

2013

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment and Sustainable Development)

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

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(Minister for the Environment and Sustainable Development)

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

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

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

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

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

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

16 **3 Legislation amended**

17 This Act amends the following legislation:

- 18 • [Environment Protection Act 1997](#)
- 19 • [Environment Protection Regulation 2005](#)
- 20 • [Lakes Act 1976](#)
- 21 • [Planning and Development Act 2007](#)
- 22 • [Planning and Development Regulation 2008](#)
- 23 • [Public Place Names Act 1989](#)
- 24 • [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

1 **Part 3** **Environment Protection**
2 **Regulation 2005**

3 **6 Sections 34 to 36**

4 *omit*

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

6 *substitute*

7 1 or more compliance points, each stated point is a *compliance*
8 *point*

1 **Part 4** **Lakes Act 1976**

2 **7** **Schedule 1**

3 *omit*

4 **8** **Dictionary, definition of *foreshores***

5 *substitute*

6 *foreshores*, in relation to a lake—

7 (a) means the area of land bounded by the level of the lake and an
8 imaginary line drawn at a distance of 100m from the high
9 water level of the lake; but

10 (b) does not include land held under lease from the
11 Commonwealth or occupied with the authority of the Territory
12 or the Commonwealth or under a law in force in the ACT.

13 **9** **Dictionary, definition of *lake***

14 *omit*

15 , Lake Ginninderra

16 **10** **Dictionary, definition of *Lake Ginninderra***

17 *omit*

1 **Part 5** **Planning and Development**
2 **Act 2007**

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

5 *substitute*

6 (g) a provision, which is consistent with the [territory plan](#), that is
7 proposed to apply to the ongoing development of a block in the
8 estate (an *ongoing provision*) that—

9 (i) relates to the subject matter addressed by an existing
10 mandatory rule or criteria applying to the block; and

11 (ii) does not permit the development of the block in a way
12 that would not be permitted by the existing mandatory
13 rule or criteria.

14 **Example—par (c)**

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

17 **Examples—par (g)**

18 1 a building requirement in relation to potential bushfire attack

19 2 building envelopes

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

23 (4) In this section:

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

1 **12 When development approval takes effect—**
2 **reconsideration and review right**
3 **Section 183 (2)**

4 *substitute*

5 (2) The approval of the development application takes effect on the
6 latest of the following days:

7 (a) the day the approval would take effect under this division if—

8 (i) the substituted decision were the original decision; and

9 (ii) there were no application for reconsideration;

10 (b) the day after the day the substituted decision is made;

11 (c) if an application for review has been made in relation to the
12 substituted decision—

13 (i) the day that the decision by the ACAT in relation to the
14 substituted decision takes effect under the *ACT Civil and*
15 *Administrative Tribunal Act 2008*, section 69 (Effect of
16 orders for administrative review); or

17 *Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 69
18 provides that an order of the ACAT made under s 68 (3) is
19 taken to be a decision of the decision-maker and takes
20 effect from the day the order is made unless the ACAT
21 orders otherwise.

22 (ii) the day after the day the application for review is
23 withdrawn, dismissed or struck out.

24 **13 ACAT review—people who made representations etc**
25 **New section 409 (2) (c)**

26 *insert*

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

- 1 **14 Section 409 (4)**
- 2 *substitute*
- 3 (4) In this section:
- 4 *final notice*—
- 5 (a) of a decision to which section 177 applies—see
- 6 section 177 (3); and
- 7 (b) of a decision to which section 195 applies—means the day
- 8 when every person who made a representation on the
- 9 reconsideration application has been given notice of the
- 10 decision.

1 **Part 6** **Planning and Development**
2 **Regulation 2008**

3 **15 Permitted variations to approved and exempt**
4 **developments**
5 **Schedule 1A, part 1A.2, section 1A.10 (4)**

6 *omit*
7 section 1.100A (1) (e)
8 *substitute*
9 section 1.100A (1) (b)

10 **16 Schedule 1A, part 1A.2, section 1A.11 (4)**

11 *omit*
12 section 1.100A (1) (e)
13 *substitute*
14 section 1.100A (1) (b)

1 **Part 7 Public Place Names Act 1989**

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

4 *insert*

5 (2A) If the Minister is making a determination about the naming of a
6 public place, the Minister must consider any guideline made
7 under—

8 (a) section 4A (Guidelines about naming of public places); and

9 (b) the *Districts Act 2002*, section 14 (Guidelines about allocation
10 of street addresses).

11 **18 New section 4A**

12 *insert*

13 **4A Guidelines about naming of public places**

14 (1) The Minister may make guidelines about the naming of public
15 places.

16 (2) A guideline may make provision about a matter by applying,
17 adopting or incorporating an Australian Standard, or a provision of
18 an Australian Standard, as in force from time to time.

19 (3) The *Legislation Act*, section 47 (5) or (6) does not apply to an
20 Australian Standard, or a provision of an Australian Standard,
21 applied, adopted or incorporated in a guideline.

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

26 (4) A guideline is a notifiable instrument.

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

1 **Part 8 Utilities Act 2000**

2 **19 Dictionary, definition of *customer contract*, new**
3 **paragraph (c)**

4 *insert*

5 (c) a customer connection contract under the *National Energy*
6 *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 2013.

3 Republications of amended laws

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

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