

**2005**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**HERITAGE AMENDMENT REGULATION 2005 (No 1)**

**Subordinate Law SL2005 - 20**

**EXPLANATORY STATEMENT**

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Minister for Arts, Heritage & Indigenous Affairs

# Heritage Amendment Regulation 2005 (No 1)

## EXPLANATORY STATEMENT

SL2005-20

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### PURPOSE

The *Heritage Amendment Regulation 2005 (No 1)* (regulation) is made under the *Heritage Act 2004*, section 134. Its purpose is to provide for the protection of 1066 Aboriginal Places in the ACT by entry to the heritage register under the *Heritage Act 2004*.

### BACKGROUND

An interim heritage register entry was prepared for 1066 Aboriginal Places in the ACT under the provisions of the *Land (Planning and Environment) Act, 1991*. The heritage register entry was ready to be notified on 8 March 2005 prior to the commencement of new heritage legislation on 9 March 2005. The *Heritage Act 2004* repealed the heritage provisions of the *Land (Planning and Environment) Act 1991*. The instrument could not be effective until twenty four hours after notification, therefore these 1066 Aboriginal Places could not be entered onto the interim heritage register. Entry to the interim heritage register at this time would have enabled these Aboriginal Places to transfer to the heritage register under the transitional provisions of the Act.

This regulation will provide for the long term protection of these Aboriginal Places in the ACT from development and other pressures. The entry of Aboriginal Places to the heritage register is a requirement under Section 20 of the Act.

### DETAILS OF THE REGULATION

#### Clauses

#### **Section 1 – Name of regulation**

Provides that the name of the regulation as the Heritage Amendment Regulation 2005 (No 1).

#### **Section 2 - Commencement**

Provides the commencement date of the regulation as the day after its notification.

#### **Section 3 – Legislation amended**

Provides that the regulation amends the Heritage Regulation 2005.

**Section 4 – New part 1 heading**

Provides a new part 1 heading (Part 1 Preliminary).

**Section 5 – Section 3**

Specifies that the dictionary at the end of the regulation is part of the regulation.

**Section 6 – New part 2 heading**

Provides a new part 2 heading (Part 2 Notified Aboriginal places).

**Section 7 – New part 3**

Provides a new part 3 (Part 3 Declared Aboriginal places).

*Section 7A Aboriginal places to which pt 3 applies* – this section clearly defines Aboriginal places to which part 3 applies and in which circumstances.

*Section 7B Minister’s declaration about heritage significance of relevant Aboriginal place* – this section allows for the Minister to make a declaration about the heritage significance of relevant Aboriginal places. This section provides details of what information shall be included in the declaration and defines the factors that must be taken into account by the Minister when making this declaration.

*Section 7C Notice of declaration of heritage significance* – this section specifies that a declaration made under section 7B is a notifiable instrument and must be notified under the Legislation Act. This section also provides for the declaration to be published in a daily newspaper and for a copy of the declaration to be given to each person consulted under section 69 or section 73 of the Land Act in relation to the place.

*Section 7D Registration of declared Aboriginal places – Act, S 134 (1)* – this section provides for the relevant Aboriginal places declared under section 7B to be entered on the heritage register and to have the registration details and conservation requirements mentioned in section 7B to be part of the register entry for the place. This section also provides for the Heritage Council to amend the heritage register to include these details.

*Section 7E Declaration of restricted information for relevant Aboriginal place* – this section provides for the Minister to declare particular information about these places to be restricted information if satisfied that any disclosure would have an adverse effect on the heritage significance of the place. For example, Aboriginal places may be subject to vandalism or theft if precise site location details are made public. The Minister must consider the views of each person consulted under section 82 of the Land Act in relation to the place.

*Section 7F Notice of declaration of restricted information* - this section provides for the Minister to give a copy of the declaration to each person consulted under section 82 of the Land Act in relation to the place.

*Section 7G Reviewable decisions* – this section provides that the declarations made under sections 7B (declaration that an Aboriginal place does or does not have heritage significance) and 7E (declaration that information is to be restricted information) are reviewable decisions.

*Section 7H Notice of reviewable decisions* – this section sets out the appeals process and provides for the notices under sections 7C (notice of declaration of heritage significance) and 7F (notice of declaration of restricted information) to clearly state that the decision can be appealed and how to make such an application.

**Section 8 – Dictionary, new definitions**

Provides for the entry of two new definitions to the Dictionary.

**Section 9 – Dictionary, definitions of *notified Aboriginal place* and *old interim heritage places register***

Provides for an amendment to omit references to the *Land (Planning and Environment) Act 1991* and to substitute these with references to *Land Act* in the dictionary definitions of *notified Aboriginal place* and *old interim heritage places register*.