

2004

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT)
AMENDMENT REGULATIONS
2004 (No 1)

Subordinate Law No. 12 of 2004

EXPLANATORY STATEMENT

Circulated by authority of
Mr Simon Corbell MLA
Minister for Planning

LAND (PLANNING AND ENVIRONMENT) AMENDMENT REGULATIONS 2004 (No 1)

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OVERVIEW

These are new regulations under the *Land (Planning and Environment) Act 1991*.

BACKGROUND

On the 31 March 2004 Justice Crispin of the Supreme Court of the Australian Capital Territory handed down a decision in matter No. SC 204 of 2004. What was before the court was an application for an injunction to restrain what was alleged to involve a threatened breach of section 225 of the *Land (Planning and Environment) Act 1991* by certain work (the Gungahlin Drive Extension) on an area of land (designated area) between Lyneham and O'Connor in the Australian Capital Territory. In the matter before it, the court was asked to determine whether relevant Commonwealth legislation (*Australian Capital Territory (Planning and Land Management) Act 1988*) had the effect of permitting works to be undertaken in designated areas with the approval of the National Capital Authority without further approval under Territory legislation.

These regulations clarify the position with respect to approvals, exclusion of appeals and consequential matters concerning the Gungahlin Drive Extension.

DETAILS OF THE REGULATIONS

Clause 1 provides that the name of the Regulations is the *Land (Planning and Environment) Amendment Regulations 2004 (No 1)*.

Clause 2 provides that the regulations commence on the day after the notification day.

Clause 3 notes that the regulations amend the *Land (Planning and Environment) Regulations 1992*.

Clause 4 provides for a new regulation 4A which deals with the application of the amendments and a date of expiration with respect to this particular regulation.

Clause 5 substitutes a new clause 40 (4) (b) and is essentially a redrafting of that provision.

Clause 6 is new regulations 40 (5) and (6) these regulations specifically address the issues raised by the Supreme Court judgment.

Clause 7 omits regulation 41 (3).

Clause 8 provides a new heading for regulation 42.

Clause 9 inserts a new regulation 42 (3) to (5) these regulations quite specifically deal with aspects relevant to the Gungahlin Drive Extension.

Clause 10 provides for a new heading for regulation 43.

Clause 11 substitutes for regulation 43 (3) regulations 43 (3) (4) and (5). Both regulations 42 (5) and 43 (5) provide for sunset periods with respect to the Gungahlin Drive Extension provisions of five years.

Clause 12 omits from schedule 1 item 31.

Clause 13 substitutes a new schedule 6 heading.

Clause 14 substitutes a new schedule 6 item 2.

Clause 15 substitutes a new schedule 7 heading.

Clause 16 substitutes a new schedule 7 item 2.

FINANCIAL IMPLICATIONS

Nil