



Australian Capital Territory

Planning, Building and Environment Legislation Amendment Act 2018

A2018-18

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Australian Capital Territory

Planning, Building and Environment Legislation Amendment Act 2018

A2018-18

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

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 2018*.

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:

- [City Renewal Authority and Suburban Land Agency Act 2017](#)
- [Heritage Act 2004](#)
- [Nature Conservation Act 2014](#)
- [Planning and Development Regulation 2008](#).

Part 2 City Renewal Authority and Suburban Land Agency Act 2017

4 New section 14A

in division 2.2, insert

14A Delegation by authority

- (1) The authority may delegate the authority's functions to the authority CEO.

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

- (2) The authority CEO may subdelegate to an authorised person a function delegated under subsection (1) if the subdelegation is authorised, in writing, by the authority.
- (3) In this section:
- authorised person** means—
- (a) a public employee; or
 - (b) a person prescribed by regulation.

5 Establishment of governing board for authority Section 15, new note

insert

Note An appointment of a governing board member is an appointment under this section (see [Financial Management Act 1996](#), s 78 (7) (b)).

6 New section 44A

in division 3.1, insert

44A Delegation by agency

- (1) The agency may delegate the agency's functions to the agency CEO.

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

- (2) The agency CEO may subdelegate to an authorised person a function delegated under subsection (1) if the subdelegation is authorised, in writing, by the agency.

- (3) In this section:

authorised person means—

- (a) a public employee; or
- (b) a person prescribed by regulation.

**7 Establishment of governing board for agency
Section 45, new note**

insert

Note 1 An appointment of a governing board member is an appointment under this section (see [Financial Management Act 1996](#), s 78 (7) (b)).

8 Section 65*substitute***65 Affordable, community and public housing targets**

- (1) This section applies to the following kinds of developments:
 - (a) the building of dwellings on land leased by the Territory, or unleased territory land, in an urban renewal precinct;
 - (b) the building of dwellings on land leased by the Territory, or unleased territory land, in connection with urban renewal other than in an urban renewal precinct;
 - (c) the building of dwellings in a new suburb.
- (2) The Minister must determine housing targets (a *housing target determination*) for a development for the minimum number of dwellings in the development for each of the following kinds of housing:
 - (a) affordable housing;
 - (b) community housing;
 - (c) public housing.
- (3) The housing target determination for a development must state the maximum number of dwellings anticipated to be built in the development.
- (4) A housing target for a development—
 - (a) applies when the target is first determined; and
 - (b) if a lease is granted to a person over land leased by the Territory, or unleased territory land, that is part of a development mentioned in subsection (1) (a) or (b) after the target in relation to the land is determined—applies when the lease is granted; and

- (c) continues to apply until the completion of all dwellings in the development that meet the housing target.

Example—par (b)

The Minister determines a housing target for a development involving the building of dwellings on unleased territory land in an urban renewal precinct. If a lease over the land is granted to someone after the determination is made, the housing target for the development applies when the lease is granted.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (5) A housing target determination may refer to a development mentioned in subsection (1)—
- (a) by referring to the development’s block and section number; or
 - (b) by referring to a name by which the development is known; or
 - (c) in any other way the Minister considers appropriate.
- (6) Before determining a housing target, the Minister must seek the views of the housing commissioner in relation to the proposed housing target.
- (7) A housing target determination is a notifiable instrument.
- Note* A notifiable instrument must be notified under the [Legislation Act](#).
- (8) In this section:
- dwelling***—see the [Planning and Development Regulation 2008](#), section 5.

9 Dictionary, note 2

insert

- housing commissioner
- Minister (see s 162)
- notifiable instrument (see s 10)
- territory land
- the Territory

Part 3 Heritage Act 2004

10 Decision about cancellation proposal Section 49 (2)

omit

this section

substitute

subsection (1) (a)

Part 4 Nature Conservation Act 2014

11 Section 119

substitute

119 Draft native species conservation plan—consultation with lessee and custodian

- (1) In preparing a draft native species conservation plan for stated land, the conservator must consult the relevant person for the stated land if the plan requires the person to do or not do something.
- (2) However, the conservator need not consult the relevant person in relation to something the person may do under the plan even though, if done, the thing must be done in the way stated in the plan.
- (3) In this section:

relevant person, for stated land, means—

- (a) if the land is leased land—the lessee of the land; and
- (b) if the land is unleased land or public land—the custodian of the land.

12 Draft controlled native species management plan—consultation with lessee and custodian Section 161 (1)

omit

or permits

13 New section 161 (1A)

insert

- (1A) However, the conservator need not consult the relevant person in relation to something the person may do under the plan even though, if done, the thing must be done in the way stated in the plan.

**14 Conservator's directions
Section 331 (3)**

omit everything before paragraph (a), substitute

- (3) A conservator's direction must not be inconsistent with any of the following that apply to the species, community or habitat:

Part 5 Planning and Development Regulation 2008

15 People to be notified—Act, s 63 (5) (b) New section 7 (1) (aa)

insert

- (aa) each lessee of each block (other than the block to which the draft plan variation applies) in the section to which the draft plan variation applies;

16 Certain direct sales not requiring approval—Act, s 240 (1) (d) Section 130 (1) (f)

substitute

- (f) a lease to a registered community housing provider;

17 Section 130 (2), new definitions

insert

Community Housing Providers National Law (ACT) means the provisions applying because of the [Community Housing Providers National Law \(ACT\) Act 2013](#), section 7.

registered community housing provider—see the [Community Housing Providers National Law \(ACT\)](#), section 4 (1).

18 Exemptions from restrictions on dealings with certain leases—Act, s 251 (5) Section 142 (a)

substitute

- (a) a lease to a registered community housing provider;

19 New section 142 (2)

insert

(2) In this section:

registered community housing provider—see section 130 (2).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 12 April 2018.

2 Notification

Notified under the [Legislation Act](#) on 16 May 2018.

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 2018, which was passed by the Legislative Assembly on 8 May 2018.

Clerk of the Legislative Assembly