



Australian Capital Territory

# Planning and Development Amendment Act 2020

A2020-26

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Australian Capital Territory

# Planning and Development Amendment Act 2020

A2020-26

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An Act to amend the *Planning and Development Act 2007* and the *Planning and Development Regulation 2008*, and for other purposes

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Planning and Development Amendment Act 2020*.

### 2 Commencement

- (1) 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)).

- (2) If this Act has not commenced within 2 years beginning on its notification day, it automatically commences on the first day after that period.

- (3) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to this Act.

### 3 Legislation amended

This Act amends the *Planning and Development Act 2007* and the *Planning and Development Regulation 2008*.

*Note* This Act also amends the *Land Titles Act 1925* (see sch 1).

## Part 2                      Planning and Development Act 2007

### 4                      Section 243 heading

*substitute*

### 243                  Direct sale leases subject to certain provisions

### 5                      New section 243 (2)

*insert*

- (2) A regulation may prescribe a provision or matter that must, or must not, be included in a lease granted under section 238 (1) (d).

### 6                      Payment for leases New section 246 (2) (g)

*insert*

- (g) the grant of a lease of land prescribed by regulation to the University of NSW.

### 7                      Restrictions on dealings with certain leases New section 251 (2) (c)

*insert*

- (c) a lease granted to the University of NSW of land mentioned in section 246 (2) (g).

**8 New sections 252A and 252B***insert***252A Restrictions on dealings with certain leases granted to University of NSW**

- (1) This section applies to a lease granted to the University of NSW of land mentioned in section 246 (2) (g).
- (2) The planning and land authority must tell the registrar-general that this section applies to the lease.

*Note* If the planning and land authority tells the registrar-general that this section applies to a lease, the registrar-general must include a memorial in the register to that effect (see [Land Titles Act 1925](#), s 72D).

- (3) If a memorial stating that this section applies to the lease is included in the register under the [Land Titles Act 1925](#), the University of NSW, or anyone else with an interest in the lease, must not—
  - (a) for 20 years after the day the lease was granted (the *initial period*)—deal with the lease; and
  - (b) after the initial period—deal with the lease without the written consent of the planning and land authority under section 252B.
- (4) A dealing in relation to a lease to which this section applies that is made or entered into in contravention of subsection (3) has no effect.
- (5) However, subsection (4) does not apply to a dealing registered under the [Land Titles Act 1925](#).

*Note* The registration of an interest in land under the [Land Titles Act 1925](#) takes priority over any other interest in the land, subject to some exceptions (see that [Act](#), s 58).

- (6) In this section:  
*consolidation*—see section 234.

*deal*, with a lease—

- (a) means—
  - (i) assign or transfer the lease; or
  - (ii) vary the lease; or
  - (iii) part with possession of the land comprised in the lease or any part of it; but
- (b) does not include a subdivision or consolidation of the lease.

*subdivision*—see section 234.

## **252B Consent to s 252A dealings**

- (1) The planning and land authority must not approve a dealing under section 252A (3) (b) in relation to a lease—
  - (a) without the Executive’s approval; and
  - (b) unless satisfied that—
    - (i) for an assignment or transfer of the lease or change in possession of the land under the lease—the person to whom it is proposed that the lease should be assigned or transferred or the person to whom it is proposed that possession of the land should be given, is—
      - (A) a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Cwlth); or
      - (B) a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth); or
    - (ii) for a variation of the lease—the variation is consistent with the authorised use of the land under the original lease.

- (2) The validity of a dealing made or entered into with the consent of the planning and land authority is not affected—
- (a) by a defect or irregularity in relation to the giving of the consent;  
or
  - (b) because a ground, or all grounds, for the consent had not arisen.

## **9 New section 423A**

*insert*

### **423A Expiry of University of NSW lease provisions**

- (1) This section applies if a lease of land mentioned in section 246 (2) (g) is not granted to the University of NSW within 5 years (the *relevant date*) after the commencement of the *Planning and Development Amendment Act 2020*, section 3.
- (2) This section and the following provisions expire on the relevant date:
- (a) section 246 (2) (g) (Payment for leases);
  - (b) section 251 (2) (c) (Restrictions on dealings with certain leases);
  - (c) section 252A (Restrictions on dealings with certain leases granted to University of NSW);
  - (d) section 252B (Consent to s 252A dealings);
  - (e) schedule 1, item 16, column 2, everything after “direct sale”;
  - (f) schedule 5, part 5.2, item 14A;
  - (g) dictionary, definition of *University of NSW*.



**10 Reviewable decisions, eligible entities and interested entities  
Schedule 1, item 16, column 2**

*after*

direct sale

*insert*

(other than a refusal to grant a lease to the University of NSW of land mentioned in s 246 (2) (g))

**11 Market value leases and leases that are possibly concessional  
Schedule 5, part 5.2, new item 14A**

*insert*

14A	a lease granted to the University of NSW
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**12 Dictionary, new definition of *University of NSW***

*insert*

*University of NSW* means the University of New South Wales established under the *University of New South Wales Act 1989* (NSW), section 4.



**16 New section 111A***insert***111A Direct sale criteria for UNSW campus land for University of NSW—Act, s 240 (1) (a) (i)**

The criteria for the direct sale of a lease of land in the UNSW campus to the University of NSW are—

- (a) the University has given the planning and land authority the following:
  - (i) a master plan approved by the Executive;
  - (ii) a development proposal for the land in accordance with the UNSW precinct deed;
  - (iii) a works approval approved by the National Capital Authority which is consistent with subparagraphs (i) and (ii); and
- (b) the planning and land authority is satisfied that the University has the financial capacity, and relevant experience, qualifications, expertise and other resources, to develop and manage the land.

**17 New division 5.1.5***insert***Division 5.1.5 Direct sale leases subject to certain provisions****131 Direct sale leases for UNSW campus land—Act, s 243 (2)**

A lease granted under the [Act](#), section 238 (1) (d) of land in the UNSW campus to the University of NSW may only include—

- (a) an authorised use as an education and research facility that is consistent with the UNSW precinct deed; and
- (b) development conditions that are consistent with the UNSW precinct deed.

**18 New section 402A***insert***402A Expiry of University of NSW lease provisions**

- (1) This section applies if a lease of land in the UNSW campus is not granted to the University of NSW within 5 years (the *relevant date*) after the commencement of the *Planning and Development Amendment Act 2020*, section 3.
- (2) This section and the following provisions expire on the relevant date:
  - (a) section 102A (Meaning of *UNSW campus*—pt 5.1);
  - (b) section 105 (ca) (Direct sales requiring approval by Executive—Act, s 240 (1) (a));
  - (c) section 108 (3A) (Direct sale criteria for non-government educational establishments—Act, s 240 (1) (a) (i));

- (d) section 111A (Direct sale criteria for UNSW campus land for University of NSW—Act, s 240 (1) (a) (i));
- (e) division 5.1.5 (Direct sale leases subject to certain provisions);
- (f) dictionary, note 3, dot point mention of “University of NSW”;
- (g) dictionary, definitions of *UNSW campus* and *UNSW precinct deed*.

### **19 Dictionary, note 3**

*insert*

- University of NSW

### **20 Dictionary, new definitions**

*insert*

*UNSW campus*, for part 5.1 (Direct sale of leases)—see section 102A (1).

*UNSW precinct deed*, for part 5.1 (Direct sale of leases)—see section 102A (1).

## Schedule 1 Land Titles Act 1925—Other amendments

(see s 3)

### [1.1] New section 72D (1) (aa)

*insert*

(aa) section 252A (Restrictions on dealings with certain leases granted to University of NSW);

### [1.2] New section 178C

*insert*

#### 178C Expiry of provision

Section 72D (1) (aa) expires if the *Planning and Development Act 2007*, section 252A (Restrictions on dealings with certain leases granted to University of NSW) expires.

*Note* See the *Planning and Development Act 2007*, s 423A (Expiry of University of NSW lease provisions).

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 4 June 2020.

**2 Notification**

Notified under the [Legislation Act](#) on 8 July 2020.

**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 Amendment Bill 2020, which was passed by the Legislative Assembly on 2 July 2020.

Acting Clerk of the Legislative Assembly

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