

2003

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) ACT 1991
LAND (PLANNING AND ENVIRONMENT) (BUSHFIRE EMERGENCY) REGULATIONS 2003

SL2003-4

EXPLANATORY STATEMENT

Circulated by authority of

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**AUSTRALIAN CAPITAL TERRITORY
LAND (PLANNING AND ENVIRONMENT) (BUSHFIRE EMERGENCY)
REGULATIONS 2003**

SUBORDINATE LAW No. SL 2003-4

EXPLANATORY STATEMENT

Overview

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

These regulations (“the Land Bushfire Emergency Regulations”) apply to buildings and structures affected by the bushfires of January 2003 and provide for them to be demolished and the land cleared under a simplified procedure.

The Land Bushfire Emergency Regulations work in conjunction with the Building (Bushfire Emergency) Regulations 2003 (“the Building Bushfire Emergency Regulations”). Normally a development application and then building approval are both required for demolition. The two sets of regulations reduce these to one process.

The Land Bushfire Emergency Regulations provide for the identification of the land where buildings and structures were destroyed by bushfires, identify the period of the bushfires and exempt demolition and clearance on that land from approval as development under the Land (Planning and Environment) Act, under certain conditions.

One of these conditions is that a specific plan of works is drawn up for the demolition and the work complies with an agreement between the owner and the person carrying out the demolition approved in general terms or specifically by the building controller (a statutory officer under the Building Act). Another condition is that the plan of works must be endorsed by a construction practitioner registered under the Construction Practitioners Registration Act 1998. In this respect the plan of works supersedes requirements of the Building Regulations 1972.

Details

Name of regulations

Regulation 1 is a formal regulation that gives the name of the regulations.

Commencement

Regulation 2 is a formal regulation that links the commencement of the regulations to their notification on the legislation register.

Dictionary

Regulation 3 is a formal regulation that makes a dictionary of defined terms part of the Regulations.

Notes

Regulation 4 is a formal regulation that indicates that notes included in the Regulations are limited to explanatory purposes.

Main object of regulations

Regulation 5 states that the regulations are intended to assist people whose property was affected by fire during the bushfire emergency to clear their land.

The bushfire emergency

Regulation 6 identifies the period of the bushfire emergency.

Certain developments exempted from Act, Div 6.2

Part 6 of the Land (Planning and Environment) Act deals with approval processes and requires approval for what it defines as development. **Regulation 7** sets out conditions under which that approval is not required.

Sub-regulation 7 (1) provides for the making of a list of land affected by the bushfire emergency and sub-regulation 7(2) requires the publication of that list on the legislation register.

Sub-regulations 7 (3) states what requirements apply if the exemption from approval is to be valid:

- There must be a plan of works for the demolition involved. The details of a plan of works appear in regulation 8 but are similar to requirements that the Building Regulations would apply to demolition if the Building Bushfire Emergency Regulations did not modify the requirements for building approval.
- The plan of works must be accepted by a registered building practitioner. Regulation 9 limits the circumstances in which this acceptance may occur and specifies that a building practitioner must be registered under the Construction Practitioners Registration Act 1998. The Building Act deals with the relevant functions of registered building practitioners.
- Demolition work must follow the plan of works.
- The land owner and the person responsible for the clearance must make an agreement to follow additional requirements approved in general terms or for the specific clearance by the building controller, a statutory office holder under the Building Act. This provision is intended to provide for a small number of development conditions and arrangements for co-ordination with the requirements of agencies administering other legislation applicable to clearance that would be part of a demolition proposal that required approval but without transferring responsibility for ensuring compliance to the relevant building practitioner.
- The clearance must comply with the Australian Standard on the demolition of

structures (AS 2601).

Sub-regulations 7 (4) and 7 (5) set out the kinds of development for which approval is not required.

Plans of works

Regulation 8 sets out the details of plan of works.

Endorsement of plans

Regulation 9 describes the circumstances in which a building practitioner may accept a plan of works.

Dictionary

The **dictionary** for the regulations gives the meaning of references to “building code”, “building controller”, “bushfire emergency” and “plan of works” in the regulations.

Financial Implications

Nil.