

2018

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for the Environment and Heritage)

# Planning, Building and Environment Legislation Amendment Bill 2018

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# Planning, Building and Environment Legislation Amendment Bill 2018

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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 2018*.

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

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1 **Part 2** **City Renewal Authority and**  
2 **Suburban Land Agency Act 2017**

3 **4 New section 14A**

4 *in division 2.2, insert*

5 **14A Delegation by authority**

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

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

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

- 13 (3) In this section:

14 *authorised person* means—

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

17 **5 Establishment of governing board for authority**  
18 **Section 15, new note**

19 *insert*

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

**6** **New section 44A**

2 *in division 3.1, insert*

**44A** **Delegation by agency**

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

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

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

10 (3) In this section:

11 *authorised person* means—

12 (a) a public employee; or

13 (b) a person prescribed by regulation.

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

16 *insert*

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

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**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

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

3 **Example—par (b)**

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

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

12 (5) A housing target determination may refer to a development  
13 mentioned in subsection (1)—

14 (a) by referring to the development’s block and section number; or

15 (b) by referring to a name by which the development is known; or

16 (c) in any other way the Minister considers appropriate.

17 (6) Before determining a housing target, the Minister must seek the  
18 views of the housing commissioner in relation to the proposed  
19 housing target.

20 (7) A housing target determination is a notifiable instrument.

21 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

22 (8) In this section:

23 **dwelling**—see the [Planning and Development Regulation 2008](#),  
24 section 5.



1 **9 Dictionary, note 2**

2 *insert*

- 3
- 4 • housing commissioner
  - 5 • Minister (see s 162)
  - 6 • notifiable instrument (see s 10)
  - 7 • territory land
  - the Territory

1 **Part 3 Heritage Act 2004**

2 **10 Decision about cancellation proposal**  
3 **Section 49 (2)**

4 *omit*

5 this section

6 *substitute*

7 subsection (1) (a)

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## 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

1 **13 New section 161 (1A)**

2 *insert*

3 (1A) However, the conservator need not consult the relevant person in  
4 relation to something the person may do under the plan even though,  
5 if done, the thing must be done in the way stated in the plan.

6 **14 Conservator's directions**  
7 **Section 331 (3)**

8 *omit everything before paragraph (a), substitute*

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

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1 **Part 5** **Planning and Development**  
2 **Regulation 2008**

3 **15** **People to be notified—Act, s 63 (5) (b)**  
4 **New section 7 (1) (aa)**

5 *insert*

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

9 **16** **Certain direct sales not requiring approval—Act,**  
10 **s 240 (1) (d)**  
11 **Section 130 (1) (f)**

12 *substitute*

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

14 **17** **Section 130 (2), new definitions**

15 *insert*

16 ***Community Housing Providers National Law (ACT)*** means the  
17 provisions applying because of the *Community Housing Providers*  
18 *National Law (ACT) Act 2013*, section 7.

19 ***registered community housing provider***—see the *Community*  
20 *Housing Providers National Law (ACT)*, section 4 (1).

21 **18** **Exemptions from restrictions on dealings with certain**  
22 **leases—Act, s 251 (5)**  
23 **Section 142 (a)**

24 *substitute*

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

1 **19 New section 142 (2)**

2 *insert*

3 (2) In this section:

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

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### Endnotes

1 **Presentation speech**

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

2 **Notification**

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

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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