

2016

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Planning and Land Management)

# Planning, Building and Environment Legislation Amendment Bill 2016 (No 2)

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(Minister for Planning and Land Management)

# **Planning, Building and Environment Legislation Amendment Bill 2016 (No 2)**

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## **A Bill for**

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

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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 2016 (No 2)*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

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

9 **3 Legislation amended**

10 This Act amends the following legislation:

- 11 • [Climate Change and Greenhouse Gas Reduction Act 2010](#)
- 12 • [Environment Protection Act 1997](#)
- 13 • [Nature Conservation Act 2014](#)
- 14 • [Nature Conservation Regulation 2015](#)
- 15 • [Planning and Development Act 2007](#)
- 16 • [Planning and Development Regulation 2008](#)
- 17 • [Utilities \(Technical Regulation\) Act 2014](#).

1 **Part 2** **Climate Change and Greenhouse**  
2 **Gas Reduction Act 2010**

3 **4** **Energy efficiency targets**  
4 **Section 10**

5 *omit*

1 **Part 3 Environment Protection Act 1997**

2 **5 Authority's functions**  
3 **Section 12 (2)**

4 *omit*

5 section 2

6 *substitute*

7 section 3C



1 **Part 4** **Nature Conservation Act 2014**

2 **6** **Draft nature conservation strategy—public consultation**  
3 **Section 51 (5)**

4 *omit*

5 plan

6 *substitute*

7 strategy

8 **7** **Minister to decide if action plan needed**  
9 **Section 100A (4) (a)**

10 *omit*

11 and

12 *substitute*

13 or

1 **Part 5** **Nature Conservation**  
2 **Regulation 2015**

3 **8 Reserves**  
4 **Schedule 1, part 1.1, item 16**

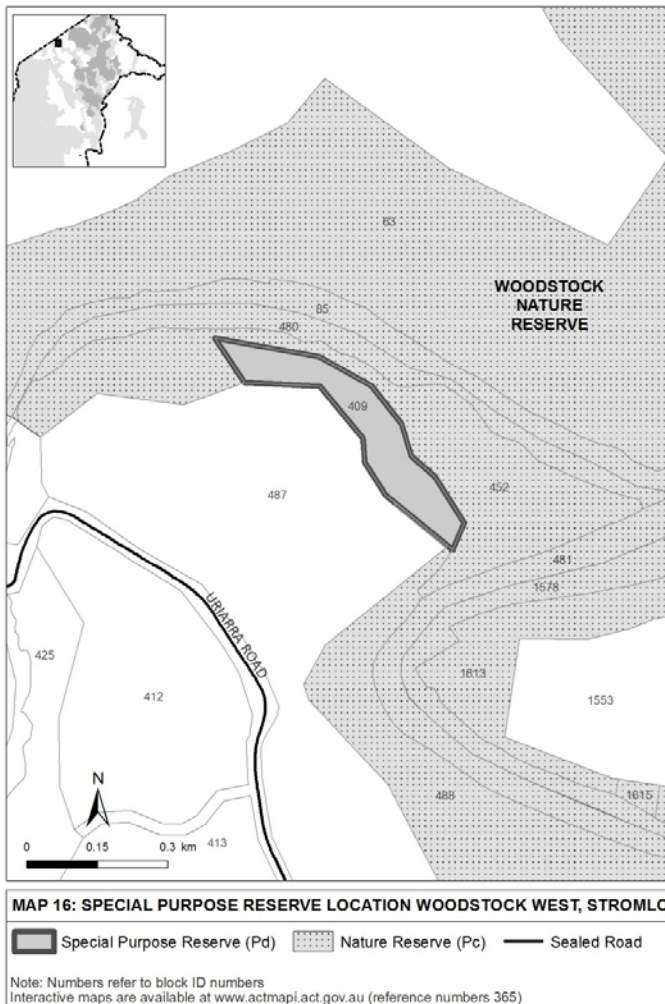
5 *substitute*

16	map 16—Woodstock West Special Purpose Reserve	<ul style="list-style-type: none"><li>• Stromlo</li></ul>
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1 **9 Schedule 1, division 1.2.16**

2 *substitute*

3 **Division 1.2.16 Woodstock West Special Purpose**  
4 **Reserve**



1 **Part 6** **Planning and Development**  
2 **Act 2007**

3 **10** **Effect of approval of estate development plan**  
4 **Section 96 (2) (c) (ii)**

5 *omit*

6 **11** **When development approvals take effect—ACAT review**  
7 **Section 178 (1) (b)**

8 *substitute*

9 (b) application is made to the ACAT for review of the decision to  
10 approve the application; and

11 (ba) either—

12 (i) the ACAT confirms or varies the decision, or makes a  
13 substitute decision; or

14 (ii) the application is withdrawn, dismissed or struck out; and

15 **12** **Section 178 (2)**

16 *after*

17 development application,

18 *insert*

19 or the approval

20 **13** **New section 178 (2) (c)**

21 *after the note, insert*

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

1 **14** **When development approval takes effect—activity not**  
2 **allowed by lease**  
3 **Section 179 (2)**

4 *before*  
5 the approval as confirmed  
6 *insert*  
7 the approval, or

8 **15** **When development approval takes effect—condition to**  
9 **be met**  
10 **Section 180 (2)**

11 *before*  
12 the approval as confirmed  
13 *insert*  
14 the approval, or

15 **16** **Authority may ask for information about leases from**  
16 **commissioner for revenue**  
17 **Section 395B (3) (a)**

18 *substitute*  
19 (a) once every month; or

1 **Part 7** **Planning and Development**  
2 **Regulation 2008**

3 **17 Prescribed development proposal for community**  
4 **consultation—Act, s 138AE**  
5 **New section 20A (1) (ba)**

6 *insert*

7 (ba) if the development proposal is for more than 1 building—the  
8 buildings have a total gross floor area of more than 7 000m<sup>2</sup>;

9 **18 Section 25 heading**

10 *substitute*

11 **25 When survey certificate not required for development**  
12 **applications—Act, s 139 (2) (l)**

13 **19 New section 25 (2) (c)**

14 *insert*

15 (c) is attached to the existing building or structure.

16 **20 Exemptions from requirement for development approval**  
17 **Schedule 1, section 1.41 (1), definition of *relevant***  
18 ***cross-section area***

19 *omit*

20 largest cross-section

21 *substitute*

22 largest vertical cross-section

1 **21 Schedule 1, section 1.41 (1), definition of *relevant***  
 2 ***cross-section area*, new examples**

3 *insert*

4 **Examples—relevant cross-section area**

- 5 1 A rectangular shed encroaches on the boundary clearance area of a block and  
 6 is parallel to the boundary. The wall facing the boundary is 2m high and 3m  
 7 wide. The roof does not increase the profile of the structure. The relevant  
 8 cross-section area of the shed is 6m<sup>2</sup>.
- 9 2 A shed with a triangular footprint encroaches on the boundary clearance area  
 10 of a block and the base is 1m from, and parallel to, the boundary. The apex is  
 11 not in the boundary clearance area. The vertical wall facing the boundary is  
 12 2m high and 4m wide. The roof does not increase the profile of the structure.  
 13 The wall is the largest cross-section area within the boundary clearance area.  
 14 The relevant cross-section area of the shed is 8m<sup>2</sup>.
- 15 3 A pergola has no walls, encroaches on the boundary clearance area of a  
 16 block, and is parallel to the boundary. The side facing the boundary is 2m  
 17 high and 3m wide. However, the uprights have a total area facing the  
 18 boundary of 0.6m<sup>2</sup> and the crossbeam has a total area facing the boundary of  
 19 0.9m<sup>2</sup>. The relevant cross-section area of the pergola is 1.5m<sup>2</sup>.

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

23 **22 Schedule 1, section 1.41 (2), note 3**

24 *omit*

25 **23 Schedule 1, section 1.100A (1) (b), new notes**

26 *insert*

27 *Note 1* An exemption declaration must not be granted in relation to  
 28 non-compliance with a mandatory rule (see [Act](#), s 119 (1) (a)).

29 *Note 2* **Mandatory rule**—see the [Act](#), s 94 (4).

1 **24 Schedule 1, section 1.100AB (1) (b), new notes**

2 *insert*

3 *Note 1* An exemption declaration must not be granted in relation to  
4 non-compliance with a mandatory rule (see [Act](#), s 119 (1) (a)).

5 *Note 2* **Mandatory rule**—see the [Act](#), s 94 (4).



1 **Part 8** **Utilities (Technical Regulation)**  
2 **Act 2014**

3 **25** **Meaning of *regulated utility service***  
4 **Section 9 (2), definition of *small or medium scale***  
5 ***generation***

6 *substitute*

7 *small or medium scale generation* means the capacity to generate  
8 an amount of power that—

9 (a) is not less than the lower limit, but less than the upper limit  
10 prescribed by regulation; and

11 (b) is connected to an electricity network.

12 **26** **Offence—reporting of notifiable incidents by regulated**  
13 **utility**  
14 **Section 29**

15 *omit*

16 by telephone

17 *substitute*

18 by telephone or email

19 **27** **Meaning of *utility infrastructure work*—div 9.5**  
20 **Section 95 (g)**

21 *substitute*

22 (g) an installation that has the capacity to generate at least the  
23 prescribed amount of electricity;

- 1 **28** **New section 113**
- 2 *insert*
- 3 **113 Utilities (Technical Regulation) Regulation 2016—sch 2**
- 4 (1) The provisions set out in schedule 2 are taken, on the  
5 commencement of this section, to be a regulation made under  
6 section 112.
- 7 (2) To remove any doubt and without limiting subsection (1), the  
8 regulation may be amended or repealed as if it had been made by the  
9 Executive under section 112.
- 10 (3) Also to remove any doubt, the regulation is taken—
- 11 (a) to have been notified under the [Legislation Act](#) on the day the  
12 *Planning, Building and Environment Legislation Amendment*  
13 *Act 2016 (No 2)* is notified; and
- 14 (b) to have commenced on the commencement of the *Planning,*  
15 *Building and Environment Legislation Amendment Act 2016*  
16 *(No 2)*; and
- 17 (c) not to be required to be presented to the Legislative Assembly  
18 under the [Legislation Act](#), section 64 (1).
- 19 (4) Subsections (1) to (3) are laws to which the [Legislation Act](#),  
20 section 88 (Repeal does not end effect of transitional laws etc)  
21 applies.
- 22 (5) This section and schedule 2 expire on the day they commence.

1 **29** **New schedule 2**

2 *insert*

3 **Schedule 2** **New Utilities (Technical**  
4 **Regulation) Regulation 2016**

5 (see s 113)



Australian Capital Territory

6 **Utilities (Technical Regulation)**  
7 **Regulation 2016**

8 **Subordinate Law SL2016–**

9 made under the

10 [Utilities \(Technical Regulation\) Act 2014](#)

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11 **1** **Name of regulation**

12 This regulation is the *Utilities (Technical Regulation)*  
13 *Regulation 2016*.

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1 **2** **Meaning of *small or medium scale generation*—Act,**  
2 **s 9 (2)**

3 The following limits are prescribed:

4 (a) lower limit—200kW;

5 (b) upper limit—30MW.

6 **3** **Meaning of *utility infrastructure work*—Act, s 95 (g)**

7 An amount of 200kW is prescribed.

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## Endnotes

1 **Presentation speech**

Presentation speech made in the Legislative Assembly on 15 December 2016.

2 **Notification**

Notified under the [Legislation Act](#) on 2016.

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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