under the *Planning and Development Act 2007* from requiring development approval—
 - (i) a copy of an exemption assessment D notice for the site work stating that the site work is exempt development is attached; or

Note Applying for an exemption assessment is not a requirement of the development approval or building approval process. If a person believes that a development is an exempt development, the person need not apply for an exemption assessment from a works assessor or building surveyor (see *Planning and Development Act 2007*, div 7.3.1A).

- (ii) a site work notice for the site work, stating that the site work is exempt development, has been issued under section 28 (1A); or

Note If site work is an exempt development, it does not require development approval (see *Planning and Development Act 2007*, s 133).

- (iii) development approval for the site work is attached; or
- (iv) a copy of an exemption declaration under the *Planning and Development Regulation 2008*, schedule 1, section 1.100A (1) (b) or section 1.100AB (1) (b) is attached.

9 Dictionary, new definition of *site work notice*

insert

site work notice, for division 3.3 (Building approvals)—see section 25AA.

Part 3 Building (General) Regulation 2008

10 New section 9A

insert

9A Site work notice—Act, s 25AA

The following information is prescribed:

- (a) in relation to the parcel of land on which the site work is carried out—
 - (i) the block and section number and division; and
 - (ii) the street name and number;
- (b) the identity of any of the following relied on by the certifier to assess the site work as exempt development:
 - (i) a provision of the *Planning and Development Regulation 2008*;
 - (ii) if a provision mentioned in subparagraph (i) incorporates a Territory Plan Code—the code;
- (c) the certifier's name, licence number and signature;
- (d) the date the notice is signed by the certifier.

Part 4 Planning and Development Act 2007

11 Public consultation—notification Section 63 (2), except note

substitute

- (2) The planning and land authority may, by notice extend or further extend the consultation period (an *extension notice*).

12 Impact track applicability Section 123 (b), note

omit

s 138A (2)

substitute

s 138AA (2)

13 Deciding environmental significance opinion applications Section 138AB (5)

substitute

- (5) The relevant agency must notify the planning and land authority in writing if it rejects the application.
- (5A) If the planning and land authority receives notice under subsection (5), the planning and land authority must notify the applicant in writing of the rejection.

14 New section 195A

in division 7.3.11, insert

195A Meaning of *decision-maker*—div 7.3.11

In this division:

decision-maker, for a development approval means—

- (a) if the planning and land authority has approved a development application under section 162 (Deciding development applications)—the planning and land authority; or
- (b) if the Minister has approved a development application under section 162—the Minister.

**15 Applications to amend development approvals
Section 197 (1) and (2)**

omit

planning and land authority

substitute

decision-maker

**16 Deciding applications to amend development approvals
Section 198 (1)**

omit

planning and land authority

substitute

decision-maker

17 Section 198 (1), note 1

substitute

Note 1 A decision of the planning and land authority to amend a development approval subject to a condition, or refuse to amend a development approval, may be reconsidered under pt 7.3.10 (see s 191 (1) (a)). The approval holder may apply for review of a decision under s 193 (1) (b) (ii) to confirm the original decision (see sch 1, item 13).

18 Section 198 (1), note 3

omit

planning and land authority

substitute

decision-maker

19 Section 198 (1), new note

insert

Note 4 The Minister may delegate the decision to the planning and land authority (see [Legislation Act](#), s 254A).

20 New section 198 (2A) and (2B)

insert

- (2A) If the decision-maker is the Minister, the Minister may ask the planning and land authority to prepare a report for the Minister in relation to the application on anything the Minister considers relevant.
- (2B) The Minister may, in deciding to amend or to refuse to amend a development approval, consider the report prepared by the planning and land authority.

21 Section 198 (3) and (4)

omit

planning and land authority

substitute

decision-maker

**22 Exception to referral requirement under s 198 (1) (b)
Section 198A (1) (c) and (2)**

omit

planning and land authority

substitute

decision-maker

**23 Waiver of notification requirement under s 198 (1) (b)
Section 198B**

omit

planning and land authority

substitute

decision-maker

**24 When development approvals do not require amendment
Section 198C (1)**

omit

planning and land authority

substitute

decision-maker

**25 Development applications for developments undertaken without approval
Section 205 (4)**

omit

section 139 (2) (i)

substitute

section 139 (2) (j)

**26 Notice of direct sale
Section 242 (1)**

omit

5 working days

substitute

10 working days

**27 Meaning of s 276E chargeable variation and s 277 chargeable variation—div 9.6.3
Section 276A (1), definition of s 276E chargeable variation, paragraph (c) (i) and (ii)**

substitute

- (i) increases or limits the number of dwellings permitted on the land under the lease; or
- (ii) increases, or has the effect of increasing, the maximum gross floor area of any building or structure permitted for non-residential use on the land under the lease;

**28 Chargeable variation of nominal rent lease—lease variation charge
Section 276B (1)**

omit

section 278A

substitute

section 278

**29 Information requirements
Section 395 (1) (a)**

omit

knowledge of

30 Dictionary, definition of *decision-maker*

substitute

decision-maker—

- (a) for a development approval, for division 7.3.11 (Correction and amendment of development approvals)—see section 195A; and
- (b) for chapter 13 (Review of decisions)—see section 407.

Part 5 Planning and Development Regulation 2008

31 Section 24 heading

substitute

24 Exemption assessment D notice—attached documents— Act, s 138D (2) (b) (ii)

32 Section 24 (2)

substitute

- (2) If the works assessor or building surveyor assesses that the development is exempt—
- (a) the works assessor or building surveyor must—
 - (i) identify any of the following relied on to assess the development as exempt development:
 - (A) a provision of the *Planning and Development Regulation 2008*;
 - (B) if a provision mentioned in subparagraph (A) incorporated a Territory Plan code—the code; and
 - (ii) state in the exemption assessment D notice that the provisions mentioned in subparagraph (i) were satisfied; and
 - (iii) initial, date and mark the works assessor or building surveyor's licence number on each page of the plans; and
 - (b) the exemption must be marked on, or attached to, or partly marked on or partly attached to, each page of the plans used by the works assessor or building surveyor in the assessment.

33 Section 24 (4), example

omit

exemption assessment B notice

substitute

exemption assessment D notice

**34 Compliant single dwellings—old residential land
Schedule 1, section 1.100 (1) (c) (ii)**

omit

(other than rule 33 and rule 66)

**35 Compliant single dwellings—new residential land
Schedule 1, section 1.100AA (1) (d) (ii)**

omit

(other than rule 33 and rule 66)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 25 September 2014.

2 Notification

Notified under the [Legislation Act](#) on 5 November 2014.

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 2014 (No 2), which was passed by the Legislative Assembly on 21 October 2014.

Clerk of the Legislative Assembly

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