

Australian Capital Territory

# Planning and Development Amendment Regulation 2021 (No 1)

Subordinate law SL2021–16

made under the

**Planning and Development Act 2007, 426 (Regulation-making power) and 137F (Certain development applications for waste facilities prohibited)**

## EXPLANATORY STATEMENT

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This explanatory statement relates to the *Planning and Development Amendment Regulation 2021 (No 1)* (the **amendment regulation**) as made by the Executive. It has been prepared to assist the reader of the amendment regulation and to help inform any debate on it. It does not form part of the amendment regulation and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the amendment regulation. It is not, and is not meant to be, a comprehensive description of the amendment regulation. What is said about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

## OVERVIEW OF THE AMENDMENT REGULATION

In February 2021, the *Planning and Development Act 2007* was amended through the *Planning and Development Amendment Act 2021* to ban new waste facilities in Fyshwick. At the time, the ACT Government announced it would review its policies on new waste infrastructure across the Territory.

The first stage of the policy review has produced an amendment regulation to allow small waste facilities to continue to operate in Fyshwick. The amendment provides a carve out from the ban for waste businesses in Fyshwick that process up to 15,000 tonnes of waste per year from the ban, with the ban on any incineration facilities to be continued.

New businesses that process up to 15,000 tonnes of waste per year will be allowed to lodge a development application under the amendment regulation. Expansion of existing small waste businesses will be allowable up to 15,000 tonnes of waste per year in size. Existing businesses that already function above the 15,000 tonne per year processing limit will continue to be able to operate their existing facilities, however development applications for works which would increase the amount of waste processed on site are prohibited.

The amendment regulation delivers on Government's previous commitment to deliver certainty for small waste processing facilities in Fyshwick.

The second stage of the broader policy work is underway to consider the future need, type and scale of waste processing facilities in the Territory, and where future waste processing facilities might be suitably located. Once this work complete, the Government will be able to provide more guidance to the waste industry on land available for future development proposals for waste processing facilities.

## **REGULATORY IMPACT STATEMENT**

A regulatory impact statement is not required as this is a de-regulation initiative.

## **SCRUTINY OF BILLS COMMITTEE PRINCIPLES AND HUMAN RIGHTS**

This regulation is a de-regulation initiative and does not limit rights or impose obligations on any individuals.

## **CLAUSE NOTES**

### **Clause 1 Name of regulation**

This clause provides that the name of the regulation is the *Planning and Development Amendment Regulation 2021 (No 1)*.

### **Clause 2 Commencement**

This clause provides that the regulation commences on the day after its notification day.

### **Clause 3 Legislation amended**

This clause provides that the regulation amends the *Planning and Development Regulation 2008*.

### **Clause 4 New part 3.1AAA**

This clause inserts new part 3.1AAA into the Regulation which includes new section 20AA.

New section 20AA(1) provides that a site, other than an incineration facility, that is used to handle not more than 15kt of waste each year is prescribed. This provision has the effect of carving out waste facilities processing up to 15kt from the prohibition contained in the Act.

As explained in s 20AA(2), the Act and regulation combine to prohibit a development application for a waste facility which would, if it were approved, process more than 15 kt of waste per year (whether new or existing).

Existing facilities operating below 15kt, or new facilities, will be able to lodge a development application to expand up to 15kt of waste handled per year.