



Australian Capital Territory

Heritage Amendment Regulation 2005 (No 1)

Subordinate Law SL2005-20

The Australian Capital Territory Executive makes the following regulation under the *Heritage Act 2004*.

Dated 31 August 2005.

JON STANHOPE
Minister

SIMON CORBELL
Minister



Australian Capital Territory

Heritage Amendment Regulation 2005 (No 1)

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made under the

Heritage Act 2004

1 Name of regulation

This regulation is the *Heritage Amendment Regulation 2005 (No 1)*.

2 Commencement

This regulation commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This regulation amends the *Heritage Regulation 2005*.

4 New part 1 heading

before section 1, insert

Part 1 Preliminary

5 Section 3

substitute

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition ‘*relevant Aboriginal place*—see section 7A.’ means that the term ‘*relevant Aboriginal place*’ is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

6 New part 2 heading

before section 5, insert

Part 2 Notified Aboriginal places

7 New part 3

before section 8, insert

Part 3 Declared Aboriginal places**7A Aboriginal places to which pt 3 applies**

This part applies to an Aboriginal place (a *relevant Aboriginal place*) if, under the Land Act, section 69 (Aboriginal heritage discoveries—Ministerial directions and declarations) or section 73 (Orders—Ministerial directions and declarations), the Minister—

- (a) had received a report from the heritage council about the heritage significance of the place; and
- (b) had not done either of the following:
 - (i) directed the heritage council to notify an interim heritage places register for the place;
 - (ii) declared that the place was not to be registered.

7B Minister's declaration about heritage significance of relevant Aboriginal place

- (1) The Minister must declare whether each relevant Aboriginal place has heritage significance.
- (2) If the Minister declares that a relevant Aboriginal place has heritage significance, the declaration must include—
 - (a) details of the place (the *registration details*); and
 - (b) requirements for the conservation of the place (the *conservation requirements*).
- (3) For making a declaration about a relevant Aboriginal place for which the Minister had received a report under the Land Act, section 69, the Minister must take account of—

- (a) the heritage council's report under the Land Act, section 68 in relation to the place; and
 - (b) the views of the people consulted under the Land Act, section 69 in relation to the place.
- (4) For making a declaration about a relevant Aboriginal place for which the Minister had received a report under the Land Act, section 73, the Minister must take account of—
- (a) the heritage council's report under the Land Act, section 72 in relation to the place; and
 - (b) the views of the people consulted under the Land Act, section 73 in relation to the place.

7C Notice of declaration of heritage significance

- (1) A declaration under section 7B in relation to a relevant Aboriginal place—
- (a) is a notifiable instrument; and
 - (b) must be notified under the Legislation Act within 3 working days after the day the declaration is made; and
 - (c) must be published in a daily newspaper as soon as practicable.

Note A notifiable instrument must be notified under the Legislation Act.

- (2) The Minister must give a copy of the declaration to each person consulted under the Land Act, section 69 or section 73 in relation to the relevant Aboriginal place.

**7D Registration of declared Aboriginal places—
Act, s 134 (1)**

- (1) A relevant Aboriginal place declared under section 7B to have heritage significance is taken to be registered under the Act, division 6.2.

- (2) The registration details mentioned in section 7B (2) (a) for the place are taken to be the registration details for the place.
- (3) The conservation requirements mentioned in section 7B (2) (b) for the place are taken to be heritage guidelines applying to the place.
- (4) To remove any doubt, the council may amend the heritage register to reflect the operation of this section.

7E Declaration of restricted information for relevant Aboriginal place

- (1) The Minister may, in writing, declare particular information about the location or nature of a relevant Aboriginal place to be restricted information.
- (2) The Minister may make the declaration only if satisfied, on reasonable grounds, that public disclosure of the information would be likely to have a substantial adverse effect on the heritage significance of the relevant Aboriginal place.
- (3) For this section, the Minister must consider the views of each person consulted under the Land Act, section 82 (Restricted information) in relation to the relevant Aboriginal place.

7F Notice of declaration of restricted information

The Minister must give a copy of a declaration under section 7E to each person consulted under the Land Act, section 82 in relation to the relevant Aboriginal place.

7G Reviewable decisions

The following are reviewable decisions:

- (a) a declaration under section 7B that an Aboriginal place has heritage significance;
- (b) a declaration under section 7B that an Aboriginal place does not have heritage significance;

- (c) a declaration under section 7E that information is to be restricted information.

7H Notice of reviewable decisions

- (1) This section applies to a notice under section 7C or section 7F.
- (2) The notice must comply with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (3) In particular, the notice must tell the person—
 - (a) that a person whose interests are affected by the decision may apply to the administrative appeals tribunal for review of the decision, and how the application must be made; and
 - (b) about the options available under other territory laws to have the decision reviewed by a court or the ombudsman.

8 Dictionary, new definitions

insert

Land Act means the *Land (Planning and Environment) Act 1991*.

relevant Aboriginal place—see section 7A.

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

omit

Land (Planning and Environment) Act 1991

substitute

Land Act

Endnotes

1 Notification

Notified under the Legislation Act on 1 September 2005.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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